Regulation Number: 900 KAR 5:020
Effective Date: December 17, 2007

2007 – 2009
STATE HEALTH PLAN

CERTIFICATE OF NEED
REVIEW STANDARDS

Prepared by:

Kentucky Cabinet for Health and Family Services

Table of Contents

PURPOSE, AUTHORITY AND TECHNICAL NOTES ..... **III**

I. ACUTE CARE **1**

A. ACUTE CARE HOSPITAL 1
B. ACUTE CARE BEDS 5
C. COMPREHENSIVE PHYSICAL REHABILITATION HOSPITAL BEDS 7
D. SPECIAL CARE NEONATAL BEDS 9
E. OPEN HEART SURGERY PROGRAM 11
F. ORGAN TRANSPLANT PROGRAM 13

II. MENTAL HEALTH CARE **14**

A. PSYCHIATRIC HOSPITAL BEDS 14
B. PSYCHIATRIC RESIDENTIAL TREATMENT FACILITIES 18

III. LONG-TERM CARE **20**

A. NURSING FACILITY BEDS 20
B. HOME HEALTH SERVICES 21
C. HOSPICE SERVICES 23
D. RESIDENTIAL HOSPICE FACILITY 25
E. ADULT DAY HEALTH CARE PROGRAM 26
F. INTERMEDIATE CARE FACILITIES FOR THE MENTALLY RETARDED & DEVELOPMENTALLY DISABLED 27

IV. DIAGNOSTIC AND THERAPEUTIC EQUIPMENT AND PROCEDURES **28**

A. CARDIAC CATHETERIZATION SERVICES 28
B. MAGNETIC RESONANCE IMAGING EQUIPMENT 32
C. MEGAVOLTAGE RADIATION EQUIPMENT 35
D. POSITRON EMISSION TOMOGRAPHY EQUIPMENT 36
E. NEW TECHNOLOGY 38

V. MISCELLANEOUS SERVICES **40**

A. AMBULANCE SERVICES 40
B. AMBULATORY SURGICAL CENTERS 41
C. CHEMICAL DEPENDENCY TREATMENT BEDS 42
D. PRESCRIBED PEDIATRIC EXTENDED CARE 43
E. OUTPATIENT PRIMARY CARE CENTER 44
F. PRIVATE DUTY NURSING SERVICES 45

Purpose, Authority and Technical Notes

Purpose

The purpose of this document, which shall be referred to as the 2007-2009 State Health Plan ("Plan"), is to set forth the review criteria that shall be used when reviewing applications for certificates of need for consistency with plans pursuant to KRS 216B.040; and for determining whether a substantial change to a health service has occurred pursuant to KRS 216B.015(20)(a) and KRS 216B.061(1)(d).

Authority

KRS 216B.015(26) defines the "State Health Plan" to mean the document prepared triennially, updated annually and approved by the governor.

KRS 216 B.040 (2)(a)2, requires the Cabinet for Health and Family Services ("Cabinet") to establish criteria for the issuance and denial of certificates of need and limits such review to five considerations. The first such consideration is "consistency with plans" which requires that "each proposal approved by the Cabinet shall be consistent with the State Health Plan, and shall be subject to biennial budget authorizations and limitations, and with consideration given to the proposal's impact on health care costs in the Commonwealth."

Technical Notes

1. Unless otherwise noted, Area Development Districts ("ADD's") are defined by KRS 147A.050 and are the geographic area for reviewing all applications for certificate of need.

2. Where applicable, an applicant shall set forth its plan for care of patients without private insurance coverage and its plan for care of medically underserved populations within the applicant's proposed service area.

3. In reviewing applications for certificates of need, the latest published version of the Cabinet *Inventory of Kentucky Health Facilities, Health Services, and Major Medical Equipment* and published utilization reports shall be used. Additions of equipment or services by existing licensed facilities which do not require certificate of need approval shall be included in the inventory of existing and newly approved facilities and services when such facilities and services become operational. Facilities which make such additions shall notify the Office of Health Policy, Division of Certificate of Need within ten (10) days of such addition by completing Form #10 incorporated by reference in 900 KAR 6:050.

4. Health Services that are provided in private offices and clinics of physicians, dentists, and other practitioners of the healing arts which are exempt from certificate of need requirements pursuant to KRS 216B.020(2)(a) shall not be included in the Cabinet's

Inventory of Health Facilities, Health Services, and Major Medical Equipment. In addition, utilization of such services shall not be considered in the review of certificate of need applications for similar services.

5. Facilities owned or operated by the Commonwealth of Kentucky shall not be included in the inventory of licensed or approved acute, psychiatric, or long-term care beds.

6. All certificate of need decisions shall be made using that version of the Plan in effect on the date of the decision, regardless of when the letter of intent or application was filed, or public hearing held.

7. Applications which have been granted nonsubstantive review status shall not be reviewed for consistency with this Plan.

8. The *Inventory of Kentucky Health Facilities, Health Services, and Major Medical Equipment* shall be available from the Office of Health Policy, Division of Certificate of Need at 275 East Main St., Frankfort, Kentucky, 40621, (502) 564-9589 and at Web Site: http://chfs.ky.gov/ohp/con.

9. If more than one provider applies for certificate of need approval to establish or expand a healthcare facility or service in the same service area, a comparative hearing on the applications may be held.

10. All population estimates or projections for use with any criteria contained within this Plan shall pertain only to the population within the Commonwealth of Kentucky and shall be obtained from the Kentucky State Data Center on the effective date of this Plan. This data shall be available from the Office of Health Policy, Division of Certificate of Need at 275 East Main St., Frankfort, Kentucky, 40621, (502) 564-9589 and at Web Site: http://chfs.ky.gov/ohp/con.

11. Applications to establish a service utilizing a hybrid diagnostic unit such as PET/CT Scanner or PET/MRI Scanner must document consistency with all applicable individual review criteria contained within this Plan.

I. Acute Care

For purposes of this Plan, "Acute care" is defined as those medical and/or surgical services provided by an acute care hospital for the diagnosis and/or the immediate and continuous treatment for more than twenty-four (24) hours to individuals suffering from illness, disease or injury.

A. Acute Care Hospital

Definitions

An "Acute Care Hospital" is defined as a facility providing medical and/or surgical services to all individuals that seek care and treatment, regardless of the individual's ability to pay for such services. Acute care hospitals are capable of providing care on an immediate and emergent basis through an established Emergency Department as well as continuous treatment on its premises for more than twenty-four (24) hours. Such facilities are licensed by the Kentucky Office of Inspector General, Division of Community Health pursuant to 902 KAR 20:016. For the purposes of this section, the term acute care hospital shall not include critical access hospitals which are licensed by the Kentucky Office of Inspector General pursuant to 906 KAR 1:110.

A "Specialty Hospital" is defined as a facility offering limited, specialized medical and/or surgical services. Such facilities are distinguishable from acute care hospitals because they do not provide an Emergency Department on a twenty-four (24) hour basis and/or are incapable of satisfying one or more requirements for licensure pursuant to 902 KAR 20:016.

With regard to acute care hospitals, the "Planning Area" shall be comprised of the county of the proposed facility and all contiguous counties.

The "Adjusted Revenue" is defined as the case mix adjusted net revenue per adjusted admission. The applicant shall utilize the most recent Medicare Cost Report data to calculate the following formula:

Adjusted Revenue = (Total Net Revenue/ADJ Admissions)/MCMI

Where:

Total Net Revenue = TGR - Contractual/Charity Allowances

TGR = Inpatient Gross Revenue + Outpatient Gross Revenue

IGR = Inpatient Gross Revenue

OGR = Outpatient Gross Revenue

ADJ Admissions = (TGR/IGR) * IA

IA = Inpatient Admissions

MCMI = Medicare Case Mix Index

Review Criteria

An application to establish a new acute care hospital shall be consistent with this Plan if the following criteria are met:

1. The applicant shall demonstrate that sufficient need for the proposed facility exists and that the establishment of the proposed facility would not result in the unnecessary duplication of services by documenting one or more of the following:

    a. The overall occupancy of existing acute care beds in existing licensed acute care hospitals located in the planning area exceeds eighty (80) percent according to the most recent edition of the *Kentucky Annual Hospital Utilization and Services Report*;

    b. The adjusted revenue of each licensed acute care hospital located within the planning area exceeded one-hundred and fifty (150%) of the state mean adjusted revenue, for acute care hospitals, during each of the previous three (3) fiscal years; or

    c. All licensed acute care hospitals located within the planning area have experienced one or more of the following:

        i. Final termination of their Medicare or Medicaid provider agreement;

        ii. Final revocation of the their hospital license issued by the Cabinet for Health and Family Services' Office of Inspector General; or

        iii. Final revocation of their hospital accreditation by the Joint Commission on Accreditation of Healthcare Organizations.

