

**RULES
OF
DEPARTMENT OF COMMUNITY HEALTH**

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**111-2
HEALTH PLANNING**

**111-2-2
Certificate of Need**

111-2-2-.35 Specific Review Considerations for Comprehensive Inpatient Physical Rehabilitation Services.

(1) Applicability.

- (a) A Certificate of Need shall be required prior to the establishment of a new or the expansion of an existing Comprehensive Inpatient Physical Rehabilitation Adult Program. An application for Certificate of Need for a new or expanded Comprehensive Inpatient Physical Rehabilitation Adult 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 Comprehensive Inpatient Physical Rehabilitation Pediatric Program. An application for Certificate of Need for a new or expanded Comprehensive Inpatient Physical Rehabilitation Pediatric 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) 'Adults' means persons eighteen (18) years of age and over. However, a CON-authorized or grandfathered Comprehensive Inpatient Physical Rehabilitation Adult Program will not be in violation of the CON laws and regulations if it provides service to a patient older than fifteen years if the provider has determined that such service is medically necessary, provided that the treatment days and patient census associated with patients sixteen and seventeen years of age do not exceed 10 percent of annual treatment days and annual census, respectively. Rehabilitation programs specifically

focused towards treatment of spinal cord injuries and disorders and which existed prior to the effective date of this version of Rule 111-2-2-.35 shall not be subject to the adult age limitations; such programs may treat any patient aged twelve and over.

- (b) 'Comprehensive Inpatient Physical Rehabilitation Programs' means rehabilitation services, which have been classified by Medicare as an inpatient rehabilitation facility pursuant to 42 C.F.R. §412.23(b)(2), provided to a patient who requires hospitalization, which provides coordinated and integrated services that include evaluation and treatment, and emphasizes education and training of those served. The program is applicable to those individuals who require an intensity of services which includes, as a minimum, physician coverage 24 hours per day, seven days per week, with daily (at least five days per week) medical supervision, complete medical support services including consultation, 24-hour-per-day nursing, and daily (at least five days per week) multidisciplinary rehabilitation programming for a minimum of three hours per day. For regulatory purposes, the definition includes a program which asserts its intent to be Medicare-classified as an inpatient rehabilitation facility no later than twenty-four (24) months after accepting its first patient. If a program, which has been awarded a CON pursuant to this rule, has not been so classified by Medicare within the timeframe outlined above, the CON issued to that entity shall be revoked.
- (c) 'Expansion' and 'Expanded' mean the addition of beds to an existing CON-authorized or grandfathered Comprehensive Inpatient Physical Rehabilitation Program. However, a CON-authorized or grandfathered provider of Comprehensive Inpatient Physical Rehabilitation in a freestanding rehabilitation hospital may increase the bed capacity of an existing program by the lesser of ten percent of existing capacity or 10 beds if it has maintained an average occupancy of 85 percent for the previous twelve calendar months provided that there has been no such increase in the prior two years and provided that the capital expenditures associated with the increase do not exceed the capital expenditure threshold. If such an increase exceeds the capital expenditure threshold, the increase will be considered an expansion for which a Certificate of Need shall be required under these Rules.
- (d) 'Freestanding Rehabilitation Hospital' means a specialized hospital organized and operated as a self-contained health care facility that provides one or more rehabilitation programs and which has been classified as a inpatient rehabilitation facility by the Medicare program pursuant to 42 C.F.R. §412.23(b)(2). For regulatory purposes, the definition includes a hospital which asserts its intent to be Medicare-classified as an inpatient rehabilitation facility no later than twenty-four (24) months after accepting its first patient. If an entity, which has been awarded a CON pursuant to this rule, has not been so classified by Medicare within the timeframe outlined above, the CON issued to that entity shall be revoked. An entity, which has had its CON revoked pursuant to this rule, shall not have the authority to operate as a general acute care hospital.
- (e) 'New' means a Program that has not been classified by the Medicare program as a rehabilitation hospital or program in the previous twelve months. Adult programs described in 111-2-2-.35(1)(a) and pediatric programs described in 111-2-2-.35(1)(b) shall be considered independent programs such that a provider seeking to add a program not offered by that provider in the previous twelve months shall be considered to be offering a new program for which a Certificate of Need must be obtained. For purposes of these rules, an existing program which proposes to be

relocated to a location more than three miles from its present location shall be considered "new".

