# PROPOSED RULES
# OF
# DEPARTMENT OF COMMUNITY HEALTH

## SYNOPSIS

## Rule 111-2-2-.35

## STATEMENT OF PURPOSE AND MAIN FEATURES OF PROPOSED RULE

The purpose of this proposed amendment is to modify an existing regulation in light of changes in the nature and delivery of comprehensive inpatient physical rehabilitation services. The rule modifies the standards that would be applicable to the review of applications for certificate of need for the establishment of new comprehensive inpatient physical rehabilitation services and facilities or the expansion of existing services and facilities. The proposed rule defines a need methodology to determine when such services are needed and expounds upon the general statutory review considerations relating to relationship to the existing healthcare delivery system, existing alternatives, financial accessibility, costs to payors, financial feasibility, and consistency with the State Health Plan and modifies the existing service-specific review considerations relating to comprehensive inpatient physical rehabilitation services.

## DIFFERENCES BETWEEN EXISTING AND PROPOSED RULES

The existing regulation, 111-2-2-.35 is modified as described in the following table:

## Comprehensive Inpatient Physical Rehabilitation Services

| Proposed | | Current | |
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| **Rule 111-2-2-35(1) Applicability** | | | |
| | Applicability considerations for obtaining a Certificate of Need; all reviewed under the General Review Considerations of Rule 111-2-2-.09 and the service-specific considerations of this Rule | | Physical Rehabilitation Programs and Services defined as providing Comprehensive Inpatient Physical Rehabilitation Programs for Spinal Cord Disorders (all ages), children 14 years of age and under, and adults 15 years of age and older; the following rules apply to these programs. The proposed rules delete the special program for spinal cords and incorporates it into the general adult CIPR category |
| (a) | New or expanded existing Comprehensive Inpatient Physical Rehabilitation Adult Programs require a CON | | |
| (b) | New or expanded existing Comprehensive Inpatient Physical Rehabilitation Pediatric Programs require a CON | | |
| **Rule 111-2-2-.35(2) Definitions** | | | |
| (a) 'Adult' | A person 18 years of age or older; CON-authorized or grandfathered CIPR adult program won't be in violation of rules if they provide services to patients older than 15 years if medically necessary, provided that both treatment days and patient census of those 16 & 17 years of age don't exceed 10%; spinal cord injury & disorder rehab. programs existing prior to Rule not subject to adult limitations & may treat any patient age 12 & older | (a) 'Adult' | Defined as a person 15 years of age or older. Proposed rule changes the age to 18 for consistency with other rules of the Department, but provides an exception to allow treatment of younger patients when medically necessary |
| (b) Comprehensive Inpatient Physical Rehabilitation Program (CIPRP) | Program classified by Medicare as an inpatient rehab. Facility as per 42 C.F.R. §412.23(b)(2); coordinated & integrated services including evaluation & treatment; emphasizes education & training of patients; at minimum requires physician coverage 24 hours/day, 7 days/week, daily medical supervision, complete medical support services including consultation, 24 hour/day nursing, & daily multidisciplinary rehab. programming for a minimum 3 hours/day; includes programs that asserts intent to become Medicare-classified as an inpatient rehab. facility within 24 months of accepting first patient; CON shall be revoked if not Medicare classified in that timeframe | (c) Comprehensive Inpatient Physical Rehabilitation Program (CIPRP) | Rehab. Services provided to a hospitalized patient with 1 or more medical conditions requiring intensive & interdisciplinary rehab. Care, or who has a medical complication that meet the definitions & guidelines described in most recent Official State Health Component Plan for Physical Rehabilitation Programs and Services. Proposed rule specifically references the CMS definition so that if such definition. |