2. The applicant shall demonstrate the ability to provide safe, efficient and quality care and treatment to all individuals seeking medical and/or surgical services by documenting the following:

    a. The individual(s) responsible for the operation, management and day-to-day control of the proposed facility has a documented history of providing healthcare services in conformity with federal and state standards. Moreover, no such individual has had any license or certification denied, revoked or involuntarily terminated, or has been excluded from participation in Medicare or Medicaid, or been convicted of fraud or abuse of these programs;

b. Written policies and/or protocols that implement measures to assure quality control with respect to the life, health and safety of individuals seeking care and treatment at the proposed facility. These include documented plans of action that not only serve to prevent, but also identify, diagnose, control and treat injuries or problems including, but not limited to, the following:

   i. Acute myocardial infarctions sustained after arrival at the proposed facility;

   ii. Hospital-acquired infections;

   iii. Medication errors;

   iv. Hospital-acquired pneumonia;

   v. Death in low mortality Diagnosis Related Groups;

   vi. Re-admittance within twenty-four (24) hours of discharge;

   vii. Foreign objects not removed during surgical procedures;

   viii. Post-operative respiratory failure;

   ix. Post-operative sepsis;

   x. Decubitus ulcers;

   xi. Adverse reactions to the administration of medications and/or transfusions; and

   xii. Injuries sustained as a result of falls on the proposed facility's premises.

c. Written policies and/or protocols that implement measures to assure the proper use and utilization of all equipment to be maintained on the proposed facility's property which would be used in the care and treatment of potential patients;

d. The applicant must identify the licensed physicians that would provide care and treatment to patients at the proposed facility The applicant must further demonstrate that the retention of such individuals would not adversely affect the clinical care and treatment offered at other licensed acute care hospitals located within the planning area; and

e. The applicant must demonstrate that it has identified and would retain trained, experienced or licensed personnel to provide efficient and effective clinical care and treatment to the proposed facility's patients. The applicant must further

demonstrate that the retention of such individuals would not adversely affect the clinical care and treatment offered at other licensed acute care hospitals located within the planning area.

3. The applicant shall demonstrate the ability to provide cost-effective services by documenting the following:

   a. The proposed facility's payor mix would be comparable to all other licensed acute care hospitals located within the planning area; and

   b. A written business plan through which the economic performance and financial strength of the proposed facility would be comparable to the existing acute care hospitals located within the planning area. Specifically, the applicant must document that its adjusted revenue would not exceed one-hundred and fifty (150%) of the state mean adjusted revenue.

4. The applicant shall demonstrate that the proposed facility would increase access to twenty-four (24) hour acute care and treatment by documenting the following:

   a. The proposed facility would provide care on an immediate and emergent basis through an established Emergency Department; and

   b. The proposed facility would provide emergency services to all individuals that seek care and treatment there, regardless of the individual's ability to pay for such services.

5. The applicant shall demonstrate both its intention as well as its ability to provide the same or substantially similar clinical services offered by the existing acute care hospitals located within the planning area.

6. The maximum number of acute care beds that may be approved for the purpose of constructing or establishing a new acute care hospital shall be based on volume projected five (5) years from the filing of the application. Approval will be based on the higher of:

   a. The applicant's credible forecast of future utilization; or

   b. A regression analysis projection of patient day trends over a five (5) year timeframe.

7. The applicant shall obtain certificate of need approval for each service it proposes to offer by satisfying the review criteria for each service set forth within this Plan.

8. No application for a specialty hospital shall be consistent with this Plan.

B. Acute Care Beds

Definition

An "acute care bed" is defined as a hospital bed licensed by the Cabinet for Health and Family Services' Office of Inspector General. A hospital utilizes acute care beds in providing medical services, including physician services and continuous nursing services for the diagnosis and treatment of patients who have a variety of medical conditions, both surgical and non-surgical.

A "special purpose acute care bed" includes, but is not limited to, an Intensive Care Unit bed, Cardiac Care Unit bed, Neonatal Level II or Level III bed and Obstetrics bed.

Review Criteria

An application to add additional acute care beds to an existing licensed hospital shall be consistent with this Plan if the following criteria are met:

1. The hospital can document that transfer or conversion of special purpose acute care beds to acute care beds is not feasible because occupancy in the special purpose acute beds is greater than sixty-five (65) percent or if the occupancy is less than sixty-five (65) percent, the transfer of such beds would be insufficient to meet the hospital's total additional acute care bed need; and,

2. The hospital can document that its acute care occupancy rate has been higher than the target occupancy rate set forth in Table 1 according to the most recent edition of the *Kentucky Annual Hospital Utilization and Services Report; or,*

Table 1
Facility Target Acute Care Bed Occupancy Rates

Number of beds per Facility	Facility Target Acute Care Bed Occupancy Percentage
1-50	60%
51 – 100	65%
101 – 200	70%
201 and above	75%

3. The hospital can document that its utilization of acute care beds has reached functional capacity for the prior twelve (12) months. In calculating functional capacity, consideration shall be given to the percentage of licensed acute care beds, psychiatric beds and/or chemical dependency beds currently operational as well as other factors affecting the utilization at the hospital including, but not limited to, the mix of private and semi-private rooms, patient matching limitations such as gender or the needs for isolation beds required to address emergency patient needs, and limits created by special purpose acute units.

4. The maximum number of acute care beds that may be approved will be based on volume projected five (5) years from the date on which the hospital filed its application for additional acute care beds. Approval will be based on the higher of:

   a. The applicant's reasonable forecast of future utilization; or

   b. A regression analysis projection of patient day trends over a five (5) year timeframe.

5. With the exception of neonatal beds, a hospital with existing special purpose acute care beds may convert licensed acute care beds for use as special purpose acute care beds without certificate of need approval, as long as the addition of such beds will not result in an increase in total licensed acute care beds in the hospital.

C. Comprehensive Physical Rehabilitation Hospital Beds

Definition

For purposes of this Plan there shall be one category of rehabilitation beds called "comprehensive physical rehabilitation beds" which may be located in free-standing facilities or as units in acute care hospitals that provide therapy and training for rehabilitation. Such facilities offer a range of services that may include occupational therapy, physical therapy, and speech therapy to aid in the restoration of an individual or a part to normal or near normal function after a disabling disease or injury.

Review Criteria

An application for comprehensive physical rehabilitation beds shall be consistent with this Plan if the following criteria are met:

1. An applicant that does not have existing licensed or certificate of need approved comprehensive physical rehabilitation beds and is proposing to establish such beds, shall demonstrate that the overall occupancy for comprehensive physical rehabilitation beds in the ADD exceeds seventy-five (75) percent as computed from the most recent published edition of the *Kentucky Annual Hospital Utilization and Services Report*.

2. Applicants proposing to expand the number of existing licensed comprehensive physical rehabilitation beds shall demonstrate that the occupancy of the existing comprehensive physical rehabilitation beds in the applicant's facility exceeds seventy-five (75) percent as computed from the most recent published edition of the *Kentucky Annual Hospital Utilization and Services Report*.

3. If criterion (1) or (2) is met, the maximum number of beds that may be approved in the ADD shall be computed by the following formula:

$$N = [(PD \div P) \times PP \div (365 \times 0.75)] - (LB + AB)$$

Where:

N	=	Need for Comprehensive Rehabilitation Beds in the ADD.
PD	=	The number of inpatient days in comprehensive physical rehabilitation beds statewide as reported in the most recently published data.
P	=	Estimated population in the Commonwealth for the period used to derive patient days.
PP	=	Projected 2007 population for the ADD.
0.75	=	The desired average annual occupancy rate for comprehensive physical rehabilitation beds in the ADD.
LB	=	Existing licensed comprehensive physical rehabilitation beds in the ADD.
AB	=	The number of comprehensive physical rehabilitation beds in the ADD for which a certificate of need has been granted.

