



## Long-Term Care Regulatory Provider Letter (PL)

**Number:** PL 18-02 (NF)

**Title:** Revised Instructions for Medicaid Bed Allocation Requests

**Provider Types:** Nursing Facilities (NF)

**Date Issued:** February 2, 2018

### 1.0 Subject and Purpose

This letter describes new procedures related to the Medicaid bed allocation requirements in the Texas Administrative Code (TAC), Title 40, Part 1, Chapter 19, [§19.2322](#). The changes reduce the time for certain waiver request processes and were developed to shorten the overall time required to reach a waiver request decision. In particular, the new procedures:

- limit the waiver opponents and waiver applicants to one comment period each for providing comments on the initial waiver application; and
- change the length of the remaining comment periods from 45 calendar days to thirty calendar days.

These procedures will shorten the waiver request process time from approximately 270 days to approximately 160 days.

### 2.0 Policy Details & Provider Responsibilities

#### Receipt of Waiver Application by HHSC:

According to 40 TAC [§19.2322\(g\)\(5\)](#), the HHSC Long-Term Care Regulatory Licensing and Credentialing Section processes most waiver applications in the order in which they are received. For purposes of this rule, Licensing and Credentialing **receives** an application when it takes delivery of:

- a completed application form; and
- any additional information the waiver type requires, such as, a demographic study, documentation of substantial community support for the new nursing facility (NF,) or schematic building plan of the proposed small house NF.

Notice of Receipt of Application:

When Licensing and Credentialing receives a waiver application, Licensing and Credentialing notifies by mail and email all NFs in the county or, in the four most populous counties, in the county commissioner's precinct that:

- Licensing and Credentialing has received a waiver application;
- the NFs may request copies of the application documents via an open records request; and
- an NF or its representative may comment on the application.

Opposition to a Waiver Application:

If a notified NF opposes another NF's waiver application, the notified NF or its representative may submit information and data in opposition to the application. Licensing and Credentialing must receive this information, either by mail or email, no later than 30 calendar days after the date of the notification provided by Licensing and Credentialing. Licensing and Credentialing may extend the 30-day time period for a response at its discretion. Licensing and Credentialing will not consider comments from a facility that failed to submit timely comments in response to the notification of a waiver application.

Licensing and Credentialing notifies the waiver applicant if Licensing and Credentialing receives waiver opposition documents. The waiver applicant may submit to Licensing and Credentialing a written response to the opposition documents. Licensing and Credentialing must receive this response within 30 calendar days after the date of the notification provided by Licensing and Credentialing. Licensing and Credentialing may extend the 30-day period at its discretion.

Recommendation for Action on Application:

Licensing and Credentialing staff reviews the information and data submitted in support of and in opposition to the waiver application, and propose a recommendation. Licensing and Credentialing provides the recommendation and a detailed description of the basis for the recommendation in writing to the waiver applicant and the waiver opponents.

The waiver applicant and the waiver opponents may challenge the basis for the proposed recommendation. Licensing and Credentialing must receive the written challenge stating the reasons the waiver applicant or opponent believes the recommendation is incorrect within 30 calendar days after the date of the notification of the proposed recommendation. Licensing and Credentialing may extend the 30-day period at its discretion.

Licensing and Credentialing Section staff considers the written responses provided by the waiver applicant and opponents and makes a final recommendation to the Executive Commissioner or the Executive Commissioner's designee. The Executive Commissioner or Executive Commissioner's designee makes a final decision and sends notice of approval or denial of the waiver application to the applicant and the opponents. A waiver applicant that is denied a waiver may request an informal review of the action in accordance with 40 TAC [§19.2322\(k\)](#). No further review or appeal of the final decision is available.

The other procedures related to the Medicaid bed allocation requirements remain the same.

### **3.0 Background/History**

During a review of internal processes related to Medicaid Bed Allocations, the extended timeframes associated with the review and approval of waiver and exemption requests were noted as a concern. As a result, LTC Regulatory is implementing target timeframes and associated milestones for all internal procedures regarding waiver reviews. LTC Regulatory is also implementing a recommendation to shorten current timeline requirements for outside parties commenting on waiver requests to achieve greater expediency in the waiver review process. A meeting was held in May of 2016 in which a consensus of stakeholders and consultants agreed that the review process for a waiver application could and should be shortened.

### **4.0 Contact Information**

If you have any questions about this letter, please contact the Policy, Rules and Training Section at (512) 438-3161.

### **5.0 Key Words**

Medicaid Bed Allocations; waivers

*[signature on file]*

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