

Mississippi Certificate of Need Alert

March 20, 2009

Proposed Changes to the FY 2010 Mississippi State Health Plan

The Mississippi State Department of Health, Division of Health Planning and Resource Development (“the Division”) has proposed changes to the criteria and standards of the FY 2010 State Health Plan. Among the more significant proposed changes in the criteria and standards are in the areas of acute care hospitals, obstetrical services and neonatal special care services.

ACUTE CARE CHAPTER

a. New General Hospital Service Areas

The Division proposed significant changes to the General Hospital Service Areas (GHSA) Planning Areas. Map 11-1, attached to this Newsletter as Exhibit A, illustrates that the Division has proposed to divide the state into nine Planning Areas rather than the seven Planning Areas currently in effect. Under the proposed changes, the state would be divided into Planning Areas as follows:

- i. Planning Area I – DeSoto, Tunica, Marshall, Tate and Panola counties;
- ii. Planning Area II – Benton, Tippah, Alcorn, Tishomingo, Prentiss, Union, Pontotoc, Lee and Itawamba counties;
- iii. Planning Area III – Coahoma, Quitman, Tallahatchie, Leflore, Sunflower, Bolivar, Washington and Humphreys counties;
- iv. Planning Area IV – Lafayette, Yalobusha, Calhoun, Grenada, Carroll, Montgomery, Webster, Chickasaw, Monroe, Clay, Choctaw, Oktibbeha, Lowndes, Winston and Noxubee counties;
- v. Planning Area V – Issaquena, Sharkey, Yazoo, Holmes, Attala, Leake, Madison, Warren, Hinds, Rankin, Scott, Smith, Simpson, Copiah and Claiborne counties;

- vi. Planning Area VI – Neshoba, Kemper, Newton, Lauderdale, Clarke and Wayne counties;
- vii. Planning Area VII – Adams, Jefferson, Franklin, Lincoln, Lawrence, Wilkinson, Amite, Pike and Walthall counties;
- viii. Planning Area VIII – Jasper, Jones, Covington, Jefferson Davis, Marion, Lamar, Forrest, Perry and Greene counties; and
- ix. Planning Area IX – Pearl River, Hancock, Stone, Harrison, George and Jackson counties.

b. New General Acute Care Hospital criteria for counties located in an underdeveloped General Hospital Service Area with a rapidly growing population

The Division has proposed a new provision governing applicants who desire to establish acute care hospitals in underdeveloped GHSA with rapidly growing populations. The proposed provision states that any county with a population of over 140,000 people and projecting a population growth rate in excess of ten percent over the next ten year period, whose GHSA does not presently exceed a factor of three beds per 1,000 people may be considered for a new acute care hospital not to exceed 100 beds in that county.

Applicants proposing a new acute care hospital must meet four conditions:

- i. Provide an amount of indigent care in excess of the average of the hospitals in the GHSA as determined by the State Health Officer;
- ii. Provide an amount of Medicaid care in excess of the average of the hospitals in the GHSA as determined by the State Health Officer;
- iii. If the county in which the proposed hospital would be located is adjacent to a county without

a hospital, the applicant must establish outpatient services in the adjacent county without a hospital; and

- iv. Fully participate in the Trauma Care System at a level to be determined by the Department for a reasonable number of years to be determined by the State Health Officer.

UPDATE OF OBSTETRICAL SERVICES

The Division has proposed several changes related to the provision of obstetrical services. First, it removed the requirement that an applicant seeking to offer obstetrical services dedicate at least six obstetrical beds. Under the proposed FY 2010 State Health Plan, there is no requirement that a facility offering obstetrical services have a minimum number of designated obstetrical beds.

Second, the Division added additional guidelines for facilities offering specialty and subspecialty care for high-risk neonates, requiring such hospitals to conform to the recommendations of the American Academy of Pediatrics, Policy Statement, Levels of Neonatal Care. The current State Health Plan only requires that applicants proposing to offer obstetrical services be equipped to provide basic perinatal services in accordance with the guidelines contained in the Minimum Standards of Operation for Mississippi Hospitals.

Finally, with regard to demonstrating the need for the establishment of obstetrical services, the Division removed the requirement that an applicant demonstrate that all existing obstetrical beds within the proposed Perinatal Planning Area have maintained an optimum utilization rate of 60 percent for the most recent 12-month reporting period. It also removed the definition of “optimum utilization,” defined as 60 percent occupancy per annum for all existing obstetrical beds in an obstetrical unit. In its place, the Division added a new provision requiring the applicant to document the number of deliveries performed by hospitals in the proposed obstetric service area.

