

10606

I N A S S E M B L Y

June 7, 2012

Introduced by COMMITTEE ON RULES -- (at request of M. of A. Kavanagh, Gottfried) -- read once and referred to the Committee on Health

AN ACT to amend the public health law, in relation to review of eligible federally qualified health center capital projects

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. Section 2807-z of the public health law, as added by
2 section 36 of part D of chapter 56 of the laws of 2012, is amended to
3 read as follows:

4 S 2807-z. [Limited or administrative review] REVIEW OF ELIGIBLE FEDER-
5 ALLY QUALIFIED HEALTH CENTER CAPITAL PROJECTS. 1. Notwithstanding any
6 provision of this chapter or regulations or any other state law or regu-
7 lation, for any eligible capital project as defined in subdivision six
8 of this section, the department shall have thirty days of receipt of the
9 certificate of need application for a limited or administrative review
10 to deem such application complete. If the department determines the
11 application is incomplete or that more information is required, the
12 department shall notify the applicant in writing within thirty days of
13 the date of the application's submission, and the applicant shall have
14 twenty business days to provide additional information or otherwise
15 correct the deficiency in the application.

16 2. For an eligible capital project requiring a limited or administra-
17 tive review, within ninety days of the department deeming the applica-
18 tion complete, the department shall make a decision to approve [(and in
19 the case of limited reviews)] or disapprove the certificate of need
20 application for such project. If the department determines to disapprove
21 the project, the basis for such disapproval shall be provided in writ-
22 ing; however, disapproval shall not be based on the incompleteness of
23 the application. If the department fails to take action to approve or
24 disapprove the application within ninety days of the certificate of need
25 application being deemed complete, the application will be deemed
26 approved.

27 3. For an eligible capital project requiring full review by the
28 [Public Health and Health Planning Council] COUNCIL, the certificate of

EXPLANATION--Matter in *ITALICS* (underscored) is new; matter in brackets
[] is old law to be omitted.

LBD16146-02-2

1 need application shall be placed on the next [PHHPC] COUNCIL agenda
2 following the department deeming the application complete.

3 4. Where the commissioner or department requires the applicant to
4 submit a contingency submission for an eligible capital project, the
5 commissioner or department shall have thirty days to review and approve
6 or disapprove the contingency submission. If the commissioner or depart-
7 ment determines that the contingency submission is incomplete, it shall
8 so notify the applicant in writing and provide the applicant with ten
9 business days to correct the deficiency or provide additional informa-
10 tion. If the commissioner or department determines to disapprove the
11 contingency [of the] submission, the basis for such disapproval shall be
12 provided in writing; however, disapproval shall not be based on the
13 incompleteness of the application. Within fifteen days of complete
14 contingency satisfaction, the commissioner or department shall transmit
15 the final approval letter to the applicant.

16 5. The department shall develop expedited pre-opening survey processes
17 for eligible capital projects approved under [subdivision one of] this
18 section, but under no circumstances shall pre-opening survey reviews be
19 scheduled later than thirty days after final approval, CONSTRUCTION
20 COMPLETION AND NOTIFICATION OF SUCH COMPLETION OF THE DEPARTMENT.

21 6. DEFINITIONS. FOR THE PURPOSES OF THIS SECTION THE FOLLOWING TERMS
22 SHALL BE DEFINED AS FOLLOWS:

23 (A) "Eligible capital project" shall mean:

24 [(a)] (I) A project [whose] THAT DOES NOT INVOLVE THE ESTABLISHMENT OF
25 A NEW OPERATOR PURSUANT TO SECTION TWENTY-EIGHT HUNDRED ONE-A OF THIS
26 ARTICLE, WITH A total budget [is] OF three million dollars or more fund-
27 ed, IN WHOLE OR IN PART, with federal monies pursuant to section 330 of
28 the Public Health Service (PHS), 42 USC 254b, as amended; or

29 [(b)] (II) A project [whose] THAT DOES NOT INVOLVE THE ESTABLISHMENT
30 OF A NEW OPERATOR PURSUANT TO SECTION TWENTY-EIGHT HUNDRED ONE-A OF THIS
31 ARTICLE, WITH A total budget [is] OF three million dollars or more fund-
32 ed, IN WHOLE OR IN PART, with federal monies pursuant to the federal
33 Capital Development-Building Capacity (CD-BC) Grant Program and Immedi-
34 ate Facility Improvements (CD-IFI) Grant Program, as authorized by the
35 Patient Protection and Affordable Care Act (Affordable Care Act)((P.L.
36 111-148), Section 10503(c)).

