S T A T E O F N E W Y O R K

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:

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

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

2. For an eligible capital project requiring a limited or administrative review, within ninety days of the department deeming the application complete, the department shall make a decision to approve [(and in the case of limited reviews)] or disapprove the certificate of need application for such project. If the department determines to disapprove the project, the basis for such disapproval shall be provided in writing; however, disapproval shall not be based on the incompleteness of the application. If the department fails to take action to approve or disapprove the application within ninety days of the certificate of need application being deemed complete, the application will be deemed approved.

3. For an eligible capital project requiring full review by the [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

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

4. Where the commissioner or department requires the applicant to submit a contingency submission for an eligible capital project, the commissioner or department shall have thirty days to review and approve or disapprove the contingency submission. If the commissioner or department determines that the contingency submission is incomplete, it shall so notify the applicant in writing and provide the applicant with ten business days to correct the deficiency or provide additional information. If the commissioner or department determines to disapprove the contingency [of the] submission, the basis for such disapproval shall be provided in writing; however, disapproval shall not be based on the incompleteness of the application. Within fifteen days of complete contingency satisfaction, the commissioner or department shall transmit the final approval letter to the applicant.

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

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

(A) "Eligible capital project" shall mean:

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

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

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

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

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

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

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

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