- (f) 'Official State Health Component Plan' means the document related to Physical Rehabilitation Programs and Services developed by the Department, established by the Georgia Health Strategies Council and signed by the Governor of Georgia.
- (g) 'Pediatric' means persons seventeen years of age and under. However, a CON-authorized or grandfathered Comprehensive Inpatient Rehabilitation Pediatric Program will not be in violation of the CON laws and regulations if it provides service to a patient younger than twenty-two years if the provider has determined that such service is medically necessary, provided that the treatment days and patient census associated with patients eighteen, nineteen, twenty, and twenty-one years of age do not exceed 10 percent of annual treatment days and annual census, respectively. Rehabilitation programs specifically focused towards treatment of spinal cord injuries and disorders and which existed prior to the effective date of this version of Rule 111-2-2-.35 shall not be subject to the pediatric age limitations; such programs may treat any patient aged twelve and over.
- (h) 'Planning Region' means one of the four sub-state regions for Physical Rehabilitation Programs and Services as follows:

1. Rehabilitation Region 1, including the following counties:

Dade, Walker, Catoosa, Whitfield, Murray, Gilmer, Fannin, Union, Towns, Rabun, Stephens, Habersham, White, Lumpkin, Dawson, Pickens, Gordon, Chattooga, Floyd, Bartow, Cherokee, Forsyth, Hall, Banks, Franklin, Hart, Elbert, Madison, Jackson, Barrow, Gwinnett, Fulton, Cobb, Paulding, Polk, Haralson, Carroll, Douglas, DeKalb, Rockdale, Walton, Oconee, Clarke, Oglethorpe, Greene, Morgan, Newton, Butts, Henry, Clayton, Fayette, Coweta, Heard, Troup, Meriwether, Pike, Spalding, Lamar, and Upson

2. Rehabilitation Region 2, including the following counties:

Wilkes, Lincoln, Columbia, McDuffie, Warren, Taliaferro, Hancock, Glascock, Putnam, Jasper, Monroe, Jones, Baldwin, Washington, Jefferson, Richmond, Burke, Screven, Jenkins, Emmanuel, Johnson, Treutlen, Montgomery, Wheeler, Telfair, Wilcox, Dodge, Laurens, Pulaski, Bleckley, Houston, Peach, Twiggs, Wilkinson, Bibb, and Crawford

3. Rehabilitation Region 3, including the following counties:

Harris, Talbot, Taylor, Muscogee, Chattahoochee, Marion, Schley, Macon, Dooly, Sumter, Webster, Stewart, Quitman, Randolph, Terrell, Lee, Crisp, Ben Hill, Irwin, Turner, Worth, Dougherty, Calhoun, Clay, Early, Baker, Mitchell, Colquitt, Miller, Cook, Tift, Berrien, Lanier, Echols, Lowndes, Brooks, Thomas, Grady, Decatur, and Seminole

4. Rehabilitation Region 4, including the following counties:

Effingham, Bulloch, Candler, Toombs, Tattnall, Evans, Bryan, Chatham, Liberty, Long, Wayne, Appling, Jeff Davis, Coffee, Bacon, Pierce, Brantley, McIntosh, Glynn, Camden, Charlton, Ware, Atkinson, and Clinch

(3) Service Specific Review Standards.

(a) The need for a new or expanded Comprehensive Inpatient Physical Rehabilitation Program shall be determined and applied as follows:

1. The need for new or expanded Comprehensive Inpatient Physical Rehabilitation Adult Program in a planning region shall be determined using the following demand-based need projection:

- (i) Determine the comprehensive inpatient physical rehabilitation utilization rate per 1,000 for the current year for each planning region by dividing the total number of inpatient physical rehabilitation discharges from licensed providers of inpatient rehabilitation in the planning region for patients aged 18 and over by current year projected resident population (aged 18 and over) for the planning region and multiplying by 1,000. The source of current year discharge data for purposes of this rule include data collected pursuant to O.C.G.A. § 31-7-280(c)(14), or in the Department's discretion, discharge data collected on the most recent Annual Hospital Questionnaire. The source for current and horizon year resident population shall be resident population projections from the Governor's Office of Planning and Budget. For the first Horizon Year projection using this rule, and for the first horizon year projection only, the utilization rate per 1,000 for each planning region shall be reduced by 16 percent to account for anticipated utilization reduction after full implementation of the Center for Medicare and Medicaid Services' (CMS) 75% rule.
- (ii) Calculate the projected horizon year discharges for each planning region by multiplying the planning region utilization rate obtained in Step (i) by the horizon year resident population projection (aged 18 and over) for that planning region.
- (iii) Determine the comprehensive inpatient physical rehabilitation average length of stay for the current year for each planning region by dividing the total number of inpatient physical rehabilitation discharge days of care from licensed providers of inpatient rehabilitation in the planning region for patients aged 18 and over by the current year inpatient rehabilitation discharges determined in Step (i).
- (iv) Multiply the projected discharges obtained in Step (ii) by the current year's average length of stay (aged 18 and over) determined in Step (iii) to determine the horizon year projected patient days for each planning region.