4. The Cabinet may approve more rehabilitation beds than indicated by the need formula to allow for the presence of hospitals that provide a higher intensity of rehabilitation services than provided by most rehabilitation hospitals due to the in-migration of out-of-state patients or a high percentage of patient referrals for specialized services from other ADDs.

5. Notwithstanding criteria 1, 2 and 3, an applicant proposing to establish a comprehensive physical rehabilitation unit, within an existing acute care hospital with an existing licensed acute care bed inventory of at least one-hundred (100) beds, shall be consistent with the Plan if the following criteria are met:

    a. There are no other licensed or certificate of need authorized comprehensive physical rehabilitation beds in the proposed ADD; or

    b. There are no other licensed or certificate of need authorized comprehensive physical rehabilitation beds within forty-five (45) highway miles of the proposed site.

6. The maximum number of comprehensive physical rehabilitation beds that may be approved pursuant to criteria 5 will be based on volume projected five (5) years from the date on which the hospital filed its application for such beds. Approval will be based on the higher of:

    a. The applicant's reasonable forecast of future utilization; or

    b. A regression analysis of patient day trends over a five (5) year timeframe.

7. The minimum size for a new freestanding rehabilitation hospital shall be forty (40) beds and the minimum size for a new rehabilitation unit in an acute care hospital shall be ten (10) beds.

D. Special Care Neonatal Beds

Definition

"Special Care Neonatal beds" are licensed acute care beds located in hospital neonatal units that provide care and treatment of newborn infants through the age of twenty-eight (28) days, and longer if necessary.

Review Criteria

An application for Level II special care neonatal beds shall be consistent with this Plan if the following criteria are met:

1. Approval of the application does not cause the number of Level II beds to exceed the following calculation:

Maximum number of Level II beds in the ADD= (Total annual ADD births for the plan year ÷ 1000) • 4

2. The number of Level II beds in a facility shall be eight (8) per unit except in those cases where population distribution and access to Level II services justify a smaller unit. In no case shall a unit be smaller than four (4) beds;

3. The Cabinet determines that more Level II beds than indicated by the above calculation are justified in order to allow for the presence in the ADD of hospitals that provide a higher intensity of neonatal care than that provided by most hospitals due to a high percentage of neonatal patient referrals for complications that cannot be handled at the primary care level;

4. No new Level II program shall be approved in an ADD unless the over-all utilization of existing providers of Level II services in the ADD is at least seventy (70) percent as computed from the most recently published inventory and utilization data;

5. No additional beds will be approved for an existing unit unless the utilization in this unit is at least seventy (70) percent as computed from the most recently published inventory and utilization data; and

6. The application documents consistency with the most recent published edition of the American Academy of Pediatrics and the American College of Obstetrics and Gynecology *Guidelines for Perinatal Care*.

An application for Level III special care neonatal beds shall be consistent with this Plan if:

1. Approval of the application does not cause the number of Level III beds in the Commonwealth to exceed the following calculation:

(Total annual state births for the plan year ÷ 1000) ● 1 = Maximum number of Level III beds in the state

2. The Cabinet determines that more Level III beds than indicated by the above calculation are justified in order to allow for the presence of hospitals that provide a higher intensity of neonatal care than that provided by most hospitals due to a high percentage of neonatal patient referrals for specialized services such as open-heart surgery, transplants, etc.;

3. No new Level III program shall be approved in the ADD unless the over-all utilization of existing providers of Level III services in the ADD is at least seventy-five (75) percent as computed from the most recently published inventory and utilization data;

4. No additional beds shall be approved for an existing unit unless the utilization of this unit is at least seventy-five (75) percent as computed from the most recently published inventory and utilization data; and

5. The application documents consistency with the most recent published edition of the American Academy of Pediatrics and the American College of Obstetrics and Gynecology *Guidelines for Perinatal Care*.

E. Open Heart Surgery Program

Definition

Open heart surgery is any surgical procedure involving the heart, performed to correct acquired or congenital defects, to replace diseased valves, to open or bypass blocked vessels, or to graft a prosthesis or a transplant in place. In open-heart procedures, the heart chambers are open and fully visible and blood is detoured around the surgical field by a heart-lung bypass machine unless the procedure involved is a minimally invasive coronary artery bypass graft, in which case a heart-lung machine might not be used, but must still be available in the operating room on a stand-by basis.

A "case" is defined as the entire episode of treatment in the operating room regardless of the number of procedures performed.

Review Criteria

An application for an open heart surgery program shall be consistent with this Plan if the following criteria are met:

1. For adult open heart surgery, there is not an existing or approved open heart surgery program in the ADD or the following criteria are met:

    a. According to the most recent edition of the *Kentucky Annual Hospital Utilization and Services Report*, every open heart surgery program in the ADD performed at least four hundred (400) adult open-heart surgeries per year;

    b. According to the most recent edition of the *Kentucky Annual Hospital Utilization and Services Report*, every open heart surgery program within a fifty (50) mile radius of the proposed site performed at least four hundred (400) adult open-heart surgeries per year;

    c. Every open heart surgery program in the ADD that is not listed in the most recent edition of the *Kentucky Annual Hospital Utilization and Services Report* performed at least three hundred (300) adult open-heart surgeries in the past twelve (12) months;

    d. Every open-heart surgery program that is within a fifty (50) mile radius of the proposed site and is not listed in the most recent edition of the *Kentucky Annual Hospital Utilization and Services Report* performed at least three hundred (300) adult open heart surgeries in the past twelve (12) months;

    e. The applicant shall document that at least four hundred (400) adult open-heart procedures will be performed during the third year of operation. These projections must consider historical number of diagnostic cardiac catheterization procedures performed at the applicant hospital, the Kentucky statewide ratio of open heart surgeries to diagnostic catheterization procedures as calculated in the

latest published inventory and utilization data, and documentation of the number of diagnostic catheterization patients referred for open heart surgery from the applicant hospital during the most recent twelve (12) month period;

f. The applicant shall document that the approval of the proposed program will not cause any existing program in the ADD or any other open heart surgery program within a fifty (50) mile radius of the proposed site to fall below four hundred (400) cases annually when considering historical trends in utilization, referral patterns for such services to existing providers, and commonality of medical staffs;

g. The applicant shall demonstrate that the projected number of therapeutic cardiac catheterization procedures will reach at least three hundred-fifty (350) by the third year of operation of the open heart surgery program. These projections must consider historical diagnostic cardiac catheterization procedures at the applicant hospital, the Kentucky statewide ratio of therapeutic catheterizations to diagnostic catheterizations patients and documentation of the historical number of diagnostic cardiac catheterization patients referred from the applicant hospital for therapeutic cardiac catheterization during the most recent twelve (12) month period. Applicants shall also document compliance with the requirements for therapeutic catheterization under the Cardiac Catheterization Services section, criterion nine, of these Review Standards;

h. The applicant shall document that the most recently published *Guidelines for Coronary Artery Bypass Graft Surgery* adopted by the American College of Cardiology and the American Heart Association will be followed; and

i. The applicant must identify the surgeon who will be the primary attending surgeon in the open heart service. Further, the applicant must also provide information regarding this individual's background and experience concerning open heart surgery, and this individual's availability to care for open heart patients in the event of emergencies.

2. For pediatric open heart surgery:

a. Only pediatric teaching facilities shall be approved for pediatric open heart surgery;

b. According to the most recent edition of the *Kentucky Annual Hospital Utilization and Services Report*, every existing pediatric program in the state shall be performing, and shall be projected to continue to perform at least one hundred-fifty (150) pediatric open-heart surgeries per year; and

c. The applicant shall document that at least one hundred (100) pediatric open-heart procedures will be performed during the third year of operation.

F. Organ Transplant Program

Definition

Transplant procedures involve the transfer of an organ or tissue from one person to another, or from one body part to another, to replace a diseased structure, to restore function, or to change appearance. Skin and kidneys are among the more commonly transplanted structures; others include hearts, livers, lungs, pancreas, cartilage, bone marrow, corneal tissue, portions of blood vessels and tendons.

Review Criteria

An application for an organ transplant program shall be consistent with this Plan if the following criteria are met:

1. The applicant documents that the number of transplants being performed by comparable transplant programs in the Commonwealth are sufficient for consistency with nationally accepted volume and quality standards for each type of transplant program; the record of medical outcomes by those programs; and the impact on need for additional transplant programs in Kentucky resulting from the existence of transplant programs in nearby cities of bordering states that are customarily and significantly used by Kentucky residents;

2. The applicant documents that it has the ability to meet nationally accepted volume and quality standards, as well as those factors that impact patient care and overall cost, quality and outcomes of service delivery, including demographic and epidemiological factors;

3. For pediatric programs, the pediatric program shall be provided in a pediatric teaching facility which has the availability of physician specialty support and specialized ancillary support services; and

4. The applicant demonstrates that organ allocation for patients awaiting transplantation shall be performed in accordance with federally mandated guidelines.