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| (c) 'Expansion' & 'Expanded' | New definition; capital expenditures that exceeds threshold or addition of beds to an existing CON-authorized or grandfathered CIPRP ; these facilities may increase bed capacity by the lesser of 10% of existing capacity or 10 beds if it has maintained an average occupancy of 85% for the previous 12 calendar months provided that no such increase in prior 2 years occurred & provided that associated capital expenditures don't exceed threshold | - | | No definition of 'Expansion' |
| (d) 'Free-standing Rehabili-tation Hospital' | Added specification that hospital be classified as an inpatient rehab. facility by the Medicare program as per 42 C.F.R. §412.23(b)(2); includes hospitals with intent to be Medicare-classified within 24 months of accepting first patient; CON shall be revoked if not Medicare classified in that timeframe, and if revoked, the facility will not have authority to operate as a general acute care hospital | | (d) 'Free-standing Rehabili-tation Hospital' | Specialized hospital organized & operated as a self-contained health care facility that provides 1 or more rehab. Programs. Proposed rule clarifies that the facility will be classified by CMS as an IRF. |
| (e) 'New' | New definition; Program that hasn't been Medicare-classified as a rehab. hospital/program in previous 12 months; adult & pediatric programs considered independent, and a provider seeking to add these components must obtain a CON; an existing program that proposes to relocate more than 3 miles from its existing location considered 'new' | - | | No definition of 'New' |
| (f) 'Official State Health Component Plan' | Same as definition at (e) of existing rule | | (e) 'Official State Health Component Plan' | Same as definition at (f) of proposed rule |
| (g) 'Pediatric' | New definition; a person 17 years of age and under; CON-authorized or grandfathered CIPRPP won't be in violation of rules if they provide services to patients younger than 22 years if medically necessary, provided that both treatment days and patient census of those 18-21 years of age don't exceed 10%; spinal cord injury & disorder rehab. programs existing prior to Rule not subject to adult limitations & may treat any patient age 12 & older | - | (b) Children | Deleted; replaced with 'pediatric;' a person 14 years of age & under |

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| (h) 'Planning Region' | Defines a planning region as 1 of 4 sub-state Rehabilitation Regions. These regions are not changed from the current rule, the proposed rule simply clarifies the counties that are included in each planning region. | (f) 'Planning Areas' | The Planning areas are broken into four regions of the state. |
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| **Rule 111-2-2-.35(3) Standards** | | | |
| | Spinal Cord program specific rules are deleted. Spinal Cord programs are incorporated into the general adult rehab program | | |
| (a) | Establishes the need for a new or expanded Comprehensive Inpatient Rehabilitation Adult or Pediatric Program based on a demand-based need methodology (based on current utilization rates for the planning region, projected horizon year discharges, average length of stay for current year for planning region, projected patient days & census, a capacity standard of 85%, and current bed inventory) | 3(a) | Instead of referring to the need method described in most recent Official State Health Component Plan for Physical Rehabilitation Programs and Services, the new proposed rule actually delineates the need methodology; applicable to both Adults at (3)(a)1 and Pediatric at (3)(a)2 |
| | Summary: The proposed new inpatient physical rehabilitation services need projection methodology also uses a demand-based model, but the proposed model determines demand in the horizon year by using actual inpatient physical rehabilitation utilization from the current (or most recent) year and then extrapolating into the horizon year with projected resident population to determine the number of beds needed. Detail Step-by-Step: Determine the current utilization rate (per 1,000) for inpatient physical rehabilitation programs by planning area by identifying the number of actual reported inpatient physical rehabilitation cases ages 18 and up in each planning area and then dividing by the current year's resident population ages 18 and up. | | Summary: The inpatient physical rehabilitation services need projection is determined using a demand-based formula. The current formula identifies demand in the horizon year by first identifying potential candidates for inpatient physical rehabilitation services using groupings of diagnoses which might benefit from admission to a CIPR bed (stroke, neurosystem disorders, traumatic brain injury, etc.). This formula does not use actual inpatient physical rehabilitation utilization to project future needs, but uses potential cases based on diagnoses. A utilization rate was established for each diagnostic group by the Component Plan. These fixed utilization rates are extrapolated into the horizon year to project the number of cases in each diagnostic group. Then fixed demand and average lengths of stay are applied to these utilization rates for each diagnostic group to determine the projected beds needed. |

