SYNOPSIS

Rule 111-2-2-.34

Specific Review Considerations for Traumatic Brain Injury Facilities.

STATEMENT OF PURPOSE AND MAIN FEATURES OF PROPOSED RULE

The purpose of this proposed amendment is to modify the need methodology set forth in the specific review considerations for traumatic brain injury facilities.

DIFFERENCES BETWEEN EXISTING AND PROPOSED RULES

Subparagraphs (a) and (b) of Paragraph 3 are deleted in their entirety and replaced with a new subparagraph (a) which defines how an applicant for a new or expanded traumatic brain injury program will demonstrate need.

As a consequence of the deletions mentioned hereinabove, subparagraphs (c)-(l) of Paragraph 3 are appropriately sequenced.

RULES
OF
DEPARTMENT OF COMMUNITY HEALTH

111-2
HEALTH PLANNING

111-2-2
Certificate of Need

111-2-2-.34 Specific Review Considerations for Traumatic Brain Injury Facilities.

(1) **Applicability.** The following Rules apply to Traumatic Brain Injury Facilities defined herein as providing transitional living programs and/or life long living programs.

(a) A Certificate of Need shall be required prior to the establishment of a new or the expansion of an existing Transitional Living Program. An application for Certificate of Need for a new or expanded Transitional Living Program shall be reviewed under the General Review Considerations of Rule 111-2-2-.09 and the service-specific review considerations of this Rule.

(b) A Certificate of Need shall be required prior to the establishment of a new or the expansion of an existing Life Long Living Program. An application for Certificate of Need for a new or expanded Life Long Living Program shall be reviewed under the General Review Considerations of Rule 111-2-2-.09 and the service-specific review considerations of this Rule.

(2) **Definitions.**

(a) 'Expansion' or 'Expanded Service' means increasing the number of beds in an existing Traumatic Brain Injury Facility or program; or an existing Traumatic Brain Injury Facility or program which makes expenditures which exceed the capital expenditure threshold; or an existing Traumatic Brain Injury Facility or program which seeks to add a program which it currently does not offer.

(b) "Life Long Living Program" means such treatment and rehabilitative care as shall be delivered to traumatic brain injury clients who have been discharged from a more intense level of rehabilitation, but who cannot live at home independently, and who require on-going lifetime support. Such clients are medically stable, may have special needs, but need less than 24 hour per day medical support.

(c) 'New' means a facility that has not operated as a Traumatic Brain Injury Facility in the previous twelve months. For purposes of these rules, an existing Traumatic Brain Injury Facility or program which proposes to be relocated to a location more than three miles from its present location shall be considered "new".

(d) "Official State Health Component Plan" means the document related to Traumatic Brain Injury Facilities developed by the Department, established by the Georgia State Health Strategies Council and signed by the Governor of Georgia.

(e) "Planning Region" means one of the twelve state service delivery regions established by O.C.G.A. § 50-4-7.

(f) "Transitional Living Program" means such treatment and rehabilitative care as shall be delivered to traumatic brain injury clients who require education and training for independent living with a focus on compensation for skills which cannot be restored. Such care prepares clients for maximum independence, teaches necessary skills for community interaction, works with clients on pre-vocational and vocational training and stresses cognitive, speech, and behavioral therapies structured to the individual needs of clients. Such clients are medically stable, may have special needs, but need less than 24 hour per day medical support.

(g) "Traumatic Brain Injury" means a traumatic insult to the brain and its related parts resulting in organic damage thereto that may cause physical, intellectual, emotional, social, or vocational changes in a person. It shall also be recognized that a person having a traumatic brain injury may have organic damage or physical or social disorders, but shall not be considered mentally ill.

(h) "Traumatic Brain Injury Facility" means a building or place which is devoted to the provision of residential treatment and rehabilitative care in a transitional living program or a life long living program for periods continuing for 24 hours or longer for persons who have traumatic brain injury. Such a facility is not classified by the Office of Regulatory Services of the Georgia Department of Human Resources or the Department as a hospital, nursing home, intermediate care facility or personal care home.

