STATE OF NEW YORK

8834

IN ASSEMBLY

January 13, 2022

Introduced by M. of A. GOTTFRIED -- read once and referred to the Committee on Health

AN ACT to amend the public health law, in relation to applications for certain hospital projects; and to amend a chapter of the laws of 2021 amending the public health law relating to health equity assessments in the establishment or construction of a hospital, as proposed in legislative bills numbers S. 1451-A and A. 191-A, in relation to the effectiveness thereof

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section 2802-b of the public health law, as added by a chapter of the laws of 2021 amending the public health law relating to health equity assessments in the establishment or construction of a hospital, as proposed in legislative bills numbers S. 1451-A and A. 191-A, is amended to read as follows:

§ 2802-b. Health equity impact assessments. 1. Definitions. As used in this section:

(a) "Application" means an application under this article for the construction, establishment, change in the establishment, merger, acquisition, [~~closure,~~] **elimination** or substantial reduction, expansion, or addition of a hospital service or health-related service of a hospital that requires review or approval by the council or the commissioner, where the application is filed or submitted to the council, the commissioner or the department after this section takes effect. **Provided, however, that an application for the change in the establishment, merger or acquisition of a hospital shall not be included in this definition if the application would not result in the elimination, or substantial reduction, expansion, addition or change in location of a hospital service or health related service of the hospital.**

(b) "Project" means the construction, establishment, change in the establishment, merger, acquisition, [~~closure~~] **elimination**, or substantial reduction**, expansion, or addition** of a hospital service or health-related service of a hospital that is the subject of an application.

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

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(c) "Health equity impact assessment" or "impact assessment" means an assessment of whether, and if so how, a project will improve access to hospital services and health care, health equity and reduction of health disparities, with particular reference to members of medically underserved groups, in the applicant's service area.

(d) "Medically underserved group" means: low-income people; racial and ethnic minorities; immigrants; women; lesbian, gay, bisexual, transgender, or other-than-cisgender people; people with disabilities; older adults; persons living with a prevalent infectious disease or condition; persons living in rural areas; people who are eligible for or receive public health benefits; people who do not have third-party health coverage or have inadequate third-party health coverage; and other people who are unable to obtain health care.

2. (a) (i) Every application shall include a health equity impact assessment of the project. The **health equity** impact assessment shall be filed together with the application, and the application shall not be complete without the impact statement. The applicant shall promptly amend or modify the impact statement as necessary.

(ii) However, in the case of a diagnostic and treatment center whose patient population is over fifty percent combined patients enrolled in Medicaid or uninsured, a health equity impact assessment is not required unless the application includes a change in controlling person, principal stockholder, or principal member (as defined in section twenty-eight hundred one-a of this article) of the applicant.

(b) In considering whether and on what terms to approve an application, the commissioner and the council, as the case may be, shall consider the health equity impact statement.

3. Scope and contents of a health equity impact assessment. A health equity impact assessment shall include:

(a) A demonstration of whether, and if so how, the proposed project will improve access to hospital services and health care, health equity and reduction of health disparities, with particular reference to members of medically underserved groups, in the applicant's service area.

(b) The extent to which medically underserved groups in the applicant's service area use the applicant's hospital or health-related services or similar services at the time of the application and the extent to which they are expected to if the project is implemented.

(c) The performance of the applicant in meeting its obligations, if any, under section twenty-eight hundred seven-k of this article and federal regulations requiring providing uncompensated care, community services, and access by minorities and people with disabilities to programs receiving federal financial assistance, including the existence of any civil rights access complaints against the applicant, and how the applicant's meeting of these obligations will be affected by implementation of the project.

(d) How and to what extent the applicant will provide hospital and health-related services to the medically indigent, Medicare recipients, Medicaid recipients and members of medically underserved groups if the project is implemented.

(e) The amount of indigent care, both free and below cost, that will be provided by the applicant if the project is approved.

(f) Access by public or private transportation, including applicant-sponsored transportation services, to the applicant's hospital or health-related services if the project is implemented.

(g) The means of assuring effective communication between the applicant's hospital and health-related service staff and people of limited English-speaking ability and those with speech, hearing or visual impairments handicaps if the project is implemented.

(h) The extent to which implementation of the project will reduce architectural barriers for people with mobility impairments.

(i) A review of how the applicant will maintain or improve the quality of hospital and health-related services including a review of:

(i) demographics of the applicant's service area;

(ii) economic status of the population of the applicant's service area;

(iii) physician and professional staffing issues related to the project;

(iv) availability of similar services at other institutions in or near the applicant's service area; and

(v) historical and projected market shares of hospital and health care service providers in the applicant's service area.

4. The health equity impact assessment shall be prepared for the applicant by an independent entity and include the meaningful engagement of public health experts, organizations representing employees of the applicant, stakeholders, and community leaders and residents of the applicant's service area.

5. The department shall publicly post the application and the health equity impact assessment on [~~the department's~~] **its** website within one week of the filing with the department, including any filing with the council. **The applicant shall publicly post the application and the health equity impact assessment on its website within one week of acknowledgement by the department.**

§ 2. Section 2 of a chapter of the laws of 2021 amending the public health law relating to health equity assessments in the establishment or construction of a hospital, as proposed in legislative bills numbers S. 1451-A and A. 191-A, is amended to read as follows:

§ 2. This act shall take effect [~~on the one hundred eightieth day~~] **eighteen months** after it [~~becomes~~] **shall have become** a law. Effective immediately, the commissioner of health and the public health and health planning council shall make regulations and take other actions reasonably necessary to implement this act on that date.

§ 3. This act shall take effect immediately; provided, however, that section one of this act shall take effect on the same date and in the same manner as a chapter of the laws of 2021 amending the public health law relating to health equity assessments in the establishment or construction of a hospital, as proposed in legislative bills numbers S. 1451-A and A. 191-A, takes effect.