



Client Alert



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DCH Division of Health Planning Revises Recent CON Batching Notice for Nursing Facilities, Extending Deadlines but Limiting Eligibility

As we reported in an earlier [AGG Client Alert](#),¹ the Department of Community Health (DCH), Division of Health Planning, recently issued a Certificate of Need (CON) batching review cycle notice on March 24, 2011, announcing that it will accept CON applications for new and expanded skilled nursing facilities (SNFs) and intermediate care facilities (ICFs) that meet certain requirements. The Department issued a revised version of this notice on May 4, 2011, limiting the CON application types that will be accepted. The revised notice also extends the notice of intent and application deadlines for eligible applicants.

According to the revised notice, the Division will only accept applications that are filed pursuant to the exceptions to the CON need methodology specified in DCH Rule 111-2-2-.30(3)(d)(2) for special groups with limited access. To qualify, the CON applicant must either propose to establish a new or expanded nursing facility and show that there is "limited access" in the proposed geographic service area for special groups, such as, but not limited to, medically fragile children and HIV/AIDS patients.² "Limited access" means that "existing nursing facilities have not provided the proposed services in response to a demonstrated demand for the services over the three (3) most recent years."³

The revised notice states that the Division will **not** accept CON applications filed pursuant to the exceptions to the CON need methodology specified in DCH Rule 111-2-2-.30(3)(d)(1) for new Medicare distinct part skilled nursing units. The original batching notice issued in March indicated that such applications would be accepted. Thus, providers who are planning to submit CON applications during this review cycle should check that their proposed project meets the more limited eligibility criteria.

To participate in the CON process for this batching review cycle, providers must submit a complete notice of intent to the Division by Friday, June 3, 2011. Providers that fail to meet this deadline will be automatically disqualified from submitting CON applications during the batching cycle. Applicants that meet the above criteria and timely submit a notice of intent will be eligible to participate in the Division's upcoming CON review cycle.

1 <http://www.agg.com/media/interior/publications/Rubinger-Cohen-DCH-to-Accept-CON-Applications-for-New-or-Expanded-SNFs-and-ICFs.pdf>

2 DCH Rule 111-1-1-.30(3)(d)(2)

3 DCH Rule 111-1-1-.30(3)(d)(1) and (2)



Client Alert

CON applications from eligible participants for this cycle are due by noon on Tuesday, July 5, 2011.⁴ The Division has specified that it will not allow any exceptions to the notice of intent deadline.

For more details on the required application materials and associated fees, please refer to the Division's review cycle notice, available [here](#).⁵ SNFs and ICFs that have pending projects requiring CON approval should review the criteria and determine whether their projects might be eligible during the upcoming review cycle.

⁴ The original deadline posted in the March 24 batching review notice was Monday, May 23, 2011.

⁵ <http://www.agg.com/media/interior/publications/DCH-Nursing-Home-Batching-Notice-March-24-2011.pdf>

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