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| | Multiply the current year's utilization rate in each planning area by the horizon year's projected resident population ages 18 and up to determine the projected number of inpatient physical rehabilitation cases. Using the current year's utilization data calculate the average length of stay for inpatient physical rehabilitation cases in each planning area then multiply the average lengths of stay by the projected number of cases in each planning area. The product of the average length of stay and projected cases will determine the gross number of beds needed in the horizon year by planning area. This total is then divided by .85 in order to determine the number of beds needed using an 85% occupancy standard. The projected number of beds at 85% occupancy is then subtracted from the existing and approved beds in each planning area to determine the net number of beds needed in each planning area.*Note: For the adult formula only, inpatient physical rehabilitation utilization rate should be reduced by 16% until data is available representing utilization after full implementationof CMS's 75% Rule.* | | | Detail Step-by-Step: Apply horizon year resident projected population by planning area to the hospital discharge rates from the 1987 discharge study used in the Component Plan in order to determine the current utilization rate by each of 7 physical rehabilitation diagnostic groups (also from the Component Plan). By planning area, determine the projected horizon year admissions by each of the 7 diagnostic groups using set demand factors that are specific to each diagnostic group.<br>These demand factors were established by the Component Plan for each inpatient physical rehabilitation diagnostic group and are not updated. Determine projected patient days in the horizon year by multiplying the projected admissions for each diagnostic group by the expected average length of stay for patients with diagnoses in the 7 diagnostic groups. These expected average lengths of stay were also established in the Component Plan and have not been updated. Finally, calculate the number of beds needed at 85% occupancy in the horizon year by dividing the projected patient days for each planning area and diagnostic group by 365 and then dividing by .85. Gross projected beds are then subtracted from existing and approved beds to determine the net beds needed in each planning area. |
| | Same as adult formula except that resident population and inpatient physical rehabilitation cases should be for ages 0-17. There is no 75% Rule reduction factor applied to the pediatric methodology. | | | Same as Adult except using projected resident population ages 0-14 and using the discharge rates, demand factors, and expected average lengths of stay from the Component Plan. |
| (b) | Added specifications of how an applicant for a new/expanded CIPRP will not adversely impact existing and approved facilities or programs; a decreased annual utilization of an existing and approved facility that was at or above 85% to less than 75%, and a decreased annual utilization by 10% to existing facilities/programs whose current utilization is below 85%, is considered an adverse impact | | 3(b) | The current standard requires that an applicant shall document existing and approved CIPRPs will not be adversely impacted as a result of new or expanded facility; the proposed rule adds more specificity; applicable to both Adults and Pediatric programs |

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| (c) | Changed allowance of exception to need methodology of (a)1 (Adult Programs) and adverse impact standard of (3)(b), to allow a program to be established in a county with a population of less than 75,000 and located a minimum of 50 miles from an existing program, and also to remedy an atypical barrier to CIPRP services based on cost, quality, financial access or geographic accessibility; this is standard language in all DCH CON rules | | There was no existing standard for spinal care programs but the existing exceptions for adult and pediatric programs were expanded |
| (d) | Sets minimum bed size for a new CIPR Adult program to be 20 beds in a freestanding rehab. hospital offering another CIPRP, 20 beds in an acute-care hospital, and 40 beds for a new freestanding rehab. hospital not already offering another CIPRP;Sets minimum bed size for a new CIPR Pediatric program to be 10 beds in a freestanding rehab. hospital offering another CIPRP, 10 beds in an acute care hospital, and 40 beds for a new freestanding rehab. hospital not already offering another CIPRP | 3(c) | Combined the standards for minimum bed sizes. The existing rule had minimum bed sizes for spinal cord programs at 3(c), adult programs at 4(c) and pediatric programs at 5(c) |
| (e)<br>(f)<br>(g)<br>(h) | Sets requirement that an applicant for a new CIPRP shall demonstrate intent to meet CARF standards applicable to the type of Program to be offered within 18 months of offering the new service<br>Sets requirement that an applicant for an expanded CIPRP shall be accredited by CARF for the type of Program to be expanded; applicant must provide proof of accreditation<br>Sets requirement that an applicant for a new freestanding rehab. hospital shall demonstrate intent to meet licensure rules of Georgia DHR for such hospitals<br>Sets requirement that an applicant for an expanded freestanding rehab. hospital shall demonstrate a lack of uncorrected deficiencies as documented by letter from Georgia DHR | 3(d) | Required applicant for a new or expanded program to demonstrate that they had intent to meet CARF and licensure standards of Georgia DHR; did not state time limit |

