

AN ACT

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

To exempt from certificate of need review a nonprofit that specializes in vision screening and provides free diagnostic services and eyewear to District of Columbia school children and youth, and to reduce the certificate of need application fees paid by Iona Senior Services and Community of Hope.

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)(A) “Capital expenditure” means:

“(i) Any expenditure by or on behalf of a hospital, including a private general, rehabilitation, or psychiatric or other specialty hospital that is, under generally accepted accounting principles, not properly chargeable as an expense of operation or maintenance and 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;

“(ii) For all health care facilities not specified in sub-subparagraph (i) of this subparagraph, any expenditure by or on behalf of a health care facility, or by or on behalf of a person that is, under generally accepted accounting principles, not properly chargeable as an expense of operation or maintenance and exceeds \$3.5 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;

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

“(iv) Any expenditure for any acquisition under a lease or comparable arrangement, or through any other type of transfer that would have constituted a capital expenditure under this paragraph if the acquisition had been made at fair market value;

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

“(vi) Any expenditure for any action or combination of related actions by a person or by 2 or more persons acting in concert that results in acquiring effective control of a health care facility or any other corporation, partnership, limited liability company, or other entity that holds a certificate of need and which would have constituted a capital expenditure under this paragraph if the acquisition or intended acquisition had been by purchase at a fair market value.

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

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

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

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

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

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

“(i) For private general, rehabilitation, or psychiatric or other specialty hospitals, equipment used for the provision of medical or other health services that is acquired by lease, purchase, donation, or other comparable arrangement by or on behalf of such hospitals, and has a fair market value in excess of \$3.5 million; except, that the SHPDA may, by rule, adjust this threshold annually to reflect the change in the Consumer Price Index issued by the Bureau of Labor Statistics, United States Department of Labor;

“(ii) For all health care facilities not specified in sub-subparagraph (i) of this subparagraph, equipment used for the provision of medical or other health services that is acquired by lease, purchase, donation, or other comparable arrangement by or on behalf of a health care facility, or by or on behalf of any private group practice of diagnostic radiology or radiation therapy and has a fair market value in excess of \$2 million; or

“(iii) A single piece of diagnostic or therapeutic equipment that is acquired by lease, purchase, donation, or other comparable arrangement by or on behalf of a physician or group of physicians (excluding those referenced in sub-subparagraph (i) of this

subparagraph), or an independent owner or operator of the equipment, and has a fair market value is in excess of \$350,000.

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

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

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

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

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

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

“(20) The operation of a nonprofit specializing in vision screening and providing free diagnostic services and eyewear to school children and youth in the District of Columbia (“nonprofit”); provided, that the nonprofit has entered into a memorandum of understanding with the local education agency that will be served by the nonprofit.”.

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

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

(2) New subsections (d) and (e) are added to read as follows:

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

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

Sec. 3. Applicability.

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

(b) The Chief Financial Officer shall certify the date of the inclusion of the fiscal effect in

an approved budget and financial plan, and provide notice to the Budget Director of the Council of the certification.

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

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

Sec. 4. Fiscal impact statement.

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

Sec. 5. Effective date.

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

Chairman
Council of the District of Columbia

Mayor
District of Columbia