

NOTICE OF PUBLIC HEARING AND COMMENT PERIOD ON A PROPOSED RULE

PUBLIC HEARING

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WEST VIRGINIA STATE
JUN 15 PM 1:19
FIFTH

AGENCY: Health Care Cost Review Authority

RULE TYPE: Procedural

RULE TITLE: Fee Schedule For Certificate of Need Matters

A PUBLIC HEARING ON THE ABOVE PROPOSED RULE WILL BE HELD AT 2:00 p.m.
ON Monday, July 20, 1987 AT Suite 201, 100 Dee Drive,
Charleston, WV

COMMENTS ARE LIMITED TO: ORAL _____ WRITTEN _____ BOTH

COMMENTS MAY ALSO BE MAILED TO: Suite 201, 100 Dee Drive,
Charleston, WV 25311, ATN: John H. Kozak; by July 20, 1987

THE AUTHORITY REQUESTS THAT PERSONS WISHING TO MAKE COMMENTS AT THE
HEARING MAKE AN EFFORT TO SUBMIT WRITTEN COMMENTS IN ORDER TO FACILITATE
A REVIEW OF THESE COMMENTS.

THE ISSUES TO BE HEARD SHALL BE LIMITED TO THE PROPOSED RULE.


WALTER J. DALE

4. Explanation of Overall Economic Impact of Proposed Rule.

A. Economic Impact on State Government.

The rule provides a special revenue source for the certificate of need program and, thus, will avoid the use of general revenue to fund the program's operations.

B. Economic Impact on Political Subdivisions; Specific Industries; Specific groups of citizens.

The cost of operating the certificate of need program will be borne by those entities using the program. The revenues generated are expected to be some \$140,000 per year. Discounts are given to small, non-profit entities and the acute care hospital's already assessed pursuant to West Virginia Code, § 16-2D-8.

C. Economic Impact on Citizens/Public at Large.

There will be no direct economic impact on citizens/public at large. Ultimately, of course, the entities using the certificate of need program will pass along all their costs, including these fees, to their customers.

Date: June 15, 1987

Signature of Agency Head or Authorized Representative



LEGISLATIVE RULES
HEALTH CARE COST REVIEW AUTHORITY
CHAPTER 16-2D
SERIES X

Title: FEE SCHEDULE FOR CERTIFICATE OF NEED MATTERS

Section 1. General

2. Introduction
3. Fee Schedules for Non-Profit Hospice, Home Health, and Primary Care Providers
4. Acute Care Hospitals
5. General Fee Schedule
6. Failures To Comply With Rule
7. Severability

PROCEDURAL RULE
HEALTH CARE COST REVIEW AUTHORITY
CHAPTER 16-2D
SERIES X

Title: FEE SCHEDULE FOR CERTIFICATE OF NEED MATTERS

Section 1. General

1.1 Scope - These rules establish the schedule of fees for the filing of applications, notices in lieu of applications, exemption requests, and requests for declaratory rulings all under the West Virginia Certificate of Need Program. Pursuant to West Virginia Code, § 16-29B-11, the Health Care Cost Review Authority is authorized to administer the provisions of the Certificate of Need Program. West Virginia Code, § 16-2D-1 et seq.

1.2 Authority - West Virginia Code, § 16-2D-5(g), § 16-2D-8, and § 16-29B-11.

1.3 Filing Date - June _____, 1987.

1.4 Effective Date - _____, 1987.

Section 2. Introduction

2.1 West Virginia Code, § 16-2D-5(g) authorizes the charging of fees "for the filing of any application, the filing of any notice in lieu of an application, the filing of any exemption determination request, or the filing of any request for a declaratory ruling." The statute further provides that the "fees charged may vary according to the type of matter involved, the type of health service or facility involved, or the amount of capital expenditure involved." Finally, the statute directs that the fees received shall be deposited into a

special fund known as the "Certificate of Need Program Fund" and are to be expended for the purposes of the program.

2.2 In setting a fee schedule the Health Care Cost Review Authority wishes to take note that certain local community groups that seek to offer institutional health services often do not have sufficient capital resources to pay a significant fee. Such non-profit groups that seek to offer hospice, primary care, and home health services fulfill an important need in their communities and should not be barred by the imposition of a significant fee. Hence, these rules provide for special treatment of those facilities.