II. Mental Health Care

A. Psychiatric Hospital Beds

Definition

"Psychiatric beds" are those licensed beds which are located in psychiatric hospitals or as units in an acute care hospital and are used for treatment of inpatients that require psychiatric or mental health care, including medical care and treatment of mental, emotional, and behavioral disorders.

For the purposes of this section, a "child or adolescent" is an individual younger than eighteen (18) years of age. An "adult" is an individual between eighteen (18) years of age and sixty-four (64) years of age. Geriatric patients are aged sixty-five (65) or older.

Review Criteria

An application for psychiatric beds shall be consistent with this Plan if the following criteria are met:

1. Licensed and approved adult and geriatric psychiatric beds in an ADD shall not exceed 0.2 beds per 1,000 geographic population for the plan year. Licensed and approved children or adolescent psychiatric beds in an ADD shall not exceed 0.2 beds per 1,000 geographic population for the plan year. Statewide psychiatric care facilities operated or contracted by the Commonwealth shall not be counted in the existing bed count;

2. Any existing acute care facility proposing the addition of psychiatric beds shall exceed the target occupancy rates shown in Table 1 below for its licensed psychiatric care beds for the most recent twelve (12) month period reported in the most recently published edition of the *Kentucky Annual Hospital Utilization and Services Report*, unless all the proposed additional psychiatric care beds are being converted from licensed acute care beds;

Table 1

Facility Target Psychiatric Bed Occupancy Rates

# Beds in Facility	Target Occupancy
1-50	60%
51-100	65%
101-200	70%
201 and above	75%

3. No additional psychiatric beds shall be approved for purposes of establishing a new facility or a new unit unless overall occupancy for all psychiatric beds in the ADD exceeds the target occupancy rates shown in Table 1 according to the most recent edition of the *Kentucky Annual Hospital Utilization and Services Report*;

4. If the most recent edition of the *Kentucky Annual Hospital Utilization and Services Report* indicates that the occupancy for existing psychiatric beds for an applicant's facility was seventy (70) percent or greater, an application to convert acute care beds to psychiatric beds shall be consistent with this Plan if the application meets either of the following conditions:

    a. The applicant meets the review criteria in Sections 1, 2, and 3 above, or

    b. The applicant has existing licensed acute care beds and psychiatric care beds, and:

        i. All of the proposed psychiatric care beds are being converted from licensed acute care beds;

        ii. The occupancy of acute care beds is less than seventy (70) percent in the latest published utilization and inventory data; and

        iii. The additional psychiatric beds will be converted and implemented on-site at the applicant's existing licensed acute care facility.

5. If the most recent edition of the *Kentucky Annual Hospital Utilization and Services Report* indicates that the occupancy for existing psychiatric beds for an applicant's facility was seventy (70) percent or greater, an application to convert chemical dependency beds to psychiatric beds shall be consistent with this plan if the application meets either of the following conditions:

    a. The applicant meets the review criteria in Sections 1, 2, and 3 above, or

    b. The applicant has existing licensed chemical dependency beds and psychiatric care beds, and:

        i. All of the proposed psychiatric care beds are being converted from licensed chemical dependency beds;

        ii. The conversion will not impede access to appropriate care for patients needing treatment for abuse or addiction to chemical substances such as alcohol or drugs; and

        iii. The additional psychiatric care beds will be converted and implemented on site at the applicant's existing licensed acute care or chemical dependency facility.

6. Notwithstanding the above target occupancy rates, an application to add psychiatric beds to an existing licensed psychiatric unit would be consistent with this Plan if the applicant demonstrates that its utilization of its existing psychiatric beds has reached functional capacity for the prior twelve (12) month period. In calculating functional capacity consideration shall be given to the following:

    a. The percentage of licensed acute care beds , psychiatric beds and/or chemical dependency beds currently operational;

    b. The type and level of psychiatric care being provided at the applicant's facility;

    c. The historical performance as it relates to the utilization of psychiatric beds; and

    d. The availability of other providers of psychiatric services in the ADD.

7. The maximum number of psychiatric care beds that may be approved shall be based on volume projected five (5) years from the filing of the application. Approval will be based on the higher of:

    a. The applicant's credible forecast of future utilization; or

    b. A regression analysis projection of patient day trends over a five (5) year timeframe.

Psychiatric Services for Children and Adolescents

In addition to the above criteria, an application for child or adolescent psychiatric beds shall be consistent with this Plan if the following criteria are met:

1. New hospital psychiatric beds for children or adolescents shall focus on short-term (under thirty days) crisis stabilization. Small, specialized programs are preferred over larger programs;

2. A facility proposing to provide inpatient psychiatric care for children twelve (12) years of age and younger shall have on staff a board-eligible or board-certified child psychiatrist who maintains responsibility for admissions and treatment. For the purposes of this section, a board-eligible child psychiatrist is a doctor of psychiatry who has been board-certified in general psychiatry by the American Board of Psychiatry and Neurology and has completed a two (2) year fellowship in child psychiatry;

3. An application for new psychiatric beds for children or adolescents shall include all of the following:

    a. The specific number of beds proposed for each age group;

    b. An inventory of current services in the ADD;

c. Clear admission and discharge criteria consistent with a short-stay program and least restrictive treatment;

d. Linkage agreements with other child and adolescent serving agencies in the proposed service areas, including all regional interagency councils (RIACs), community mental health centers, the Department for Community Based Services, and major referring school systems. These agreements should demonstrate a commitment by these agencies and the hospital to joint treatment and discharge planning as appropriate; and

e. Documentation of linkage agreements for the provision for case management services when necessary after discharge. (Case managers need not be on the hospital's staff, but should be closely involved in cases from treatment planning onward).

Geriatric Psychiatric Services

An application to establish non-Medicaid inpatient geriatric psychiatric programs in an existing licensed acute care facility located in a county that has no existing inpatient geriatric psychiatric program shall be considered consistent with this Plan if the following conditions are met:

1. The occupancy of acute care beds in the applicant's facility is less than seventy (70) percent according to the most recent edition of the *Kentucky Annual Hospital Utilization and Services Report*;

2. All of the proposed psychiatric care beds are being converted from licensed acute care beds;

3. All of the psychiatric care beds will be converted and implemented on-site at the applicant's existing licensed acute care facility;

4. All of the converted psychiatric care beds shall be dedicated exclusively to the treatment of geriatric patients, aged sixty-five (65) or older;

5. The hospital shall establish distinct admission and discharge criteria for admitting only those patients who have both mental and physical conditions who would be excluded from treatment in a regular adult psychiatric unit;

6. The staff of the unit shall include a multidisciplinary team of specialists involving psychiatry and internal medicine with specialization in the treatment of geriatrics and nursing personnel specially trained in psychiatric and medical geriatric patient care; and

7. The applicant agrees in writing not to seek Medicaid certification for the converted beds.

B. Psychiatric Residential Treatment Facilities

Definition

"Psychiatric Residential Treatment Facilities" (PRTF) are licensed, community-based, and home-like facilities with a maximum of nine (9) beds which provide inpatient psychiatric residential treatment to residents who have an emotional disability or severe emotional disability as defined in KRS 200.503, age six (6) years to twenty-one (21) years with an age range of no greater than five (5) years at the time of admission in a living unit.

Review Criteria

An application to establish a PRTF or expand an existing PRTF shall be consistent with this Plan if the following criteria are met:

1. Approval of the application does not cause the total number of PRTF beds to exceed three hundred and fifteen (315) beds statewide, or to exceed the following target distribution among the state mental hospital districts as defined by 908 KAR 2:040:

    a. District I for seventy-two (72) beds;

    b. District II for ninety-nine (99) beds;

    c. District III for ninety (90) beds;

    d. District IV for fifty-four (54) beds.