(3) **Standards.**

~~(a) The need for a new or expanded transitional living program shall be established through the application of the demand-based need methodology as follows:~~

~~1. Step 1 – Calculate the Projected Number of Transitional Living Program Clients~~

~~(i) Projected Total TBI Discharges - Project the number of TBI discharges in the planning horizon year (the third year) by multiplying the projected resident population in the service area by the statewide hospital discharge rate for acute care hospitals for patients with traumatic brain injury (TBI) diagnoses as determined by using the following ICD-9 diagnosis codes or by using updated codes if applicable: 800.1 to 800.4, 800.6 to 800.9, 801, 803.1 to 803.4, 803.6 to 803.9, 804.1 to 804.41, 804.6 to 804.9, 850.1 to 850.9, 851, 852, 853, 854, 907.0 to 907.11, 907.3 to 907.9.~~

~~[Projected Resident Population X TBI Discharge Rate = Projected TBI Discharges]~~

~~(ii) Projected Transitional Living Clients - Project the number of clients for Transitional Living Programs in the planning horizon year by multiplying the projected total TBI discharges by the estimated percent demand for transitional living which is two percent.~~

~~[Projected TBI Discharges X .02 = Projected Transitional Living Clients]~~

2. ~~Step 2 – Calculate the Projected Transitional Living Program Client Days of Care. The Projected Transitional Living Clients from Step 1 are multiplied by the expected average length of stay for a Transitional Living Program which is 300 days.~~

   ~~[Projected Transitional Living Clients X 300 Days = Projected Transitional Living Program Days of Care]~~

3. ~~Step 3 – Calculate the Projected Number of Beds Needed for Transitional Living Programs~~

   ~~(i) Projected Transitional Living Program Clients' Average Daily Census – Divide the Transitional Living Program client days from Step 2 by 365 days per year.~~

   ~~[Transitional Living Client Days / 365 = Projected Average Daily Census]~~

   ~~(ii) Projected Number of Transitional Living Program Beds Needed – Divide the Average Daily Census by the Optimal Occupancy rate of 85 percent to determine the number of beds. Round fractions up to a whole bed.~~

   ~~[Projected Average Daily Census / .85 = Projected Transitional Living Program Beds]~~

~~(b) The need for a new or expanded Life Long Living Program shall be determined through the application of the demand-based need methodology as follows:~~

1. ~~Step 1 – Estimate the number of Current Life Long Living Program Client Candidates~~

   ~~(i) Estimated Prevalence Rate for TBI Clients Currently - Multiply the TBI discharge rate by 4. The TBI discharge rate should be determined by using the following ICD-9 diagnosis codes or by using updated codes if applicable: 800.1 to 800.4, 800.6 to 800.9, 801, 803.1 to 803.4, 803.6 to 803.9, 804.1 to 804.41, 804.6 to 804.9, 850.1 to 850.9, 851, 852, 853, 854, 907.0 to 907.11, 907.3 to 907.9.~~

   ~~(ii) Estimated Current Life Long Living Candidates - Multiply the current estimated population in the service area by the estimated prevalence rate for TBI clients and then apply the demand factor for Life Long Living by multiplying by 0.5.~~

2. ~~Step 2 – Project the number of New Clients for Life Long Living Programs. For each service area, project new clients for life long living for year one of the three year planning period by multiplying the projected service area~~

~~population by the hospital discharge rate for Georgia acute care hospitals for patients with traumatic brain injury (TBI) diagnoses as determined using the following ICD-9 diagnosis codes or by using updated codes if applicable: 800.1 to 800.4, 800.6 to 800.9, 801, 803.1 to 803.4, 803.6 to 803.9, 804.1 to 804.41, 804.6 to 804.9, 850.1 to 850.9, 851, 852, 853, 854, 907.0 to 907.11, 907.3 to 907.9~~

~~3. Step 3 – Make an Annual Attrition Adjustment. Adjust for annual attrition due to death or discharge to another setting. The estimated existing clients (Step 1) are added to the projected new clients (Step 2) for life long living to determine clients for year one. This number is multiplied by a ten percent attrition rate to account for death of clients or discharge to another setting.~~

~~4. Steps 4 and 5 – Estimating Clients for Life Long Living in Following Years. Estimate client numbers for year two of the planning period by repeating Steps 1 through 3 using projected population figures provided by the Office of Planning and Budget. Estimate client numbers for year three of the planning period by repeating Steps 1 through 3 using the appropriate population estimates.~~

(a) An application for a new or expanded Traumatic Brain Injury Facility or program shall provide sufficient documentation of the need for such a program in the Planning Region. In the case of an application for an expanded program, the applicant shall justify the need for the expansion by, at a minimum, documenting that the expansion program has achieved an occupancy rate of 80 percent or more for the most recent 12-months prior to submitting application.