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| (i) | Similar to existing rule at (e), except that rule applies to all programs not just spinal cord disorders | 3(e) | Similar to proposed rule at (i) except that proposed rule applies to all programs not just spinal cord disorders |
| (j) | Changed standard to only apply to new or expanded freestanding rehab. hospitals, not those that are part of a general acute care hospital; referral arrangements, including transfer agreements, are to be with acute-care hospitals in the same planning region, or with the nearest acute-care hospital in an adjacent planning region, to provide emergency medical treatment | 3(g) | An applicant for new or expanded programs must document existence of referral arrangements with acute care general hospital(s) within planning area, to provide acute and emergency medical treatment, unless the applicant is an acute care hospital or pediatric acute care hospital; applicable to both Adults and Children and spinal cord disorders |
| (k) | Same as existing rule at (h) except made applicable to all programs and not just spinal cord | 3(h) | Same as proposed rule at (k) except removed reference to spinal cord programs |
| (l) | Reserved for future use. | | |
| (m) | Same as existing rule at (k) except made applicable to all programs and not just spinal cord | 3(k) | Same as proposed rule at (m) except removed reference to spinal cord programs |
| | No comparable proposed requirement | 3(f) | Deleted; Applicant shall document intent to comply with the Physical Rehab. Services & Programs: Definitions & Guidelines, as described in most recent Official State Health Component Plan for Physical Rehab. Programs & Services; applicable to both Adults and Children. The TAC decided that these standards were vague and unenforceable. |

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| | No comparable proposed requirement | | 3(i) | Deleted; Applicant's proposed program shall be developed in a manner that improves distribution of beds for similar programs in planning area based on geographic & demographic characteristics; applicable to both Adults and Children. This standard was vague and potentially leads to unnecessary appeals. |
| | No comparable proposed requirement | | 3(j) | Deleted; Applicant shall demonstrate that charges for services shall compare favorably with charges for similar services in the same geographic planning area when adjusted for inflation; applicable to both Adults and Children. It was the consensus of the TAC that charge comparisons provide no meaningful differentiation based on the actual cost of services. |
| | The TAC reorganized the rules to decrease redundancy by changing the existing standards by deleting spinal cord programs and making the spinal cord rules applicable to all types of rehabilitation programs. | | 4(a)-4(k)<br>5(a)-5(5) | Standards mirroring those for spinal cord disorders, which are applicable to adult and pediatric programs |

# PROPOSED RULES
# OF
# DEPARTMENT OF COMMUNITY HEALTH

## 111-2
## HEALTH PLANNING

### 111-2-2
### Certificate of Need

**111-2-2-.35 Specific Review Considerations for Comprehensive Inpatient Physical Rehabilitation Services.**

(1) **Applicability.**

(a) A Certificate of Need shall be required prior to the establishment of a new or the expansion of an existing Comprehensive Inpatient Physical Rehabilitation Adult Program. An application for Certificate of Need for a new or expanded Comprehensive Inpatient Physical Rehabilitation Adult Program shall be reviewed under the General Review Considerations of Rule 111-2-2-.09 and the service-specific review considerations of this Rule.

(b) A Certificate of Need shall be required prior to the establishment of a new or the expansion of an existing Comprehensive Inpatient Physical Rehabilitation Pediatric Program. An application for Certificate of Need for a new or expanded Comprehensive Inpatient Physical Rehabilitation Pediatric Program shall be reviewed under the General Review Considerations of Rule 111-2-2-.09 and the service-specific review considerations of this Rule.

(2) **Definitions.**

(a) 'Adults' means persons eighteen (18) years of age and over. However, a CON-authorized or grandfathered Comprehensive Inpatient Physical Rehabilitation Adult Program will not be in violation of the CON laws and regulations if it provides service to a patient older than fifteen years if the provider has determined that such service is medically necessary, provided that the treatment days and patient census associated with patients sixteen and seventeen years of age do not exceed 10 percent of annual treatment days and annual census, respectively. Rehabilitation programs specifically focused towards treatment of spinal cord injuries and disorders and which existed prior to the effective date of this version of Rule 111-2-2-.35 shall not be subject to the adult age limitations; such programs may treat any patient aged twelve and over.

