

SUMMARY OF COMMENTS RECEIVED AND CHANGES MADE TO TITLE 65, SERIES 30, RURAL HEALTH GRANT PROGRAM

The Health Care Authority (Authority) received one comment on this proposed rule. The comment received was from the West Virginia Hospital Association (WVHA).

§65-30-2. Definitions.

The WVHA recommended defining terms “health services” and “health care consumers.” These changes were made by inclusion of the following reference:

As used in this legislative rule, all terms that are defined in section 2 of the Act have those same meanings which are in some cases further clarified in this section. Terms not defined in the Act have the following meanings unless the context expressly requires otherwise.” In addition, the Authority defined Act to mean “the certificate of need act, W.Va. Code § 16-2D-1, *et seq.*”

§65-30-4. Grant Loan Types.

The WVHA recommended defining “financially vulnerable health care providers” and “underserved areas.” In addition, the WVHA also suggested replacing the phrase “the applicant must be facing foreclosure” with a situational reference such as cash flow difficulty, extreme growth in accounts receivable or payable, or missed principle payments on long-term debt, etc.

The Authority declined to define financially vulnerable health care providers as this reference gives applicants broader discretion to apply for grants.

The Authority adopted the situational references suggested by the WVHA and revised that a health care provider may in the near future be facing foreclosure.

The Authority defined underserved areas as health Professional Shortage Areas or Medically Underserved Areas as designated by the Health Resources and Services Administration, the West Virginia Department of Health and Human Resources.

§65-30-6. Grant Eligibility.

The WVHA recommended adding that the applicant must be “an enrolled West Virginia Medicaid provider” to the list of requirements. The WVHA recommended striking “due to Workers’ Compensation or other state programs” and merely require that the applicant not be on hold or debarred from WVOASIS for any reason. Last, WVHA recommended amended “all financial disclosure to the Authority are current” to read “current with all filings with the Authority.”

The Authority does not agree that the applicant must be “an enrolled West Virginia Medicaid provider” for this grant and declined to make this change. Section 2.1 defines applicant and not all entities that fall within this definition will be a West Virginia Medicaid provider.

Regarding recommendations for this section, we have revised the wording to more appropriately reflect the state’s compliance requirements as well as other recommendations to read “current with all filings with the Authority”. The section will now read as follows:

The applicant must be a registered vendor with the state, and also registered with the West Virginia Secretary of State's Office. The applicant must not be on hold or debarred in WVOASIS as well as be in compliance with all State of West Virginia's policies, including not debarred from receiving grants from the West Virginia Department of Health and Human Resources or the West Virginia Legislature's State Agency Grant Award (SAGA) website. The applicant must also be current with all filings with the Authority.

§65-30-8. Application – Grant and Loan.

The WVHA recommended replacing “purchase of tangible items such as equipment, other capital expenditures, materials and supplies, contracts, etc.” with “promote population health, health home collaborative activities, quality training, and other current alignment activities.” The WVHA encourages the grant funding to align with WVDHHR's objectives.

The Authority did not make the changes suggested by the WVHA. Although we support the efforts of the West Virginia Department of Health and Human Resources, W.Va. Code 16-2D-3(B)(2), specifically states that these funds are to be used to help financially vulnerable health care providers located in underserved areas to provide cost effective health services. The recommended changes to the budget items are fixed costs and are not sustainable through this grant. No changes have been made to this section.

The Authority made changes regarding timeframes and replaced “a reasonable time frame” with a thirty (30) day time frame.

§65-30-10. Grant Award.

The WVHA recommended adding some clarifying language to this subsection because it believed that it could be unclear how a grant could be awarded for twelve months if the grant period must end by the end of the state fiscal year. The WVHA questioned whether the retroactive start date would clarify maximum period and end date of the grant.

The Authority addressed this confusion by clarifying that a grant award may be issued for a maximum of 12 months. By way of further explanation in this document, all grant periods must end no later than June 30 which is the last day of the fiscal year. Depending on when the grant was awarded and the start of the grant, it may not result in a full twelve (12) months by June 30. Additionally, some grants may end prior to June 30 depending on the applicant's start date and time frame. Retroactive start date has no impact on the end date of the grant and is used in very isolated circumstances.

§65-30-12. Grant Change Orders.

The WVHA suggested expanding this section to add specificity and predictability to change requests.

The Authority declined to make this suggested change because it believes this section adequately outlines the requirements to submit a change order and also outlines what conditions would require a change order. No further clarifications will be made on this topic except noting that the request must be in writing.

The Authority added clarifying language that a change order will be effective after both the Grantee and the Board Chair, or designee, has signed the change order. Additionally, the Authority

clarified that the change orders will be numbered in numerical order. Last, a ten (10) day time frame will be utilized to make the decision on requested for change orders.

