

SYNOPSIS

Administrative Rules for Certificate of Need Appeal Panel

Rule 274-1-.04

Appeal Filing Fees; Provisions for Amount and Payment

STATEMENT OF PURPOSE AND MAIN FEATURES OF PROPOSED RULE

The purpose of the proposed amendments in totality is to modify existing regulations in light of changes in the Certificate of Need statute, O.C.G.A. § 31-6 et seq., due to the passage of Senate Bill (SB) 433 in the 2008 Georgia General Assembly. SB 433 necessitates revision to the existing administrative rules for administrative appeals of certificate of need decisions. SB 433 abolished the previous Health Planning Review Board and created the Certificate of Need (CON) Appeal Panel. O.C.G.A. 31-6-44 and 31-6-44.1. The revisions are outlined in detail below.

DIFFERENCES BETWEEN EXISTING AND PROPOSED RULES

This rule is amended to reflect new provisions governing the amount and payment of filing fees for parties appealing a CON decision to the CON Appeal Panel.

274-1-.04 ~~Assignment of Hearings; Review of Initial Administrative Appeal and Intervention Requests. Appeal Filing Fees; Provisions for Amount and Payment.~~

~~(1) In the event that a request for an initial administrative hearing is made, the Chairperson of the Board shall appoint a hearing officer for each such hearing within 50 days after the date of the Department's decision. The Chairperson shall immediately deliver the appeal request and any other related documents to the assigned hearing officer.~~

~~(2) The hearing officer shall review the request to determine whether it was timely filed and whether Appellant has standing. If the request is timely and the Appellant has standing, an initial administrative appeal hearing shall be granted; provided, however; the hearing officer shall be entitled to consider all pre-hearing motions and arguments and may dispose of the case before conducting a hearing. If the request is not timely or the Appellant lacks standing, the hearing officer shall deny the request.~~

(1) In the event an appeal is filed by a competing applicant, or any competing health care facility, or any county or municipal government, the appeal shall be accompanied by payment of a filing fee of \$1,500.00. The fee shall be made by certified bank check, cashier's check, or money order made payable to the "Certificate of Need Appeal Panel, Chairperson". The fee shall be sent enclosed with the request for appeal or intervention as provided in Rule 274-1-.03.

(2) A separate appeal filing fee shall be paid by each separate party listed above requesting an appeal or intervention in any such appeal.

(3) In the event a party listed in subsection (1) above requests an appeal or intervention in an appeal of more than one application reviewed by the Department, pursuant to joinder review or a batching cycle review, the party shall pay a separate filing fee for each separate application for which an appeal or intervention in such appeal is requested.

Authority O.C.G.A. § 31-6-44.