(b) 'Comprehensive Inpatient Physical Rehabilitation Programs' means rehabilitation services, which have been classified by Medicare as an inpatient rehabilitation facility pursuant to 42 C.F.R. §412.23(b)(2), provided to a patient who requires hospitalization, which provides coordinated and integrated services that include evaluation and treatment, and emphasizes education and training of those served. The program is

applicable to those individuals who require an intensity of services which includes, as a minimum, physician coverage 24 hours per day, seven days per week, with daily (at least five days per week) medical supervision, complete medical support services including consultation, 24-hour-per-day nursing, and daily (at least five days per week) multidisciplinary rehabilitation programming for a minimum of three hours per day. For regulatory purposes, the definition includes a program which asserts its intent to be Medicare-classified as an inpatient rehabilitation facility no later than twenty-four (24) months after accepting its first patient. If a program, which has been awarded a CON pursuant to this rule, has not been so classified by Medicare within the timeframe outlined above, the CON issued to that entity shall be revoked.

(c) 'Expansion' and 'Expanded' mean the addition of beds to an existing CON-authorized or grandfathered Comprehensive Inpatient Physical Rehabilitation Program. However, a CON-authorized or grandfathered provider of Comprehensive Inpatient Physical Rehabilitation in a freestanding rehabilitation hospital may increase the bed capacity of an existing program by the lesser of ten percent of existing capacity or 10 beds if it has maintained an average occupancy of 85 percent for the previous twelve calendar months provided that there has been no such increase in the prior two years and provided that the capital expenditures associated with the increase do not exceed the capital expenditure threshold. If such an increase exceeds the capital expenditure threshold, the increase will be considered an expansion for which a Certificate of Need shall be required under these Rules.

(d) 'Freestanding Rehabilitation Hospital' means a specialized hospital organized and operated as a self-contained health care facility that provides one or more rehabilitation programs and which has been classified as a inpatient rehabilitation facility by the Medicare program pursuant to 42 C.F.R. §412.23(b)(2). For regulatory purposes, the definition includes a hospital which asserts its intent to be Medicare-classified as an inpatient rehabilitation facility no later than twenty-four (24) months after accepting its first patient. If an entity, which has been awarded a CON pursuant to this rule, has not been so classified by Medicare within the timeframe outlined above, the CON issued to that entity shall be revoked. An entity, which has had its CON revoked pursuant to this rule, shall not have the authority to operate as a general acute care hospital.

(e) 'New' means a Program that has not been classified by the Medicare program as a rehabilitation hospital or program in the previous twelve months. Adult programs described in 111-2-2-.35(1)(a) and pediatric programs described in 111-2-2-.35(1)(b) shall be considered independent programs such that a provider seeking to add a program not offered by that provider in the previous twelve months shall be considered to be offering a new program for which a Certificate of Need must be obtained. For purposes of these rules, an existing program which proposes to be relocated to a location more than three miles from its present location shall be considered "new".

(f) 'Official State Health Component Plan' means the document related to Physical Rehabilitation Programs and Services developed by the Department, established by the Georgia Health Strategies Council and signed by the Governor of Georgia.

(g) 'Pediatric' means persons seventeen years of age and under. However, a CON-authorized or grandfathered Comprehensive Inpatient Rehabilitation Pediatric Program will not be in violation of the CON laws and regulations if it provides service to a patient younger than twenty-two years if the provider has determined that such service is medically necessary, provided that the treatment days and patient census associated with patients eighteen, nineteen, twenty, and twenty-one years of age do not exceed 10 percent of annual treatment days and annual census, respectively. Rehabilitation programs specifically focused towards treatment of spinal cord injuries and disorders and which existed prior to the effective date of this version of Rule 111-2-2-.35 shall not be subject to the pediatric age limitations; such programs may treat any patient aged twelve and over.