- (v) Divide the product obtained in Step (iv) by the number of calendar days in the horizon year to obtain the average projected daily census in each planning region.
 - (vi) Divide the result obtained in Step (v) by .85 to determine the number of projected beds utilizing an 85% capacity standard for each planning region.
 - (vii) Determine the current inventory of comprehensive inpatient physical rehabilitation beds for adults in the planning region from Departmental data. For all CIPR providers, which have been licensed as a Rehabilitation Hospital by the Department of Human Resources, the current inventory of CIPR beds shall reflect the number of beds reported as CON-authorized in the Facility Inventory prior to the date of adoption of these rules augmented from that time forward only by increases in bed capacity approved through the CON process (or by exemptions thereto) and by decreases due to a provider ceasing to provide such services for a period in excess of 12 months. For purposes of this rule, the initial inventory shall not include the beds of licensed Long Term Care Hospitals; the beds of such facilities shall be included in the applicable Long Term Care Hospital inventory.
 - (viii) If the projected bed need in Step (vi) is greater than the current inventory of adult CIPR beds in the planning region, the application for the Certificate of Need should reflect a number of beds equal to or lesser than the resulting unmet bed need.
2. The need for new or expanded Comprehensive Inpatient Physical Rehabilitation Pediatric Program in a planning region shall be determined using the following demand-based need projection:
- (i) Determine the comprehensive inpatient physical rehabilitation utilization rate per 1,000 for the current year for each planning region by dividing the total number of inpatient physical rehabilitation discharges from licensed providers of inpatient rehabilitation in the planning region for patients aged 17 and under by current year resident population (aged 17 and under) for the planning region. The source of current year discharge data for purposes of this rule include data collected pursuant to O.C.G.A. § 31-7-280(c)(14), or in the Department's discretion, discharge data collected on the most recent Annual Hospital Questionnaire.
 - (ii) Calculate the projected horizon year discharges for each planning region by multiplying the planning region utilization rate obtained in Step (i) by the horizon year resident population projection (aged 17 and under) for that planning region.
 - (iii) Determine the comprehensive inpatient physical rehabilitation average length of stay for the current year for each planning region by dividing the total number of inpatient physical rehabilitation

discharge days of care from licensed providers of inpatient rehabilitation in the planning region for patients aged 17 and under by the current year inpatient rehabilitation discharges determined in Step (i)

(iv) Multiply the projected discharges obtained in Step (ii) by the current year's average length of stay (aged 17 and under) determined in Step (iii) to determine the horizon year projected patient days for each planning region.

(v) Divide the product obtained in Step (iv) by the number of calendar days in the horizon year to obtain the average projected daily census in each planning region.

(vi) Divide the result obtained in Step (v) by .85 to determine the number of projected beds utilizing an 85% capacity standard for each planning region.

(vii) Determine the current inventory of comprehensive inpatient physical rehabilitation beds for pediatric patients in the planning region from Departmental data. For all CIPR providers, which have been licensed as a Rehabilitation Hospital by the Department of Human

Resources, the current inventory of CIPR beds shall reflect the number of beds reported as CON-authorized in the Facility Inventory prior to the date of adoption of these rules augmented from that time forward only by increases in bed capacity approved through the CON process (or by exemptions thereto) and by decreases due to a provider ceasing to provide such services for a period in excess of 12 months. For purposes of this rule, the initial inventory shall not include the beds of licensed Long Term Care Hospitals; the beds of such facilities shall be included in the applicable Long Term Care Hospital inventory.

(viii) If the projected bed need in Step (vi) is greater than the current inventory of pediatric CIPR beds in the planning region, the application for the Certificate of Need should reflect a number of beds equal to or lesser than the resulting unmet bed need.

(b) An applicant for a new or expanded Comprehensive Inpatient Physical Rehabilitation Program shall document that the establishment or expansion of its 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 Comprehensive Inpatient Physical Rehabilitation Program shall have an adverse impact on existing and approved programs of the same type if it will:

1. decrease annual decrease annual utilization of an existing 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 program, whose current utilization is below 85%, by 10 percent over the twelve months following the acceptance of the applicant's first patient.