§65-30-13. Grant Monitoring.

The WVHA recommended adding the word "fiscal" before the word "year" in the second sentence.

The Authority did not add "fiscal" before the phrase "year end" close out, but did remove the words "year end" because a grant end date could occur before year end, depending on how the Grantee requested the grant period.

§65-30-14. Grant Disallowed Costs and Unspent Funds.

The WVHA recommended replacing "may request" in the first sentence with "shall require." The Authority replaced the word "may" with the word "shall".

July 11, 2016

Marianne Kapinos, General Counsel
West Virginia Health Care Authority
100 Dee Drive
Charleston, WV 25311

Dear Ms. Kapinos:

RE: NEW LEGISLATIVE RULE 65CSR30, RURAL HEALTH SYSTEMS GRANT PROGRAM

On behalf of the West Virginia Hospital Association (WVHA) and its 66 member hospitals and health systems, we respectfully submit this letter to provide public comments in response to the above referenced **New Legislative Rule 65CSR30, Rural Health Systems Grant Program**. We appreciate the Authority's swift action in filing the emergency rule and welcome the opportunity to now share our specific recommendations.

§65-30-2. Definitions.

2.8. We recommend defining the terms "health services" and "health care consumers". This would add necessary specificity to the rule.

§65-30-4. Grant and Loan Types.

4.1. We recommend defining the terms "financially vulnerable health care providers" and "underserved areas". This would add necessary specificity to the rule.

4.1.2. We suggest replacing the situational reference "the applicant must be facing foreclosure" with a situational reference at some point prior to facing foreclosure. It is our recommendation to reference a specific financial situation, such as cash flow difficulty, extreme growth in accounts receivable or payable, or missed principle payments on long-term debt, etc.

§65-30-6. Grant and Loan Eligibility.

6.3. We recommend adding that the applicant must also be "an enrolled West Virginia Medicaid provider" to the list of requirements. We suggest striking "due to Workers' Compensation or other state programs" and merely require that the applicant not be on hold or debarred from WV OASIS for any reason. Lastly, we suggest amending "all financial disclosures to the Authority are current" to read "current with all filings with the Authority".

§65-30-8. Application – Grant and Loan.

8.8. We recommend replacing “purchase tangible items such as equipment, other capital expenditures, materials and supplies, contracts, etc.” with “promote population health, health home collaborative activities, quality training, and other current alignment activities.” Limiting the grant funds to acquisition of capital assets restricts the grant opportunity to improve the rural health system in WV. We strongly encourage the grant funding to align with the Department of Health and Human Resources Department of Rural Health, and the objectives established by the Department. With the evolution of rural healthcare, funding to facilitate integration and population health is appropriate for the Rural Health Systems grant funding.

8.10. We recommend replacing “a reasonable period of time” with “thirty days”. This change will add predictability and consistency to the program, and ensure decisions are expeditiously reached.

§65-30-10. Grant Award.

10.1. The last sentence states “the grant period must end by the end of the state fiscal year.” However, the first sentence states that a grant award “will be issued for a maximum period of twelve months.” This is a bit confusing and we recommend adding some clarifying provisions to this subsection. It is unclear how a grantee could be awarded a grant for twelve months if the grant period must end by the end of the state fiscal year.

10.3. This subsection provides that “the Board has the authority to approve a retroactive start date if the project deems necessary.” Could this provision remedy the concerns expressed above at 10.1?

§65-30-12. Grant Change Orders.

We suggest expanding this section to add specificity and predictability to change order requests. First, we suggest adding language relating to specific document submissions the grantee must submit to the Authority. Next, there should be a record keeping provision added to include the filing of a grant order amendment and other pertinent documents. Finally, we suggest adding a time limit of ten days for the Authority to render its decision to either approve or deny the grant change order request.

§65-30-13. Grant Monitoring.

We suggest adding the word “fiscal” before the word “year” in the second sentence.

§65-30-14. Grant Disallowed Costs and Unspent Funds.

14.1. We suggest replacing “may request” in the first sentence with “shall require.” This will help ensure grant monies are spent appropriately and in accordance with the provisions of the grant program.

The Grant Program administered by the Authority is intended to promote a streamlined and continuous healthcare delivery system. We respectfully request that you modify these emergency rules to achieve a rational balance of these core factors in order to ensure hospitals and healthcare providers efficiently meet the clinical needs of their patients without further regulatory burden.

Sincerely,

A handwritten signature in black ink, appearing to read "Joe", written in a cursive style.

Joseph M. Letnaunchyn
President and CEO

JML/kw