(h) 'Planning Region' means one of the four sub-state regions for Physical Rehabilitation Programs and Services as follows:

1. Rehabilitation Region 1, including the following counties:

Dade, Walker, Catoosa, Whitfield, Murray, Gilmer, Fannin, Union, Towns, Rabun, Stephens, Habersham, White, Lumpkin, Dawson, Pickens, Gordon, Chattooga, Floyd, Bartow, Cherokee, Forsyth, Hall, Banks, Franklin, Hart, Elbert, Madison, Jackson, Barrow, Gwinnett, Fulton, Cobb, Paulding, Polk, Haralson, Carroll, Douglas, DeKalb, Rockdale, Walton, Oconee, Clarke, Oglethorpe, Greene, Morgan, Newton, Butts, Henry, Clayton, Fayette, Coweta, Heard, Troup, Meriwether, Pike, Spalding, Lamar, and Upson

2. Rehabilitation Region 2, including the following counties:

Wilkes, Lincoln, Columbia, McDuffie, Warren, Taliaferro, Hancock, Glascock, Putnam, Jasper, Monroe, Jones, Baldwin, Washington, Jefferson, Richmond, Burke, Screven, Jenkins, Emmanuel, Johnson, Treutlen, Montgomery, Wheeler, Telfair, Wilcox, Dodge, Laurens, Pulaski, Bleckley, Houston, Peach, Twiggs, Wilkinson, Bibb, and Crawford

3. Rehabilitation Region 3, including the following counties:

Harris, Talbot, Taylor, Muscogee, Chattahoochee, Marion, Schley, Macon, Dooly, Sumter, Webster, Stewart, Quitman, Randolph, Terrell, Lee, Crisp, Ben Hill, Irwin, Turner, Worth, Dougherty, Calhoun, Clay, Early, Baker, Mitchell, Colquitt, Miller, Cook, Tift, Berrien, Lanier, Echols, Lowndes, Brooks, Thomas, Grady, Decatur, and Seminole

4. Rehabilitation Region 4, including the following counties:

Effingham, Bulloch, Candler, Toombs, Tattnall, Evans, Bryan, Chatham, Liberty, Long, Wayne, Appling, Jeff Davis, Coffee, Bacon, Pierce, Brantley, McIntosh, Glynn, Camden, Charlton, Ware, Atkinson, and Clinch

(3) **Service Specific Review Standards.**

(a) The need for a new or expanded Comprehensive Inpatient Physical Rehabilitation Program shall be determined and applied as follows:

1. The need for new or expanded Comprehensive Inpatient Physical Rehabilitation Adult Program in a planning region shall be determined using the following demand-based need projection:

(i) Determine the comprehensive inpatient physical rehabilitation utilization rate per 1,000 for the current year for each planning region by dividing the total number of inpatient physical rehabilitation discharges from licensed providers of inpatient rehabilitation in the planning region for patients aged 18 and over by current year projected resident population (aged 18 and over) for the planning region and multiplying by 1,000. The source of current year discharge data for purposes of this rule include data collected pursuant to O.C.G.A. § 31-7-280(c)(14), or in the Department's discretion, discharge data collected on the most recent Annual Hospital Questionnaire. The source for current and horizon year resident population shall be resident population projections from the Governor's Office of Planning and Budget. For the first Horizon Year projection using this rule, and for the first horizon year projection only, the utilization rate per 1,000 for each planning region shall be reduced by 16 percent to account for anticipated utilization reduction after full implementation of the Center for Medicare and Medicaid Services' (CMS) 75% rule.

(ii) Calculate the projected horizon year discharges for each planning region by multiplying the planning region utilization rate obtained in Step (i) by the horizon year resident population projection (aged 18 and over) for that planning region.

(iii) Determine the comprehensive inpatient physical rehabilitation average length of stay for the current year for each planning region by dividing the total number of inpatient physical rehabilitation discharge days of care from licensed providers of inpatient rehabilitation in the planning region for patients aged 18 and over by the current year inpatient rehabilitation discharges determined in Step (i).

(iv) Multiply the projected discharges obtained in Step (ii) by the current year's average length of stay (aged 18 and over) determined in Step (iii) to determine the horizon year projected patient days for each planning region.

(v) Divide the product obtained in Step (iv) by the number of calendar days in the horizon year to obtain the average projected daily census in each planning region.

(vi) Divide the result obtained in Step (v) by .85 to determine the number of projected beds utilizing an 85% capacity standard for each planning region.