~~(c)~~ (b)An applicant for a new or expanded Traumatic Brain Injury Facility or program shall document that the establishment or expansion of its Facility or program will not have an adverse impact on existing and approved programs of the same type in its Planning Region. An applicant for a new or expanded Traumatic Brain Injury Facility or program shall have an adverse impact on existing and approved facilities or programs of the same type if it will:

1. decrease annual utilization of an existing facility or program, whose current utilization is at or above 85%, to a projected annual utilization of less than 75% within the first twelve months following the acceptance of the applicant's first patient; or

2. decrease annual utilization of an existing facility or program, whose current utilization is below 85%, by ten percent over the twelve months following the acceptance of the applicant's first patient.

The applicant shall provide evidence of projected impact by taking into account existing planning region market share of facilities or programs of the same type and future population growth or by providing sufficient evidence that the current population is underserved by the existing Traumatic Brain Injury facility or program of the same type within the planning region.

~~(d)~~ (c)The Department may grant an exception to the need methodologies of 111-2-2-.34(3)(a) and (3)(b) to remedy an atypical barrier to the services of a Traumatic Brain

Injury Facility or program based on cost, quality, financial access or geographic accessibility.

~~(e)~~ (d) Minimum bed size for a Traumatic Brain Injury Facility or program is six beds; A Life Long Living Program may not exceed thirty beds, except that an applicant for a new or expanded Life Long Living Program may be approved for total beds to exceed 30 beds only if the applicant provides documentation satisfactory to the Department that the program design, including staffing patterns and the physical plant, are such as to promote services which are of high quality, are cost-effective and are consistent with client needs.

~~(f)~~ (e) An applicant for a new or expanded Traumatic Brain Injury Facility shall demonstrate the intent to meet the standards of the Commission on Accreditation of Rehabilitation Facilities (CARF) which apply to post acute brain injury programs and residential services within twenty-four (24) months of accepting its first patient. An applicant for an expanded Traumatic Brain Injury Facility or program shall be CARF-certified as of the date of its application and shall furnish proof of the certification as a part of the Certificate of Need application process.

~~(g)~~ (f) An applicant for a new or expanded Traumatic Brain Injury Facility shall demonstrate the intent to meet the licensure Rules of the Georgia Department of Human Resources for such facilities. An applicant for an expanded Traumatic Brain Injury Facility or program shall demonstrate a lack of uncorrected deficiencies as documented by letter from the Georgia Department of Human Resources.

~~(h)~~ (g) An applicant for a new or expanded Traumatic Brain Injury Facility shall have written policies and procedures for utilization review. Such review shall consider the rehabilitation necessity for the service, quality of client care, rates of utilization and other considerations generally accepted as appropriate for review.

~~(i)~~ (h) An applicant for a new or expanded Traumatic Brain Injury Facility shall document the existence of referral arrangements, including transfer agreements, with an acute care hospital within the planning region to provide emergency medical treatment to any patient who requires such care. If the nearest acute-care hospital is in an adjacent planning region, the applicant may document the existence of transfer agreements with that hospital in lieu of such agreements with a hospital located within the planning region.

~~(j)~~ (i) An applicant for a new or expanded Traumatic Brain Injury Facility shall document that the Facility will be financially accessible by:

1. providing sufficient documentation that un-reimbursed services for indigent and charity patients in a new or expanded Facility shall be offered at a standard which meets or exceeds three percent of annual gross revenues for the Facility after provisions have been made for bad debt and Medicaid/Medicare contractual adjustments have been deducted. If an applicant, or any facility owned or operated by the applicant's parent organization, received a Certificate of Need (CON) for a Traumatic Brain Injury Facility and the CON included an expectation that a certain level of un-reimbursed indigent and/or charity care would be provided in the Facility(ies), the applicant shall provide sufficient documentation of the Facility's provision

of such care. An applicant's history, or the history of any facility owned or operated by the applicant's parent organization, of not following through with a CON expectation of providing indigent and/or charity care at or above the level agreed to will constitute sufficient justification to deny an application; and

2. agreeing to participate in the Medicare and Medicaid programs, whenever these programs are available to the Facility.

~~(k)~~(j) **Reserved.**

~~(l)~~(k) An applicant for a new or expanded Traumatic Brain Injury Facility shall document an agreement to provide the Department requested information and statistical data related to the operation of such a Facility and to report that information and statistical data to the Department on a yearly basis, and as needed, in a format requested by the Department and in a timely manner.

Authority: O.C.G.A. §§ 31-5A et seq., 31-6 et seq.