2.3 The Health Care Cost Review Authority also takes note that the State's acute care hospitals fund the general operations of the agency through the assessments provided for by West Virginia Code, § 16-29B-8(c). Hence, the agency is of the opinion that accomodation of that fact should also be made in setting a fee schedule.

Section 3. Small Nonprofit Entities

3.1 Fee Schedules for Non-Profit Hospice, Home Health, and Primary Care Providers - Upon the filing of a request for exemption determination, an application, a notice in lieu of an application, or a request for a declaratory ruling pursuant to West Virginia Code, § 29A-4-1 et seq., by a non-profit entity wishing to provide hospice services, home health services, or primary health care services, the entity shall be charged a fee of Twenty-Five Dollars (\$25.00). The term "non-profit entity" as used in this section does not include those entities that provide any other health care services such as, but not limited to, hospitals and nursing homes. Neither does the term apply to any entity which is a subsidiary of any other corporation or legal entity.

3.2 Should some other non-profit entity similar to that described in section 3.1 above wish to provide some service other than hospice, home health, or primary care but which is sufficiently in keeping with the intent of section 3.1 as described in section 2.2, such entity may request that the agency permit it to pay the fee provided for by section 3.1 in lieu of another fee as set forth below.

Section 4. Acute Care Hospitals

4.1 Acute care hospitals subject to assessments pursuant to West Virginia Code, § 16-29B-8(c), shall be charged fees according to the following schedule.

4.2 All requests for exemptions and requests for declaratory rulings pursuant to West Virginia Code, § 29A-4-1 et seq., shall be accompanied by a fee of Four Hundred and Fifty Dollars (\$450.00).

4.3 All notices in lieu of an application such as those provided for in West Virginia Code, § 16-2D-4, shall be accompanied by a fee of Nine Hundred Dollars (\$900.00).

4.4 All applications for certificate of need approval, including those required pursuant to West Virginia Code, § 16-2D-4(i)(4), shall be accompanied by a fee consisting of 0.18% of the capital expenditure that is the subject of the application. Should the proposed capital expenditure of any application be increased at any point during the review of the application or following approval and up to the substantial compliance determination, the hospital shall be charged an additional fee of 0.18% of the increase.

Section 5. General Fee Schedule

5.1 For all other entities beyond those specified in section 3 and 4 of these rules, the fees to be charged are as follows.

5.2 All requests for exemptions and requests for declaratory rulings pursuant to West Virginia Code, § 29A-4-1 et seq., shall be accompanied by a fee of Five Hundred Dollars (\$500.00).

5.3 All notices in lieu of an application such as those provided for in West Virginia Code, § 16-2D-4, shall be accompanied by a fee of One Thousand Dollars (\$1,000.00).

5.4 All applications for certificate of need approval, including those required pursuant to West Virginia Code, § 16-2D-4(i)(4), shall be accompanied by a fee consisting of 0.2% of the capital expenditure that is the subject of the application. Should the proposed capital expenditure of any application be increased at any point during the review of the application or following approval and up to the substantial compliance determination, the entity shall be charged an additional fee of 0.2% of the increase.

Section 6. Failures To Comply With Rule

6.1 Any filing that is subject to the charging of a fee but which is not accompanied by the required fee shall not be processed by the agency and should not be legally effective until the required fee is received.

6.2 In those instances subject to sections 4.4 and 5.4 of these rules where an additional fee is required because of an increase in the proposed or actual capital expenditure, the state agency shall discontinue review or withhold substantial compliance determination until the required fee is paid.

6.3 Should any entity develop a new health service, a new institutional health service, or any other project that requires the filing of a request for exemption determination, an application, or a notice in lieu of an application without paying the required fee, the entity is informed that it may be subject to all of the penalty provisions of the certificate of need program including injunctive relief and imposition of a civil penalty pursuant to West Virginia Code, § 16-2D-13, and denial or revocation of license for operating pursuant to West Virginia Code, § 16-2D-12.

Section 7. Severability

If any provisions of these rules or the application thereof to any entity or circumstance shall be held invalid, such invalidity shall not affect the provisions or the applications of these rules which can be given effect without the invalid provisions or application and to this end the provisions of these rules are declared to be severable. In addition, if the special treatment afforded by sections 3 and 4 of these rules is determined to be invalid, then the entities specified in section 3 and 4 shall become subject to section 5 of these rules.