(vii) Determine the current inventory of comprehensive inpatient physical rehabilitation beds for adults in the planning region from Departmental data. For all CIPR providers, which have been licensed as a Rehabilitation Hospital by the Department of Human Resources, the current inventory of CIPR beds

shall reflect the number of beds reported as CON-authorized in the Facility Inventory prior to the date of adoption of these rules augmented from that time forward only by increases in bed capacity approved through the CON process (or by exemptions thereto) and by decreases due to a provider ceasing to provide such services for a period in excess of 12 months. For purposes of this rule, the initial inventory shall not include the beds of licensed Long Term Care Hospitals; the beds of such facilities shall be included in the applicable Long Term Care Hospital inventory.

(viii) If the projected bed need in Step (vi) is greater than the current inventory of adult CIPR beds in the planning region, the application for the Certificate of Need should reflect a number of beds equal to or lesser than the resulting unmet bed need.

2. The need for new or expanded Comprehensive Inpatient Physical Rehabilitation Pediatric Program in a planning region shall be determined using the following demand-based need projection:

(i) Determine the comprehensive inpatient physical rehabilitation utilization rate per 1,000 for the current year for each planning region by dividing the total number of inpatient physical rehabilitation discharges from licensed providers of inpatient rehabilitation in the planning region for patients aged 17 and under by current year resident population (aged 17 and under) for the planning region. The source of current year discharge data for purposes of this rule include data collected pursuant to O.C.G.A. § 31-7-280(c)(14), or in the Department's discretion, discharge data collected on the most recent Annual Hospital Questionnaire.

(ii) Calculate the projected horizon year discharges for each planning region by multiplying the planning region utilization rate obtained in Step (i) by the horizon year resident population projection (aged 17 and under) for that planning region.

(iii) Determine the comprehensive inpatient physical rehabilitation average length of stay for the current year for each planning region by dividing the total number of inpatient physical rehabilitation discharge days of care from licensed providers of inpatient rehabilitation in the planning region for patients aged 17 and under by the current year inpatient rehabilitation discharges determined in Step (i)

(iv) Multiply the projected discharges obtained in Step (ii) by the current year's average length of stay (aged 17 and under) determined in Step (iii) to determine the horizon year projected patient days for each planning region.

(v) Divide the product obtained in Step (iv) by the number of calendar days in the horizon year to obtain the average projected daily census in each planning region.

(vi) Divide the result obtained in Step (v) by .85 to determine the number of projected beds utilizing an 85% capacity standard for each planning region.

(vii) Determine the current inventory of comprehensive inpatient physical rehabilitation beds for pediatric patients in the planning region from Departmental data. For all CIPR providers, which have been licensed as a Rehabilitation Hospital by the Department of Human Resources, the current inventory of CIPR beds shall reflect the number of beds reported as CON-authorized in the Facility Inventory prior to the date of adoption of these rules augmented from that time forward only by increases in bed capacity approved through the CON process (or by exemptions thereto) and by decreases due to a provider ceasing to provide such services for a period in excess of 12 months. For purposes of this rule, the initial inventory shall not include the beds of licensed Long Term Care Hospitals; the beds of such facilities shall be included in the applicable Long Term Care Hospital inventory.

(vi) If the projected bed need in Step (vi) is greater than the current inventory of pediatric CIPR beds in the planning region, the application for the Certificate of Need should reflect a number of beds equal to or lesser than the resulting unmet bed need.

(b) An applicant for a new or expanded Comprehensive Inpatient Physical Rehabilitation Program shall document that the establishment or expansion of its program will not have an adverse impact on existing and approved programs of the same type in its planning region. An applicant for a new or expanded Comprehensive Inpatient Physical Rehabilitation Program shall have an adverse impact on existing and approved programs of the same type if it will:

1. decrease annual decrease annual utilization of an existing program, whose current utilization is at or above 85%, to a projected annual utilization of less than 75% within the first twelve months following the acceptance of the applicant's first patient; or

2. decrease annual utilization of an existing program, whose current utilization is below 85%, by 10 percent over the twelve months following the acceptance of the applicant's first patient.

(c) The Department may grant the following exceptions:

1. The Department may grant an exception to the need methodology of 111-2-2-.35(3)(a)1 and to the adverse impact standard of 111-2-2-.35(3)(b) for an applicant proposing a program to be located in a county with a population of less than 75,000 and to be located a minimum of 50 miles away from any existing program in the state.

