

SYNOPSIS

Rule 111-2-2 Health Planning Certificate of Need

Rule 111-2-2-.33 Specific Review Considerations for Continuing Care Retirement Community (CCRC) Sheltered Nursing Facilities

STATEMENT OF PURPOSE AND MAIN FEATURES OF PROPOSED RULE

The purpose of this proposed amendment in totality is to modify existing regulations in light of changes in the Certificate of Need statute, O.C.G.A. § 31-6 et seq., due to the passage of Senate Bill (SB) 433 in the 2008 Georgia General Assembly. SB 433 necessitates extensive revision to the existing administrative rules for certificate of need. The revisions are outlined in detail below.

DIFFERENCES BETWEEN EXISTING AND PROPOSED RULES

Various grammatical and punctuation errors and omissions were corrected throughout the existing version of the regulations.

Rule 111-2-2-.33. Specific Review Considerations for Continuing Care Retirement Community (CCRC) Sheltered Nursing Facilities

Section (1), Applicability, has been modified to include the phrase, "if not exempt as provided by O.C.G.A. § 31-6-47(a)(17) and Rule 111-2-2-.03(19).

111-2-2-.33 Specific Review Considerations for Continuing Care Retirement Community ("CCRC") Sheltered Nursing Facilities.

(1) **Applicability.** A Certificate of Need will be required prior to the establishment of a new or expanded CCRC Sheltered Nursing Facility, if not exempt as provided by O.C.G.A. § 31-6-47(a)(17) and Rule 111-2-2-.03(19). These Rules apply to sheltered nursing facilities located in CCRC facilities defined herein as Type A and Type B Continuing Care Retirement Communities. A CCRC that has obtained nursing facility beds approved under the standards contained in Rule 111-2-2-.30 does not qualify for sheltered nursing facility beds, and to convert existing nursing facility beds to sheltered nursing facility beds, such a CCRC must apply for a new Certificate of Need. Conversely, a CCRC that obtains sheltered nursing facility beds under these Rules may not qualify for beds under Rule 111-2-2-.30, and is therefore only required to complete these specific review considerations for the sheltered nursing facility beds.

(2) **Duration.** Notwithstanding 111-2-2-.02(6), the initial implementation period of a Certificate of Need granted for a new or expanded CCRC Sheltered Nursing Facility pursuant to these Rules shall be 24 months from the effective date.

(3) Definitions.

(a) "A Continuing Care Retirement Community" (CCRC) is an organization which offers a contract to provide an individual of retirement status, other than an individual related by consanguinity or affinity to the provider furnishing the care, with board and lodging, licensed nursing facility care and medical or other health related services, or both. These services are provided for a minimum period of more than one year and may be for as long as the lifetime of the resident.

(b) "Type A Continuing Care Retirement Community" (Type A CCRC) provides CCRC services at the same location for the life of an individual, including mutually terminable contracts, and in consideration of the payment of an entrance fee with or without other periodic charges. A Type A CCRC offers nursing facility care for a little or no substantial increase in monthly payments, except normal operating costs and inflation adjustments.

(c) "Type B Continuing Care Retirement Community" (Type B CCRC) provides CCRC services at the same location for a period in excess of one year, including mutually terminable contracts, and in consideration of the payment of an entrance fee with other periodic charges. A Type B CCRC offers a specified amount of nursing facility care for little or no substantial increase in monthly payments except normal operating costs and inflation adjustments. After the specified amount of nursing care is received, residents pay either a discounted rate or the full per diem rate for nursing care required.

(d) "A Continuing Care Contract" means furnishing pursuant to an agreement shelter, food, and either nursing care or personal services, whether such nursing care or personal services are provided in the facility or in another setting designated by the agreement for continuing care, to an individual not related by consanguinity or affinity to the provider furnishing such care upon payment of an entrance fee. Other personal services provided shall be designated in the continuing care agreement. Agreements to

provide continuing care include agreements to provide care for any duration, including agreements that are terminable by either party.

(e) "CCRC Sheltered Nursing Facility", for purposes of these Rules, is a nursing facility that meets the definition of a nursing facility as defined by section 111-2-2-.30 of the Rules of the Department. A CCRC Sheltered Nursing Facility shall be for the exclusive use of residents of a Type A or Type B CCRC.