2. The applicant shall document the need for additional PRTF services and their ability to provide those services by demonstrating the following:

    a. An analysis of the number and characteristics of persons ages six (6) to twenty-one (21) in the proposed service area who require this level of care;

    b. An inventory of all types of treatment-oriented residential programs and alternatives that meet a portion of the need for PRTFs in the proposed service area, whether or not the programs are licensed as PRTFs ;

    c. Clear admission and discharge criteria, including age, sex, and other limitations;

    d. A discussion of anticipated length of stay, with distinctions in the program or physical plant whenever all or a portion of a facility will be used to serve patients needing short-term crisis care; and

    e. Formal written agreements of cooperation that identify the nature and extent of the proposed working relationship between the proposed PRTF and each of the

following agencies, organizations, or facilities located in the service area of the proposed facility:

i. Regional Interagency Council for Children ("RIAC") with emotional disability or severe emotional disability as defined in KRS 200.509;

ii. Department for Community-Based Services;

iii. Local school districts;

iv. At least one (1) psychiatric hospital; and

v. Any other agency, organization or facility deemed appropriate by the Cabinet.

3. While PRTFs need not restrict admissions to persons living in the same state mental hospital district or service area as the PRTF, priority shall be given to applications which state that priority for admission will be given to referrals made by RIACs in the applicant's service area that otherwise meet the admission criteria of the PRTF; and

4. Priority shall be given to applications that demonstrate access to an array of other community-based services and post-placement alternatives (e.g., day treatment, therapeutic foster homes, and staffed community residences).

III. Long-Term Care

A. Nursing Facility Beds

Definition

"Nursing Facility Bed" includes long-term care beds licensed as Alzheimer beds, intermediate care beds, skilled nursing beds, nursing facility beds, and nursing home beds; and

Nursing Facility Beds do not include personal care beds, nursing home beds established under the continuing care retirement community (CCRC) provisions of this Plan, or long-term care beds located in state or federally-operated facilities.

Need Assessment for Nursing Facility Beds

The need for additional nursing facility beds in each county shall be calculated as follows:

$$\mathbf{A = B - C}$$

Where:

A = The net county NF bed need.

B = The number of patients from the applicant's proposed county of location who found NF bed placement in a noncontiguous county as reported in the most recently published *Kentucky Annual Long-Term Care Services Report*.

C = The average number of empty beds in the county of application and all counties contiguous to the county of application. The average number of empty beds for a county shall be calculated by multiplying the number of non-state owned and non-CCRC licensed NF beds times the occupancy percentage for the county as reported in the most recently published *Kentucky Annual Long-Term Care Services Report*.

Review Criteria

An application for nursing facility beds shall be consistent with this Plan if the following criteria are met:

1. The number of nursing facility beds being applied for is equal to or less than the net county NF bed need; and

2. Any approval shall give preference to conversion of personal care beds and acute care beds to nursing facility beds so long as the conversions are more cost effective than new construction.

B. Home Health Services

Definitions

"Home Health Services" refers to a combination of health care and social services provided to individuals in their homes or in other community and homelike settings pursuant to 902 KAR 20:081.

“To establish a home health service” means to establish a parent home health agency or a subunit as defined by Medicare in a county where the applicant is not currently licensed to serve.

"To expand a home health service" means to add to the applicant's existing service area a county or counties which are contiguous to the applicant’s existing service area provided that the expansion does not involve the establishment of a parent home health agency or subunit as defined by Medicare.

The need for home health services is determined on a county-by-county basis by applying target rates estimating the number of individuals per 1,000 population expected to require home health services. Age cohort target rates are calculated for the plan year and are based on the average number of unduplicated patients served statewide in each age cohort for the most recent two calendar years in the *Kentucky Annual Home Health Services Report*. Age cohort rates are applied to the plan year county population projections to determine expected need for home health services. The number of additional patient services needed in a county is then determined by subtracting the average number of unduplicated patients served in the county for the most recent two calendar years, as reported in the *Kentucky Annual Home Health Services Report*, from projected need.

The inventory for patients expected to be served will be adjusted by the addition of two hundred-fifty (250) patients for each certificate of need approved to establish a new agency or subunit in a specific county, by one hundred twenty-five (125) patients for each application approved to expand a home health service to a specific county, and by fifty (50) patients for each application approved for a hospital to establish an agency to solely serve the county in which the hospital is located. The respective number of patients will be removed from the inventory for patients to be served when the latest edition of the *Kentucky Annual Home Health Services Report* indicates that the agency has served patients in the approved county.

Review Criteria

1. An application to establish a home health service shall be consistent with this Plan if there is a projected need for at least two hundred-fifty (250) additional patients needing home health care services in the county for which the application is made as shown in the most recent edition of the *Kentucky Annual Home Health Services Report*.

2. An application to expand a home health service currently licensed in Kentucky shall be consistent with the Plan if there is a projected need for at least one hundred twenty-five (125) additional patients needing home health care services in the county for which the

application is made as shown in the most recent edition of the *Kentucky Annual Home Health Services Report*.

3. Notwithstanding Criterion 1 and 2, an application submitted by an existing agency that has met the emergency circumstances provision as outlined in 900 KAR 6:050 Section 12 and has received notice from the Division of Certificate of Need that an emergency exists, shall be consistent with this Plan only if the application is restricted to the limited purpose of alleviating the emergency.

C. Hospice Services

Definition

"Hospice Services" provide symptom relieving care and supportive services through an interdisciplinary approach that addresses the physical, spiritual, social, and economic needs of terminally ill patients and their families. Services include home care, inpatient care, bereavement services, counseling, and education. Emphasis is placed on symptom control and pain control for the terminally ill person, support for the patient before death, and support for the family before and after death.

Need Assessment for Hospice Services

The need for additional Hospice Services shall be calculated on a county-by-county basis as follows:

$$\textbf{HPR} = \frac{\textbf{Year (n) Admissions * 0.50 + Year (n-1) Admissions * 0.30 + Year (n-2) Admissions * 0.20}}{\textbf{Year (n) Deaths * 0.50 + Year (n-1) Deaths * 0.30 + Year (n-2) Deaths * 0.20}}$$

Where:

HPR	=	Hospice Penetration Rate
Year (n)	=	Year of the most recently published report
Year (n-1)	=	Year of the second most recently published report
Year (n-2)	=	Year of third most recently published report
Admissions	=	Hospice admissions utilizing data published in the three (3) most recent editions of the *Kentucky Annual Hospice Services Report.*
Deaths	=	Deaths from all causes (excluding deaths resulting from unintentional injuries, suicide or homicide) as reported in the three (3) most recent editions of the Kentucky Department for Public Health, *Vital Statistics Report*

Review Criteria

An application to establish or expand hospice services shall be consistent with this Plan if:

1. The hospice penetration rate in the proposed county is less than eighty (80) percent of the median hospice penetration rate statewide; and the proposed county is located in an ADD where the mean hospice penetration rate of the counties within the ADD is less than eighty (80) percent of the median hospice penetration rate statewide;

2. Each approved hospice agency in the proposed county has been operational for at least thirty six (36) months; and

3. Only one (1) application may be approved in each county during any batching cycle.

4. Notwithstanding the above criterion, an application to establish or expand hospice services into an individual county shall be consistent with this plan if the applicant documents the existence of at least one of the following conditions:

    a. Absence of services by a hospice certified for Medicaid and Medicare in the proposed county, and evidence that the applicant will provide Medicaid and Medicare-certified hospice services in the county; or

    b. Absence of services by a hospice in the proposed county that serves patients regardless of the patient's ability to pay, and evidence that the applicant will provide services for patients regardless of ability to pay.

D. Residential Hospice Facility

Definition

A “Residential Hospice Facility” is licensed pursuant to 902 KAR 20:380 and provides residential care for terminally-ill patients that include skilled nursing care for the management of pain and acute and chronic symptoms.

Review Criteria

No application to establish a residential hospice facility shall be approved under this Plan.

E. Adult Day Health Care Program

Definition

"Adult Day Health" is the provision of outpatient health care services that meet the health care needs of patients in conformance with physician's orders and without which would cause the patient and patient's health to meet the criteria for nursing home level of care.

Review Criteria

An application for an Adult Day Health program shall be consistent with this Plan if the following criteria are met:

1. The applicant documents that the following services will be provided:

    a. One (1) meal per day including special diets;

    b. Snacks as appropriate;

    c. Daily on-site nursing services and supervision provided by RN or LPN including administration of medications and treatments as ordered by a patient's physician;

    d. Regularly scheduled activities specific to patient's age and care plan;

    e. Routine services required to meet daily personal care and health care needs; and

    f. Equipment essential to the provision of Adult Health Care Services and incidental supplies necessary to provide Adult Day Health Care services;

2. The applicant documents the capacity of providing necessary transfer and referral services should a patient's needs become such that a different level of care would be more beneficial; and

3. The applicant demonstrates the ability to maintain appropriate medical records and follow accepted universal precaution practices.

