

A BILL

23-183

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA



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To reduce Certificate of Need application fees paid by 3 health care providers that are providing important care in underserved communities.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the “Certificate of Need Fee Reduction Amendment Act of 2019”.

Sec. 2. The Health Services Planning Program Re-Establishment Act of 1996, effective April 9, 1997 (D.C. Law 11-191; D.C. Official Code § 44-401 *et seq.*) is amended as follows:

(a) Section 2 (D.C. Official Code § 44-401) is amended as follows:

(1) Paragraph (3) is amended to read as follows:

“(3) “Capital expenditure” means:

“(A) Any expenditure by or on behalf of a hospital, including a private general, rehabilitation, psychiatric or other specialty hospital, which is, under generally accepted accounting principles, not properly chargeable as an expense of operation or maintenance and which exceeds \$6 million; except that the SHPDA may, by rule, adjust this threshold annually to reflect the change in the Hospital Construction Cost Index issued by the U.S. Department of Commerce;

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26                   “(B) For all health care facilities not specified in subparagraph (A), any  
27 expenditure by or on behalf of a health care facility, or by or on behalf of a person, which is,  
28 under generally accepted accounting principles, not properly chargeable as an expense of  
29 operation or maintenance and which exceeds \$3.5 million; except that the SHPDA may, by rule,  
30 adjust this threshold annually to reflect the change in the Hospital Construction Cost Index  
31 issued by the U.S. Department of Commerce;

32                   “(C) Any expenditure for the acquisition of major medical equipment;

33                   “(D) Any expenditure for any acquisition under a lease or comparable  
34 arrangement, or through any other type of transfer, which would have constituted a capital  
35 expenditure under this subparagraph if the acquisition had been made at fair market value;

36                   “(E) Any expenditure for any acquisition under a lease or comparable  
37 arrangement, or through donation or through any other type of transfer by 2 or more persons  
38 acting in concert, in which the aggregate cost of such acquisition would have constituted a  
39 capital expenditure under this subparagraph if the acquisition had been by purchase at fair market  
40 value, notwithstanding that the cost or value to each participating person of the acquisition would  
41 not, alone, otherwise constitute a capital expenditure under this paragraph; and

42                   “(F) Any expenditure for any action or combination of related actions by a  
43 person, or by 2 or more persons acting in concert, which is taken for the purpose of acquiring, or  
44 otherwise results in the acquiring of effective control of a health care facility or any other  
45 corporation, partnership, limited liability company or other entity which holds a certificate of

46 need, and which would have constituted a capital expenditure under this subparagraph if the  
47 acquisition or intended acquisition had been by purchase at a fair market value.

48 “(G) For purposes of this paragraph, the cost of studies, appraisals,  
49 charitable donations, title searches, in-kind contributions, Internal Revenue Service 1031  
50 exchanges, acquisition of contracts, supplies and equipment, surveys, designs, plans, working  
51 drawings, specifications, site preparation, construction, related equipment, legal fees and other  
52 activities essential or related to the capital expenditure shall be included in determining the total  
53 costs of the expenditure.”.

54 (2) Existing paragraph (3A) is redesignated at paragraph (3B).

55 (3) A new paragraph (3A) is added to read as follows:

56 “(3A) “Certificate of need” means a document obtained from the SHPDA that  
57 demonstrates a public need for the new service or expenditure, as described in section 7(a).”.

58 (4) Paragraph 14 is amended to read as follows:

59 “(14) “Major medical equipment” means:

60 “(A) For private general hospitals, psychiatric hospitals, and other  
61 specialty hospitals, equipment used for the provision of medical or other health services which is  
62 acquired by lease, purchase, donation, or other comparable arrangement by or on behalf of such  
63 hospitals, and which has a fair market value in excess of \$3.5 million; or

64 “(B) For all health care facilities not specified in subparagraph (A) of this  
65 paragraph, equipment used for the provision of medical or other health services which is

66 acquired by lease, purchase, donation, or other comparable arrangement by or on behalf of a  
67 health care facility, or by or on behalf of any private group practice of diagnostic radiology or  
68 radiation therapy, and which has a fair market value in excess of \$2 million; or

69           “(C) A single piece of diagnostic or therapeutic equipment which is  
70 acquired by lease, purchase, donation, or other comparable arrangement by or on behalf of a  
71 physician or group of physicians (excluding those referenced in subparagraph (A) of this  
72 paragraph), or an independent owner or operator of the equipment, and for which the cost or  
73 value is in excess of \$350,000.