37 (B) "BUDGET" SHALL MEAN THE BUDGET FOR THE CAPITAL PROJECT.

38 7. Capital [protects] PROJECTS, WITH A TOTAL BUDGET OF LESS THAN THREE
39 MILLION DOLLARS THAT DO NOT INVOLVE THE ESTABLISHMENT OF A NEW OPERATOR
40 PURSUANT TO SECTION TWENTY-EIGHT HUNDRED ONE-A OF THIS ARTICLE, funded
41 in whole or in part through section 330 of the Public Health Service
42 (PHS), 42 USC 254b, as amended, or [whose total budget is less than
43 three million dollars shall not be subject to the provisions of this
44 section or] THROUGH the federal Capital Development-Building Capacity
45 (CD-BC) Grant Program and Immediate Facility Improvements (CD-IFI) Grant
46 Program, as authorized by the Patient Protection and Affordable Care Act
47 (Affordable Care Act)((P.L. 111-148), Section 10503(c)), shall not be
48 subject to the requirements set forth in this section or any other law
49 or regulation regarding certificate of need process or requirements.

50 8. FOR CAPITAL PROJECTS EXEMPT FROM CERTIFICATE OF NEED REQUIREMENTS
51 PURSUANT TO SUBDIVISION SEVEN OF THIS SECTION, THE DEPARTMENT SHALL (A)
52 ESTABLISH MECHANISMS TO ACCOUNT FOR THE CAPITAL COSTS OF SUCH PROJECTS
53 IN THE APPLICANT'S RATE OF PAYMENT BY GOVERNMENTAL AGENCIES ESTABLISHED
54 PURSUANT TO SECTION TWENTY-EIGHT HUNDRED SEVEN OF THIS ARTICLE; (B)
55 ESTABLISH LICENSURE REQUIREMENTS FOR SUCH FACILITY, WHICH SHALL INCLUDE
56 PAYMENT OF THE FEES SPECIFIED AT SUBDIVISION SEVEN OF SECTION

1 TWENTY-EIGHT HUNDRED TWO OF THIS ARTICLE; AND (C) DEEM SUCH FACILITIES
2 ELIGIBLE FOR UNCOMPENSATED CARE REIMBURSEMENT MADE AVAILABLE PURSUANT TO
3 SECTION SEVEN OF CHAPTER FOUR HUNDRED THIRTY-THREE OF THE LAWS OF NINE-
4 TEEN HUNDRED NINETY-SEVEN, AS AMENDED BY SECTION SEVENTY-FIVE OF CHAPTER
5 ONE OF THE LAWS OF NINETEEN HUNDRED NINETY-NINE.

6 9. THE COMMISSIONER SHALL PROMULGATE REGULATIONS, AND MAY PROMULGATE
7 EMERGENCY REGULATIONS, TO IMPLEMENT THE PROVISIONS OF THIS SECTION. TO
8 THE EXTENT THAT THE COMMISSIONER HAS NOT PROMULGATED SUCH REGULATIONS,
9 PROJECTS THAT WOULD OTHERWISE BE EXEMPT FROM CERTIFICATE OF NEED
10 REQUIREMENTS MAY BE PROCESSED, AT THE OPTION OF THE APPLICANT, IN
11 ACCORDANCE WITH STATUTES AND REGULATIONS GOVERNING THE CERTIFICATE OF
12 NEED PROCESS.

13 S 2. This act shall take effect immediately and shall be deemed to
14 have been in full force and effect on and after April 1, 2012.