(c) The Department may grant the following exceptions:

1. The Department may grant an exception to the need methodology of 111-2-2-.35(3)(a)1 and to the adverse impact standard of 111-2-2-.35(3)(b) for an applicant proposing a program to be located in a county with a population of less than 75,000 and to be located a minimum of 50 miles away from any existing program in the state.
2. The Department may grant an exception to the need methodologies of either 111-2-2-.35(3)(a)1 or 111-2-2-.35(3)(a)2 and to the adverse impact standard of 111-2-2-.35(3)(b) to remedy an atypical barrier to Comprehensive Inpatient Physical Rehabilitation Programs based on cost, quality, financial access or geographic accessibility or if the applicant's annual census demonstrates 30 percent out of state utilization for the previous two years.
3. The Department may grant an exception to the need methodologies of 111-2-2-.35(3)(a)(1) or 111-2-2-.35(3)(a)(2) in a planning area which has no existing provider provided that the applicant demonstrates a need for the service based on patient origin data.

(d) A new Comprehensive Inpatient Physical Rehabilitation Program shall have the following minimum bed sizes based on type of program offered:

1. A new Comprehensive Inpatient Physical Rehabilitation Adult Program shall have a minimum bed size of 20 beds in a freestanding rehabilitation hospital already offering another Comprehensive Inpatient Physical Rehabilitation Program, 20 beds in an acute-care hospital, and 40 beds for a new freestanding rehabilitation hospital not already offering another Comprehensive Inpatient Physical Rehabilitation Program.
2. A new Comprehensive Inpatient Physical Rehabilitation Pediatric Program shall have a minimum of 10 beds in a freestanding rehabilitation hospital already offering another Comprehensive Inpatient Physical Rehabilitation Program, 10 beds in an acute-care hospital, and 40 beds for a new freestanding rehabilitation hospital not already offering another Comprehensive Inpatient Physical Rehabilitation Program.

(e) An applicant for a new Comprehensive Inpatient Physical Rehabilitation Program shall demonstrate the intent to meet the standards of the Commission on Accreditation of Rehabilitation Facilities (CARF) applicable to the type of Program to be offered within 18 months of offering the new service.

(f) An applicant for an expanded Comprehensive Inpatient Physical Rehabilitation Program shall be accredited by the Commission on Accreditation of Rehabilitation Facilities ("CARF") for the type of Program which the applicant seeks to expand prior to application. The applicant must provide proof of such accreditation.

- (g) An applicant for a new freestanding rehabilitation hospital shall demonstrate the intent to meet the licensure Rules of the Georgia Department of Human Resources for such hospitals.
- (h) An applicant for an expanded freestanding rehabilitation hospital shall demonstrate a lack of uncorrected deficiencies as documented by letter from the Georgia Department of Human Resources.
- (i) An applicant for a new or expanded Comprehensive Inpatient Physical Rehabilitation Program shall have written policies and procedures for utilization review. Such review shall consider, but is not limited to, factors such as medical necessity, appropriateness and efficiency of services, quality of patient care, and rates of utilization.
- (j) An applicant for a new or expanded freestanding rehabilitation hospital shall document the existence of referral arrangements, including transfer agreements with an acute-care hospital(s) 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.
- (k) An applicant for a new or expanded Comprehensive Inpatient Physical Rehabilitation Program shall foster an environment that assures access to services to individuals unable to pay and regardless of payment source or circumstances by the following:
 - 1. providing evidence of written administrative policies and directives related to the provision of services on a nondiscriminatory basis;
 - 2. providing a written commitment that un-reimbursed services for indigent and charity patients in the service will be offered at a standard which meets or exceeds three percent of annual gross revenues for the service after Medicare and Medicaid contractual adjustments and bad debt have been deducted; and
 - 3. providing documentation of the demonstrated performance of the applicant, and any facility in Georgia owned or operated by the applicant's parent organization, of providing services to individuals unable to pay based on the past record of service to Medicare, Medicaid, and indigent and charity patients, including the level of un-reimbursed indigent and charity care.
- (l) **Reserved.**
- (m) An applicant for a new or expanded Comprehensive Inpatient Physical Rehabilitation Program shall agree to provide the State Health Department with requested information and statistical data related to the operation of such a Program on a yearly basis, or as needed, and in a format requested by the Department.

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