

§336. Simplified review and approval process

Notwithstanding the requirements set forth in section 335, the department shall conduct a simplified review and approval process in accordance with this section unless a public hearing has been requested pursuant to section 339, subsection 2, paragraph D, in which case the project is subject to the expanded review in section 335. The department shall by rule set forth this simplified review and approval process. To the extent practicable, a simplified review must be completed and the commissioner shall make a decision within 60 days after the application has been certified as complete by the applicant pursuant to section 337, subsection 4, unless a hearing is requested by a person directly affected by a review or the commissioner determines to hold a hearing. The following projects may qualify for a simplified review process: [PL 2011, c. 648, §12 (AMD).]

1. Maintenance projects. The commissioner shall issue a certificate of need for a project that primarily involves the maintenance of a health facility if the commissioner determines that the project:

- A. Will result in no or a minimal additional expense to the public or to the health care facility's clients; [PL 2001, c. 664, §2 (NEW).]
- B. Will be in compliance with other applicable state and local laws and regulations; and [PL 2001, c. 664, §2 (NEW).]
- C. Will significantly improve or, in the alternative, not significantly adversely affect the health and welfare of any person currently being served by the health care facility. [PL 2001, c. 664, §2 (NEW).]

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2. Life safety codes; previous certificate of need. The commissioner shall issue a certificate of need for a project that is required to meet federal, state or local life safety codes.

[PL 2011, c. 648, §12 (AMD).]

3. Acquisition of control. The commissioner shall issue a certificate of need for a project that involves the acquisition of control of a health facility when the acquisition consists of a management agreement or similar arrangement and primarily involves the day-to-day operation of the facility in its current form, or transfers ownership of a nursing facility to an existing provider of nursing facility services licensed in this State if the commissioner determines that the project meets the requirements of section 335, subsection 7, paragraph B and that the project is economically feasible in light of its impact on:

- A. The operating budget of the facility and the applicant; and [PL 2001, c. 664, §2 (NEW).]
- B. The applicant's ability to operate the facility without increases in the facility's rates beyond those that would otherwise occur absent the acquisition. [PL 2001, c. 664, §2 (NEW).]

The commissioner may not find that a project primarily involves day-to-day operation of the facility in its current form if the commissioner finds that the project would result in a reduction of access to, geographic proximity of, timeliness of or quality of any family planning services, as defined in section 1902, subsection 4, or any abortion services unless the commissioner determines that the exceptions described in section 335, subsection 1, paragraph G are met.

[PL 2023, c. 343, §6 (AMD).]

4. Capital expenditures for compliance or quality improvement. The commissioner shall issue a certificate of need for a proposed capital expenditure upon determining that:

- A. The capital expenditure is required to eliminate or prevent imminent safety hazards, as defined by applicable fire, building or life safety codes and regulations; to comply with state licensure standards; to provide demonstrable improvements in patient safety or quality of care; or to comply with accreditation or certification standards that must be met to receive reimbursement under the

United States Social Security Act, Title XVIII or payments under a state plan for medical assistance approved under Title XIX of that Act; [PL 2011, c. 648, §12 (AMD).]

B. The economic feasibility of the project is demonstrated in terms of its effects on the operating budget of the applicant, including its existing rate structure; [PL 2001, c. 664, §2 (NEW).]

C. There remains a public need for the service to be provided; and [PL 2001, c. 664, §2 (NEW).]

D. The corrective action proposed by the applicant is a cost-effective alternative available under the circumstances. [PL 2011, c. 648, §12 (AMD).]

[PL 2011, c. 648, §12 (AMD).]

5. Major medical equipment. The commissioner shall issue a certificate of need for replacement of major medical equipment that is not otherwise exempt from review pursuant to section 329, subsection 2-A, paragraph B, subparagraph (1) upon determining that a project meets the requirements of section 335, subsection 7.

[PL 2009, c. 383, §9 (NEW).]

6. Other projects. The commissioner may by rule identify other categories of projects that qualify for simplified review under this section that are consistent with the purposes of this section and will foster timely review and approval for qualifying projects.

[PL 2011, c. 648, §12 (NEW).]

SECTION HISTORY

PL 2001, c. 664, §2 (NEW). PL 2009, c. 383, §9 (AMD). PL 2011, c. 648, §12 (AMD). PL 2023, c. 343, §6 (AMD).

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