2. The Department may grant an exception to the need methodologies of either 111-2-2-.35(3)(a)1 or 111-2-2-.35(3)(a)2 and to the adverse impact standard of 111-22-.35(3)(b) to remedy an atypical barrier to Comprehensive Inpatient Physical Rehabilitation Programs based on cost, quality, financial access or geographic accessibility or if the applicant's annual census demonstrates 30 percent out of state utilization for the previous two years.

3. The Department may grant an exception to the need methodologies of 111-2-2-.35(3)(a)(1) or 111-2-2-.35(3)(a)(2) in a planning area which has no existing provider provided that the applicant demonstrates a need for the service based on patient origin data.

(d) A new Comprehensive Inpatient Physical Rehabilitation Program shall have the following minimum bed sizes based on type of program offered:

1. A new Comprehensive Inpatient Physical Rehabilitation Adult Program shall have a minimum bed size of 20 beds in a freestanding rehabilitation hospital already offering another Comprehensive Inpatient Physical Rehabilitation Program, 20 beds ~~or~~ in an acute-care hospital, and 40 beds for a new freestanding rehabilitation hospital not already offering another Comprehensive Inpatient Physical Rehabilitation Program.

2. A new Comprehensive Inpatient Physical Rehabilitation Pediatric Program shall have a minimum of 10 beds in a freestanding rehabilitation hospital already offering another Comprehensive Inpatient Physical Rehabilitation Program, 10 beds in an acute-care hospital, and 40 beds for a new freestanding rehabilitation hospital not already offering another Comprehensive Inpatient Physical Rehabilitation Program.

(e) An applicant for a new Comprehensive Inpatient Physical Rehabilitation Program shall demonstrate the intent to meet the standards of the Commission on Accreditation of Rehabilitation Facilities (CARF) applicable to the type of Program to be offered within 18 months of offering the new service.

(f) An applicant for an expanded Comprehensive Inpatient Physical Rehabilitation Program shall be accredited by the Commission on Accreditation of Rehabilitation Facilities ("CARF") for the type of Program which the applicant seeks to expand prior to application. The applicant must provide proof of such accreditation.

(g) An applicant for a new freestanding rehabilitation hospital shall demonstrate the intent to meet the licensure Rules of the Georgia Department of Human Resources for such hospitals.

(h) An applicant for an expanded freestanding rehabilitation hospital shall demonstrate a lack of uncorrected deficiencies as documented by letter from the Georgia Department of Human Resources.

(i) An applicant for a new or expanded Comprehensive Inpatient Physical Rehabilitation Program shall have written policies and procedures for utilization review. Such review shall consider, but is not limited to, factors such as medical necessity, appropriateness and efficiency of services, quality of patient care, and rates of utilization.

(j) An applicant for a new or expanded freestanding rehabilitation hospital shall document the existence of referral arrangements, including transfer agreements with an acute-care hospital(s) within the planning region to provide emergency medical

treatment to any patient who requires such care. If the nearest acute-care hospital is in an adjacent planning region, the applicant may document the existence of transfer agreements with that hospital in lieu of such agreements with a hospital located within the planning region.

(k) An applicant for a new or expanded Comprehensive Inpatient Physical Rehabilitation Program shall foster an environment that assures access to services to individuals unable to pay and regardless of payment source or circumstances by the following:

1. providing evidence of written administrative policies and directives related to the provision of services on a nondiscriminatory basis;

2. providing a written commitment that un-reimbursed services for indigent and charity patients in the service will be offered at a standard which meets or exceeds three percent of annual gross revenues for the service after Medicare and Medicaid contractual adjustments and bad debt have been deducted; and

3. providing documentation of the demonstrated performance of the applicant, and any facility in Georgia owned or operated by the applicant's parent organization, of providing services to individuals unable to pay based on the past record of service to Medicare, Medicaid, and indigent and charity patients, including the level of un-reimbursed indigent and charity care.

(l) RESERVED.

(m) An applicant for a new or expanded Comprehensive Inpatient Physical Rehabilitation Program shall agree to provide the State Health Department with requested information and statistical data related to the operation of such a Program on a yearly basis, or as needed, and in a format requested by the Department.