74           “(D) The SHPDA may, by rule, adjust the thresholds specified in  
75 subparagraph (A) of this paragraph annually to reflect the change in the Consumer Price Index  
76 issued by the Bureau of Labor Statistics, United States Department of Labor.

77           “(E) In determining whether medical equipment has a fair market value in  
78 excess of the amount specified in subparagraph (A) of this paragraph, the cost of studies,  
79 surveys, designs, plans, working drawings, specifications, site preparation, construction, related  
80 equipment, and other activities essential to the acquisition of the equipment shall be included.

81           “(F) The term “major medical equipment” shall not include medical  
82 equipment acquired by or on behalf of a clinical laboratory to provide clinical laboratory services  
83 if the clinical laboratory is independent of a physician’s office or a hospital and meets the  
84 requirements of section 1861(s)(10) and (11) of the Social Security Act, approved August 14,  
85 1935 (49 Stat. 420; 42 U.S.C. 1395x(s)).”.

86 (b) The lead-in language for Section 7(b) (D.C. Official Code § 44-406(b)) is amended by  
87 striking the phrase “expenditure to acquire,” and inserting the phrase “expenditure in any amount  
88 to acquire,” in its place.

89 (c) Section 8(b) (D.C. Official Code § 44-407(b)) is amended as follows:

90 (1) Paragraph (19) is amended by striking the phrase “by December 31, 2021.”  
91 and inserting the phrase “by December 31, 2021; and” in its place.

92 (2) A new paragraph (20) is added to read as follows:

93 “(20) The operation of a nonprofit, specializing in vision screening and providing  
94 free diagnostic services and eye wear to school children and youth in the District of Columbia  
95 provided that the nonprofit has entered into a Memorandum of Understanding with the local  
96 education agency that will be served by the nonprofit.”.

97 (ed) Section 21 (D.C. Official Code § 44-420) is amended as follows:

98 (1) Subsection (a) is amended by striking the phrase “admission,” and  
99 inserting the phrase “admission and increase to \$4.50 per inpatient admission beginning in the  
100 2021 fiscal year,” in its place.

101 (2) New subsections ~~(d), (e), and (f)~~(d) and (e) to read as follows:

102 ~~“(d) Notwithstanding the provisions of subsection (a) of this section, an application fee~~  
103 ~~shall not be collected from Vision To Learn for a project to provide free eye glasses to children~~  
104 ~~and youth in the District of Columbia attending a public school, public charter school, or private~~  
105 ~~school, in accordance with Vision to Learn’s letter of intent filed with the State Health Planning~~

1106 ~~and Development Agency on October 31, 2019, and any application fees paid prior to the~~  
1107 ~~effective date of this act shall be refunded.~~

1108 “(ed) Notwithstanding the provisions of subsection (a) of this section the \$52,050  
1109 application fee paid by Iona Senior Services for a project located at 3303 Stanton Road, S.E.,  
1110 Washington, D.C., 20020, shall be waived and refunded.

1111 “(fe) Notwithstanding the provisions of subsection (a) of this section, the maximum  
1112 application fee that may be collected from Community of Hope for a project located at 2120  
1113 Bladensburg Road, N.E., Washington, D.C., 20018, shall be \$5,000, and any application fees  
1114 paid prior to the effective date of this act shall be refunded.”.

1115 Sec. 3. Applicability.

1116 (a) Section 2(ed)(2) of this act shall apply upon the date of inclusion of its fiscal effect in  
1117 an approved budget and financial plan.

1118 (b) The Chief Financial Officer shall certify the date of the inclusion of the fiscal effect in  
1119 an approved budget and financial plan, and provide notice to the Budget Director of the Council  
1120 of the certification.

1121 (c)(1) The Budget Director shall cause the notice of the certification to be published in  
1122 the District of Columbia Register.

1123 (2) The date of publication of the notice of the certification shall not affect the  
1124 applicability of this act.

1125 Sec. 4. Fiscal impact statement.

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126           The Council adopts the fiscal impact statement in the committee report as the fiscal  
127 impact statement required by section 4a of the General Legislative Procedures Act of 1975,  
128 approved October 16, 2006 (120 Stat. 2038; D.C. Official Code § 1-301.47a).

129           Sec. 5. Effective date.

130           This act shall take effect following approval by the Mayor (or in the event of veto by the  
131 Mayor, action by the Council to override the veto), a 30-day period of congressional review as  
132 provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December  
133 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of  
134 Columbia Register.