F. Intermediate Care Facilities for the Mentally Retarded & Developmentally Disabled

Definition

"Intermediate Care Facilities for the Mentally Retarded and Developmentally Disabled" ("ICF-MR/DD") provide services for all age groups on a twenty-four (24) hour basis, seven (7) days a week, in an establishment with permanent facilities including resident beds for persons whose mental or physical condition requires developmental nursing services along with a planned program of active treatment. The facility provides special programs as indicated by individual care plans to maximize the resident's mental, physical, and social development in accordance with the normalization principle.

Review Criteria

No application for a new ICF-MR/DD shall be consistent with this Plan unless the proposal involves an application to transfer existing ICF-MR/DD beds between existing ICF-MR/DD facilities or from an existing ICF-MR/DD facility to a proposed ICF-MR/DD facility.

IV. Diagnostic and Therapeutic Equipment and Procedures

A. Cardiac Catheterization Services

Definition

"Cardiac Catheterization" is a diagnostic or therapeutic procedure in which a catheter is introduced into a large vein or artery, usually of an arm or a leg, and threaded through the circulatory system to the heart. A single procedure lasts from the time the catheter is inserted until the time that the catheter is completely withdrawn from the patient.

Review Criteria

An application proposing to provide cardiac catheterization services shall be consistent with this Plan if the following criteria are met:

1. For applicants proposing fixed site diagnostic cardiac catheterization only:

    a. According to the most recent edition of the *Kentucky Annual Hospital Utilization and Services Report*, each existing fixed-site diagnostic laboratory in the ADD shall have performed at least five hundred (500) diagnostic procedures in the last twelve (12) month reporting period. Each existing fixed-site comprehensive laboratory (diagnostic and therapeutic) shall have performed at least one thousand, one hundred (1,100) diagnostic equivalent procedures in the last twelve month reporting period; each mobile unit which performs catheterizations at sites located within a fifty (50) mile radius shall have performed a number of procedures at each location based on the ratio of hours in operation in proportion to the required five hundred (500) diagnostic procedures annually. Laboratory utilization shall be determined by counting all therapeutic, pediatric or electrophysiology studies as two (2) diagnostic equivalent procedures each and other procedures as one (1) diagnostic equivalent procedure each. For diagnostic catheterizations, only one (1) diagnostic procedure will be counted per patient episode in the cardiac catheterization laboratory regardless of the number of procedures performed;

    b. The total projected number of diagnostic catheterizations in the ADD shall exceed the total existing procedures by at least five hundred (500) procedures during the third year of operation.

        i. The total projected number of procedures will be based on the diagnostic cardiac catheterization use rate for the Commonwealth of Kentucky for the most recent twelve (12) month period for which data are available applied to the projected ADD population three (3) years in the future from the date the application was filed;

ii. The number of diagnostic cardiac catheterization procedures performed by existing programs, according to the most recent edition of the *Kentucky Annual Hospital Utilization and Services Report*, will be subtracted from the total projected diagnostic procedures for the ADD. If there are approved but not operational fixed-site laboratories or lab not included in the most recently published Hospital Utilization Report, an additional five hundred (500) procedures will be subtracted from the total for each.

2. For applicants proposing comprehensive (diagnostic and therapeutic) cardiac catheterization services:

   a. According to the most recent edition of the *Kentucky Annual Hospital Utilization and Services Report*, each existing comprehensive laboratory in the ADD shall have performed at least one thousand, one hundred (1,100) diagnostic equivalent procedures in the last twelve (12) month reporting period, which is approximately eight-five (85) percent of the one thousand, three hundred thirty-three (1,333) hour-and-a-half procedures possible in fifty (50) weeks of forty (40) hours each. Laboratory utilization shall be determined by counting all therapeutic, pediatric or electrophysiology studies as two (2) diagnostic equivalent procedures each, and other procedures as one (1) diagnostic equivalent procedure each. For diagnostic catheterizations, only one (1) diagnostic procedure will be counted per patient episode in the cardiac catheterization laboratory regardless of the number of procedures performed;

   b. The total projected number of procedures shall be based on the total cardiac catheterization use rate calculated from data contained within the most recent edition of the *Kentucky Annual Hospital Utilization and Services Report* using the most recently published inventory and utilization data applied to the projected ADD population three (3) years in the future from the date of the application; and

   c. The total number of cardiac catheterization procedures performed by existing programs in the most recent twelve (12) month reporting period shall be subtracted from the total projected catheterization procedures for the ADD. If there are approved but not operational laboratories or labs not included in the most recently published *Kentucky Annual Hospital Utilization and Services Report*, an additional five hundred (500) procedures shall be subtracted from the total for each.

3. For applicants proposing mobile adult diagnostic cardiac catheterization services only:

   a. According to the most recent edition of the *Kentucky Annual Hospital Utilization and Services Report*, each existing fixed-site diagnostic laboratory located within a fifty (50) mile radius of the proposed laboratory shall have performed at least five hundred (500) diagnostic procedures in the last twelve (12) month reporting period. Each existing comprehensive laboratory within a fifty (50) mile radius of the proposed laboratory shall have performed at least one thousand, one hundred

(1,100) diagnostic equivalent procedures in the last twelve (12) month reporting period. Each existing mobile diagnostic cardiac catheterization service located within a fifty (50) mile radius of the proposed laboratory shall have performed at that location a number of procedures based on the ratio of hours in operation at that location in proportion to the required five hundred (500) diagnostic procedures annually. Laboratory utilization shall be determined by counting all therapeutic, pediatric, or electrophysiology studies as two (2) diagnostic equivalent procedures each, and other procedures as one (1) diagnostic equivalent procedure each. For diagnostic catheterizations, only one (1) diagnostic procedure will be counted per patient episode in the cardiac catheterization laboratory regardless of the number of procedures performed;

b. There is not a newly approved cardiac catheterization laboratory in the ADD which was not operational as of the date of the most recently published data; and

c. There is not a newly approved cardiac catheterization laboratory in the ADD that began operating subsequent to the date of the most recently published utilization report that did not perform the number of diagnostic or diagnostic equivalent procedures as set forth in 3(a) above.

4. For applicants proposing therapeutic catheterization (except for the use of clot-dissolving infusion drugs approved by the FDA such as Streptokinase and TPA) the facility shall have a comprehensive cardiac surgical program (including open-heart surgery) within the facility;

5. For applicants proposing a pediatric cardiac catheterization laboratory, the facility shall also offer a pediatric cardiac surgical program and a Level III neonatal intensive care unit and shall document that sixty thousand (60,000) live births were reported to have occurred according to the most recent edition of the *Kentucky Annual Hospital Utilization and Services Report*.

6. For all cardiac catheterization laboratories, the laboratory shall be used only for catheterization and angiographic studies (cerebral, coronary, renal, etc.);

7. For all cardiac catheterization laboratories, the applicant shall maintain a utilization review program (including record keeping) relating to medical necessity, quality, mortality, morbidity, number of cardiac catheterizations that require repetition due to inability to read the data, and other considerations generally accepted as appropriate for review;

8. For all cardiac catheterization laboratories, the applicant shall document that the most recent national guidelines as established by the Ad Hoc Task Force on Cardiac Catheterization of the American College of Cardiology/American Heart Association and published in ACC/AHA Guidelines for Cardiac Catheterization and Cardiac Catheterization Laboratories will be followed. This report sets guidelines for

administration, space, equipment, personnel and working arrangements for diagnostic and therapeutic cardiac catheterization laboratories;

9. For all cardiac catheterization laboratories, the applicant shall document that each physician is projected to perform at least one hundred-fifty (150) successful diagnostic procedures per year with acceptable mortality and morbidity in patients who warrant the procedure;

10. For a comprehensive cardiac catheterization laboratory that provides therapeutic catheterizations, the applicant shall also document that:

    a. Training for percutaneous transluminal coronary angioplasty (PTCA) will follow the guidelines set forth in the Bethesda Conference on Adult Cardiology Training (Journal of the American College of Cardiology, 1986; 7: 1191-218), as revised, which require extra training beyond the two years for clinical cardiology;

    b. Each physician is projected to perform at least seventy-five (75) successful angioplasties per year with acceptable mortality and morbidity in patients who warrant the procedure.