UPDATE OF NEONATAL SPECIAL CARE SERVICES

The Division has also proposed several changes to the criteria and standards for neonatal special care services for the FY 2010 State Health Plan. First, it has revised the statement that the Department of Health will use the Perinatal Planning Areas to determine the need for obstetrical services to state that the Department of Health will use the Perinatal Planning Areas to determine the need for neonatal special care services.

Second, the Division amended the requirement that facilities desiring to provide neonatal special care services meet the requirements of the Minimum Standards of Care for Neonatal Special Care Services. The proposed changes state that such facilities shall meet the capacity and levels of neonatal care for specialty and subspecialty facilities as recommended by the American Academy of Pediatrics, Policy Statement, Levels of Neonatal Care.

Third, with regard to demonstrating the need for the provision of neonatal special care services, the Division removed the requirement that an applicant demonstrate that each existing provider of neonatal special care services within the proposed Perinatal Planning Area maintained an optimum utilization rate of 75 percent for the most recent 12-month period. It also removed the definition of “optimum utilization,” defined as 75 percent occupancy per annum for all existing providers of neonatal special care services within an applicant’s proposed Perinatal Planning Area.

Finally, the Division implemented need criterion for existing providers of neonatal special care services seeking to extend capacity by adding or converting neonatal special care beds. The proposed provisions require the applicant to document the need for the proposed project and demonstrate that the facility in question has maintained an occupancy rate for neonate special care services of at least 70 percent for the most recent two years or 80 percent for the most recent year.

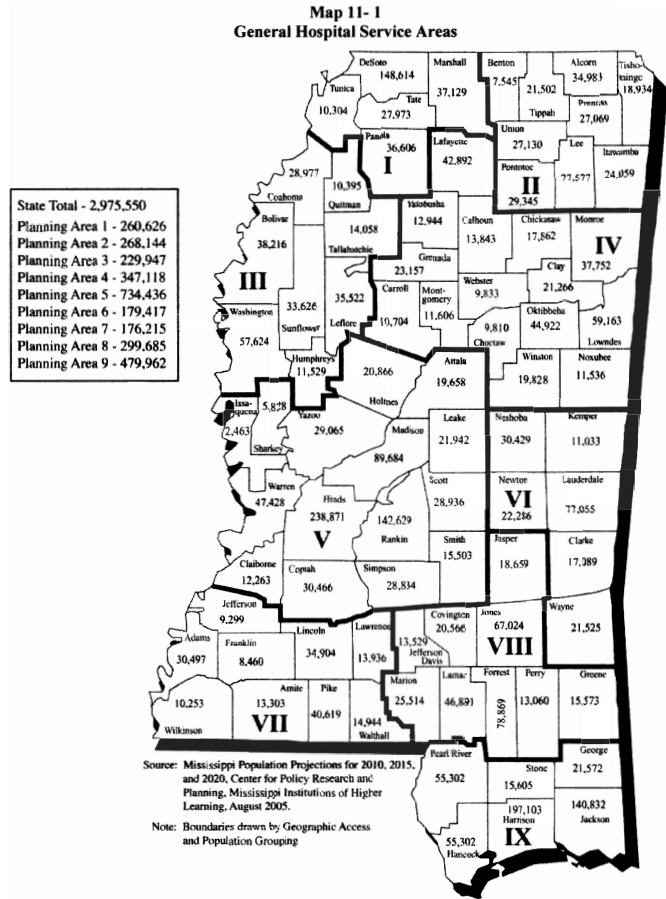
The proposed changes state that applicants may be approved for additional or converted neonatal special care beds to “meet the projected demand balanced with the optimum utilization rate for the Perinatal Planning Area.” This statement references the optimum utilization rate but, as mentioned above, the Division deleted the definition of this phrase as part of its proposed changes. We have requested clarification on this point from the Mississippi State Department of Health.

COMMENT PERIOD AND HEARING

If you would like to comment on the proposed changes or would like Phelps Dunbar to submit a comment for you, written comments on the proposed changes are being accepted between March 11, 2009 and April 3, 2009. Additionally, a hearing on the proposed changes will be held on March 27, 2009 at 10:00 a.m. in the Health Services Conference Room, 2nd Floor, Osborne Building, at the Mississippi State Department of Health, 570 Woodrow Wilson Avenue, Jackson, Mississippi. In order to speak and present evidence at the hearing, you must make a written request to the Mississippi State Department of Health at least five days prior to the hearing.

PENDING CON LEGISLATION

At this time, there does not appear to be any CON legislation currently pending in the Mississippi State Legislature. Several CON-related bills were proposed but either died on the calendar or in committee. We will continue to monitor all CON legislation and keep you apprised of any changes.



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Inquiries concerning topics addressed may be directed to any of our attorneys listed below. Your comments, questions, and suggestions are encouraged.

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