(f) "Official State Health Component Plan" means the document related to the above-named services developed by the Department, established by the Georgia Health Strategies Council, and signed by the Governor of Georgia.

(g) "Resident" is an individual entitled to receive continuing care in a Type A or Type B Continuing Care Retirement Community.

(4) **Standards.**

(a) The numerical need for a new CCRC sheltered nursing facility shall be based on a ratio of one nursing facility bed for each five independent living units. The applicant for a CCRC Sheltered Nursing Facility shall demonstrate to the Department that the potential market for CCRC Independent Living Units in the proposed service area is based on a valid feasibility study which takes into account factors such as, but not limited to, the age and annual household income of the target population and the geographic area to be served.

(b) The numerical need for an expanded CCRC sheltered nursing facility shall be based on a ratio of one nursing facility bed for each four independent living units provided that the CCRC's existing nursing facility has experienced an occupancy rate of at least eighty percent during the most recent year.

(c) Sheltered nursing facility beds approved under these Rules shall be used exclusively for persons who are residents of the CCRC, and who are a party to a continuing care contract with the facility or the parent organization and who have lived in a non-nursing unit of the CCRC for a period of at least ninety (90) days. Exceptions shall be allowed when one spouse or sibling is admitted to the nursing unit at the time the other spouse or sibling moves into a non-nursing unit, or when the medical condition requiring nursing care was not known to exist or be imminent when the individual became a party to the continuing care contract.

(d) The applicant shall provide evidence of intent that at no time will the nursing facility be certified for participation in the Medicaid Program.

(e) A CCRC which is the applicant for a new or expanded CCRC sheltered nursing facility shall provide evidence of the intent and ability to meet all appropriate authorization and disclosure requirements of the Georgia State Department of Insurance and of any appropriate accrediting agency(ies). The CCRC shall furnish reports in such form and at such times as may be specified, which accurately and fully disclose it has met specified requirements.

(f) A new or expanded CCRC sheltered nursing facility shall provide evidence of the intent and ability to meet all appropriate requirements regarding licensure and accreditation of the nursing facility as follows:

1. Compliance with all appropriate licensure requirements and operational procedures required by the Office of Regulatory Services of the Georgia Department of Human Resources;
2. No uncorrected operational standards in any existing Georgia general or CCRC sheltered nursing facilities owned and/or operated by either the entity, its affiliates, or its principals. Plans to correct physical plant deficiencies must be provided;
3. No previous conviction of Medicaid and/or Medicare fraud by either the entity, its affiliates, or its principals;
4. Provision of a plan for a comprehensive quality improvement program which includes, but is not limited to, procedures and plans for staff training and a program to monitor specific quality indicators and measure the facility's performance and patient outcomes accordingly; and
5. Intent to meet accreditation requirements of the appropriate accrediting agency(ies).

(g) A CCRC which is the applicant for a new or expanded CCRC sheltered nursing facility shall demonstrate the existence of a Health Care Fund whose liability is documented by a relevant Actuarial Study and certified by a qualified actuary; or the existence of a Long Term Care Insurance Policy issued to individual residents; or a Group Long Term Care Insurance Policy issued to the CCRC for the coverage of all residents. An Individual or Group Insurance Policy must conform to all the requirements of Chapter 120-20-16 of the Rules and Regulations of the State of Georgia Insurance Department entitled "Long Term Care Insurance Regulation". The period and scope of coverage must be identical to the period and scope of coverage in the continuing care contract.

(h) A CCRC in which a new or expanded sheltered nursing facility is to be located shall provide the Department with requested information and statistical data related to the operation and programmatic elements of the CCRC and the Sheltered Nursing Facility. Analyses are predicated upon accurate, consistent and systematically obtained information.

Authority O.C.G.A. Secs. 31-5A et seq., 31-6 et seq. **History.** Original Rule entitled "Specific Review Considerations for Continuing Care Retirement Community ("CCRC") Sheltered Nursing Facilities" adopted. F. Dec. 16, 2004; eff. Jan. 5, 2005. **Amended:** F. Nov. 13, 2007; eff. Dec. 3, 2007.