11. Notwithstanding the foregoing review criteria, an application proposing therapeutic catheterization services shall be consistent with this Plan if there is not an existing or approved therapeutic catheterization service (except for use of the clot-dissolving infusion drugs approved by the FDA such as Streptokinase and TPA) in the ADD.

B. Magnetic Resonance Imaging Equipment

Definition

"Magnetic Resonance Imaging" ("MRI") means a diagnostic imaging modality which utilizes magnetic resonance, an interaction between atoms and electromagnetic fields, to produce images of internal body structures.

A MRI "procedure" is defined as a MRI diagnostic scan or combination of scans performed on a single patient in a single session.

"Qualified Academic Medical Center" means each: (a) institution of higher education which operates an accredited medical school in the Commonwealth of Kentucky, (b) institution, organization or other entity which directly or indirectly owns or is under common control or ownership with such an accredited medical school and (c) organization or other person which is qualified under Section 501(c)(3) of the Internal Revenue Code as a result of supporting or operating in support of any institution, organization or other person of a type or types referenced in part (a) or (b) of this sentence.

Review Criteria

An application to establish a MRI service shall be consistent with this Plan if the following criteria are met:

1. An applicant proposing to provide fixed-site MRI services shall demonstrate that sufficient need exists for a minimum of two thousand, five hundred (2,500) procedures per year by the end of the second year of operation;

2. An applicant proposing to provide mobile MRI services shall demonstrate that sufficient need exists for that unit to perform a minimum of one thousand, eight hundred-fifty (1,850) procedures, within the Commonwealth, per year by the end of the second year of operation;

3. Notwithstanding criteria 1, 2 or 5, an application to establish MRI services shall be consistent with this Plan if:

    a. The proposed unit would be used under formalized, written agreements with a qualified academic medical center and that as a result of teaching services provided there would be additional time spent with each patient during the performance of the MRI procedure which would prevent the provider from performing the requisite minimum number of procedures for that type of MRI unit;

    b. The proposed unit would be used solely for pediatric patients or patients that require full sedation in order for the procedure to be performed; or

c. The proposed unit would be used primarily during intraoperative procedures.

4. The applicant shall certify and be capable of demonstrating that the proposed equipment to be used in conjunction with the procedures is safe and effective including the following:

   a. The United States Food and Drug Administration (FDA) has certified the proposed equipment for clinical use;

   b. The physical setting at which the procedures are to be performed conforms to applicable federal standards, manufacturer's specifications and licensing agencies' requirements;

   c. Only qualified, trained personnel shall be allowed to operate the equipment;

   d. A licensed, board certified radiologist or other licensed physician demonstrating experience and training in the provision of MRI services shall supervise all non-employee personnel and interpret all scans performed;

   e. If the equipment is to be leased or otherwise acquired on a contractual basis, the lease or contract does not require that a specific minimum number of procedures be performed;

   f. The procedures are medically necessary and will not unnecessarily duplicate other services; and

   g. Sufficient protocols exist to address any emergencies associated with the provision of the proposed services.

5. The applicant demonstrates that its ability to provide at least two thousand, five hundred (2,500) procedures per year from a fixed-site MRI or to provide at least one thousand, eight hundred-fifty (1,850) procedures per year from a mobile MRI unit does not result in unnecessary duplication of services. Specifically, the applicant must demonstrate that the procedures it proposes to perform would be in addition to the lesser of:

   a. The procedures performed by each existing CON approved or licensed provider in the proposed county as reported in the most recent edition of the *Kentucky Annual Magnetic Resonance Imaging Services Report*; or

   b. Two thousand, five hundred (2,500) procedures per year by each existing CON approved or licensed fixed-site MRI provider in the proposed county; and

   c. One thousand, eight hundred-fifty (1,850) procedures per year by each existing CON approved or licensed mobile MRI provider in the proposed county.

6. Notwithstanding criterion 1, 2, 3 & 5, applications proposing to establish MRI services shall be considered consistent with this Plan if the applicant is an existing licensed acute care hospital that is not providing MRI services at its existing campus. The establishment of such services is limited to the applicant's existing hospital campus.

C. Megavoltage Radiation Equipment

Definition

"Megavoltage Radiation Equipment" is used in the treatment of cancer. For the purposes of this plan, megavoltage radiation equipment includes units such as linear accelerators that operate at two or more megavolts and deliver external radiation.

A "Megavoltage Radiation Therapy Program" is defined as a licensed service utilizing one or more megavoltage radiation unit(s) at a single location by a single owner.

With regard megavoltage radiation equipment, the "Planning Area" shall be comprised of the county of the proposed megavoltage radiation therapy program and all contiguous counties.

Review Criteria

An application for megavoltage radiation therapy services shall be consistent with this Plan if the following criteria are met:

1. The number of procedures performed in the proposed planning area averages at least eight thousand (8,000) per existing megavoltage radiation therapy program, as reported in the latest edition of the *Kentucky Annual Hospital Utilization Services Report.*

2. The applicant proposes to perform at least six thousand (6,000) annual procedures by the third year of operation.

3. Approval of the application does not cause the number of megavoltage radiation therapy programs to exceed one (1) per one hundred-thousand (100,000) population in the proposed planning area.

D. Positron Emission Tomography Equipment

Definition

"Positron Emission Tomography" (PET) scans combine Nuclear Scanning with chemical analysis to enable physicians to observe how organs work. Positrons are positively charged electrons that are produced spontaneously as certain radioactive substances (for example, radioactive glucose) decompose. The type of radioactive substance used for a particular PET scan varies, based on the medical condition for which a patient is being tested. During a PET scan, the radioactive material is introduced into the patient's body (usually by injection) and is detected by a sophisticated camera that obtains sectional views through a patient's body.

A "PET Procedure" is defined as a PET diagnostic scan or combination of scans performed on a single patient in a single session.

A "PET Program" is defined as a licensed service utilizing one or more PET unit(s) at a single location by a single owner.

A "mobile PET Scanner" means a PET scanner and transporting equipment that is moved to provide services at two or more host facilities.

With regard PET equipment, the "Planning Area" shall be comprised of the county of the proposed PET program and all contiguous counties.

Review Criteria

An application for PET services shall be consistent with this Plan if the following criteria are met:

1. Applicants proposing to establish a fixed-site PET unit must project a minimum of at least nine hundred (900) procedures in the first full year of operation and one thousand, two hundred (1,200) procedures per year by the second full year of service and annually thereafter;

2. Applicants proposing to establish or expand a mobile PET service must project a minimum of at least five hundred-forty (540) mobile procedures within the Commonwealth in the first full year of service and at least seven hundred-twenty (720) procedures within the Commonwealth per year by the second full year of service and annually thereafter;

3. The application shall document a projection of need for the PET unit which shall include demographic patterns, including analysis of applicable population-based health status factors, estimated utilization by patient clinical diagnoses category (ICD-9), and documentation demonstrating that the applicant is providing or has referral arrangements with other medical providers that offer comprehensive cancer and cardiac diagnostic and treatment services; and

4. Approval of the application does not cause the number of fixed-site PET programs to exceed one (1) per one hundred-thousand (100,000) population in the proposed planning area.

E. New Technology

Definition

"New Technology" includes new technological equipment or services not previously provided in the Commonwealth and not otherwise covered in the Plan that involve a capital expenditure that exceeds the capital expenditure minimum or equipment that exceeds major medical equipment minimum, and has an annual operating cost greater than $500,000, or new technology where the medical literature indicates that certain utilization levels or procedural volumes are necessary to achieve desirable patient outcomes.

