



## STATE HEALTH PLANNING AND DEVELOPMENT AGENCY

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### PUBLIC NOTICE

On May 8, 2012, Governor Bentley signed into law Act 2012-294, which contains important amendments to Alabama's Certificate of Need Law. The Act contains provisions designed to significantly reduce the time and cost associated with CON applications. It also raises certain filing fees. The following changes shall apply to Certificate of Need applications filed after May 8, 2012, as well as other requests for administrative determinations made after such date.

#### Equipment Replacement

1. The fee for a determination of reviewability regarding the acquisition of replacement equipment will increase from ten percent (10%) to twenty percent (20%) of the CON filing fee provided in Rule 410-1-7-.06 (b) for non-rural hospitals
2. Rural Hospitals seeking a determination of reviewability regarding the acquisition of replacement equipment will only be required to pay a fee equal to twenty-five percent (25%) of the fee specified in 410-1-7-.06 for non-rural hospitals.

#### Certificate of Need Application Fees

1. An applicant, other than a rural hospital as defined by the Health Care Financing Administration, who has had an average daily census comprised of fifty percent (50%) or more Medicaid patients within the last year prior to its filing, must pay a filing fee of three-fourths of one percent of the estimated cost of the proposed new institutional health service, or a maximum of \$8,000.00.
2. A rural hospital applicant who has had an average daily census comprised of thirty percent (30%) or more Medicaid/Medicare patients within the last year prior to its filing, must pay a filing fee of three-fourths of one percent of the estimated cost of the proposed new institutional health service, or a maximum of \$6,000.00.
3. In addition to all other fees, a temporary surcharge of \$2,000.00 will be imposed on all Certificate of Need applications until the earlier of nine months after the Agency's implementation of an online filing system or September 1, 2014.

#### Letters of Reviewability

1. In addition to all other fees, a temporary surcharge of \$300.00 will be collected on all reviewability determination requests, including those for equipment

replacement determinations, until the earlier of nine months after the Agency's implementation of an online filing system or September 1, 2014.

**Administrative Law Judge Fees and Contested Case Procedures**

1. The fee for the administrative law judge shall be based on an hourly rate approved by the Executive Director of SHPDA on an annual basis and shall be apportioned, on a pro rata basis, between all parties to the contested case hearing, with each party paying its pro rata amount within thirty (30) days of receipt of an itemized invoice from the administrative law judge.
2. The Act incorporates rules previously adopted by SHPDA which require an ALJ to commence a public hearing on a contested CON application within forty-five days of case assignment, to complete the hearing within ninety days, and to issue a proposed order within thirty days of completion of the transcript. These deadlines may be extended only by agreement of all parties.

**Appeals**

1. Any aggrieved party to a final decision of SHPDA may file a written notice of appeal with the clerk of the Court of Civil Appeals within twenty-one days of the decision becoming final. Under prior law, such appeals were first filed in Circuit Court. Parties should examine the new law carefully to ensure that all appellate deadlines and other requirements are met.

The amendments also allow for additional fees to be instituted through the regular administrative rulemaking process. Proposed rules reflecting these statutory changes will be considered by the CON Review Board as soon as practicable.