Review Criteria

An application for new technology shall be consistent with the Plan if the following criteria are met:

1. The applicant shall document that the proposed new technology is efficacious;

2. The applicant shall document that the equipment is certified for its proposed use by the United States Food and Drug Administration (FDA);

3. Preference shall be given to proposals that involve multi-institutional arrangements by contract, agreement, ownership, or other means between two (2) or more agencies to coordinate services, share support services, or provide services on a geographically integrated basis. A party to a multi-institutional arrangement shall not establish its own service or participate in another arrangement for the service until the original service is operating at sufficient capacity for adequate efficiency and quality of care. If the projected use of the new service includes expected referrals from others, the referring parties should be included in the multi-institutional arrangement, if possible;

4. Preference shall be given to proposals that place the new technology in a medical school or other teaching or research facility. New technology designed for pediatric use or proposed for use by pediatric patients shall be approved only in pediatric teaching facilities which have the availability of physician specialty support and specialized ancillary support services;

5. Before acquiring new technological equipment, applicants shall have complementary diagnostic and treatment services available to support the new program;

6. In cases where specific professional standards have not yet been formulated, applicants shall demonstrate that personnel who will staff the new technology are qualified and adequately trained. The applicant shall specify how personnel will be trained in the use of the specific equipment and safety procedures to follow in the event of an emergency. The institution providing the new services shall document its plan for providing continuing education for referring physicians and institutions in the use of the new technology; and

7. Applicants acquiring new technological equipment shall report utilization and demographic data necessary to evaluate the technology and to facilitate state planning.

V. Miscellaneous Services

A. Ambulance Services

Definition

An "Ambulance Service" includes Class I, II, or III ground ambulances. Class I ground ambulance services provide basic life support or advanced life support services to all patients for both emergencies and scheduled ambulance transportation which is medically necessary. Class II ground ambulance services provide only basic life support services but do not provide initial response to the general population with medical emergencies and which are limited to providing scheduled ambulance transportation which is medically necessary. Class III ground ambulance services provide mobile intensive care services at or above the level of advanced life support to patients with critical illnesses or injuries who must be transported between hospitals in vehicles with specialized equipment as an extension of hospital-level care. These ambulance classes are set forth in KRS 211.952.

Review Criteria

An application for ground ambulance services shall be consistent with this Plan if the following criteria are met:

1. The applicant shall document that the appropriate local legislative body (fiscal court, city council, or both when applicable) has been given notice of the applicant's intent to obtain a certificate of need. Such notice shall describe the scope of service and proposed service area. For purposes of this requirement, the term "appropriate local legislative body" refers only to those legislative bodies that are currently licensed to provide ambulance services in the applicant's proposed service area;

2. In the event of competing applications to add services in the same service area, preference shall be given to an application proposing the higher level of service. If multiple providers propose ALS services, then preference shall be given to the applicant who most thoroughly documents need for the service and presents ability to meet the need; and

3. Applications to provide only Class II or Class III services shall be accompanied by documentation (e.g., charts depicting response times of existing service, number of runs during the previous year, and comparable supportive data) that the need for scheduled or critical care inter-facility transportation is not being met by the existing emergency or other Class II or III ground ambulance services. In the presence of such evidence, priority shall be given to a competing application(s), if any, for the addition of vehicles, expansion of service areas, or comparable modifications that would allow an existing emergency ambulance service provider(s) to meet any unmet need for critical care interfacility or scheduled ambulance services.

B. Ambulatory Surgical Centers

Definition

An "Ambulatory Surgery Center" ("ASC") is a free standing or hospital based health facility where scheduled procedures which are billed as surgical procedures, to include cystoscopy procedures, are performed, and which meet the licensure requirements of the Cabinet for Health and Family Services, Office of Inspector General.

Review Criteria

An application for outpatient surgical services which will result in the establishment of an additional licensed ASC shall be consistent with the Plan if the following criteria are met:

1. Overall inpatient and outpatient surgical utilization in hospitals and ASC's is at least eighty-five (85) percent in the planning area as computed from the most recent edition of the *Kentucky Annual Ambulatory Surgical Services Report*. With regard to ambulatory surgical services, the planning area shall be comprised of the county of the proposal and all contiguous counties;

2. Inpatient and outpatient surgical utilization is computed using an average 2.0 hours (including cleanup time) per in-patient surgery and 1.2 (including cleanup time) per outpatient surgery, and 2,205 potential surgical hours per year as follows:

   (Total inpatient operations x 2.0) + (Total outpatient operations x 1.2)
   (Existing and Approved Hospital Operating Rooms + ASC Operating Rooms x 2,205)

   Applicants proposing outpatient surgical services may use actual documented surgical time to calculate institution-specific utilization rates. Outpatient operations are the sum of all hospital outpatient and ambulatory surgical center operations;

3. All new ASC's shall be located within twenty (20) minutes normal driving time of at least one (1) full-service hospital and the applicant shall have a transfer agreement for the proposed center in place with at least one (1) full-service hospital which is located within twenty (20) minutes normal driving time of the center; and

4. Overall surgical utilization in the planning area notwithstanding, an application to establish an ASC limited to a specific type of procedure shall be consistent with this Plan if the following conditions are met:

   a. The applicant documents that patients are not receiving the specific type of surgical procedures (as identified by procedure codes) proposed by the applicant at facilities in the planning area; and

   b. The application contains an explanation of why the unmet need for the specific type of surgical procedure has not been reasonably addressed by providers in the planning area.

C. Chemical Dependency Treatment Beds

Definition

"Chemical dependency" treatment beds are licensed beds used in the treatment of patients suffering from abuse or addiction to chemical substances such as alcohol or drugs.

Review Criteria

An application for chemical dependency beds shall be consistent with this Plan if the following criteria are met:

1. The number of chemical dependency beds in an ADD shall not exceed a maximum rate of 11.4 beds per 100,000 geographic population for the plan year;

2. Consideration shall be given to the availability of acute or psychiatric beds designated for use as chemical dependency beds, as well as the availability of KRS Chapter 222 program beds;

3. Applications to develop hospital-based units using existing space shall be given priority over applications requiring new construction;

4. In ADDs with a rate below the maximum for chemical dependency beds, all or a portion of the bed quota for contiguous ADDs may be used if the applicant demonstrates that:

    a. The proposed facility will be available and accessible to the population or a portion of the population of the contiguous ADDs;

    b. Linkage agreements have been made with appropriate providers in the contiguous ADDs; and,

    c. Letters of support have been obtained from any licensed chemical dependency treatment providers in the contiguous ADD.

D. Prescribed Pediatric Extended Care

Definition

A "Prescribed Pediatric Extended Care Center" is a non-residential health care service that provides an important link in the continuum of care for medically or technology dependent children. The Prescribed Pediatric Extended Care Center provides the following triad of necessary services for dependent children and their parents: day health care, development interventions, and parental training.

Review Criteria

An application to establish a Prescribed Pediatric Extended Care Center shall be consistent with this Plan if the following criteria are met:

1. There are no licensed or certificate of need authorized Prescribed Pediatric Extended Care Centers located within the same ADD as the proposed center; or

2. Approval of the application does not cause the number of Prescribed Pediatric Extended Care Centers to exceed two (2) per ADD.

E. Outpatient Health Care Center

Definition

An "Outpatient Health Care Center" is a public or private provider-based institution with permanent facilities on a single campus, that is under the supervision of an organized medical staff and that is comprised of components for the provision of primary care, ambulatory surgery, twenty-four (24) hour emergency care, and radiologic and magnetic resonance imaging.

Review Criteria

An application for a certificate of need to establish an Outpatient Health Care Center shall be consistent with this Plan if the health facility:

1. Shall provide primary care services, twenty-four (24) hour emergency services, diagnostic imaging including magnetic resonance imaging services, ambulatory surgical services, and such other outpatient services as necessary to serve the needs of the residents of a county if there are no review criteria for those other outpatient services in the state health plan; and

2. Shall be located in a county that has no hospital, that has a population of sixty thousand (60,000) or more persons, and that also is a medically underserved area as determined by the Secretary of the Federal Department for Health and Human Services.

No more than one (1) Outpatient Health Care Center that meets the criteria in Paragraphs 1 and 2 above shall be established in each county.

F. Private Duty Nursing Services

Definition

A "Private Duty Nursing Service" is an entity that provides licensed nursing care to patients in his or her home for a continuous block of time, in increments of at least four hours, in which the private duty nursing service supervises nursing care provided by agency personal.

Review Criteria

An application to establish a private duty nursing service shall be consistent with this Plan only if the applicant:

1. Proposes to establish or expand private duty nursing services into a county that does not have a licensed or certificate of need authorized private duty nursing service provider or a licensed or certificate of need approved home health agency.

2. Notwithstanding Criteria 1, an application submitted by an existing agency that has met the emergency circumstances provision as outlined in 900 KAR 6:050 Section 12 and has received notice from the Division of Certificate of Need that an emergency exists, shall be consistent with this Plan only if the application is restricted to the limited purpose of alleviating the emergency.