

Health Policy Commission
958 CMR 5.00: Administration of the Distressed Hospital Trust Fund

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5.01 General Provisions.

- (1) Scope, Purpose, and Effective Date. 958 CMR 5.00 governs the procedures and criteria used to award grants to certain qualifying acute hospitals as authorized in section 29 of chapter 224 of the Acts of 2012. 958 CMR 5.00 specifies how the Commission will administer the grant program in compliance with the Office of the Comptroller's regulation 815 CMR 2.00. The regulation is effective October 1, 2013.
- (2) Authority. 958 CMR 5.00 is adopted pursuant to section 29 of chapter 224 of the Acts of 2012.

5.02 Definitions.

Applicant. An acute hospital submitting an application for funding in response to a Commission-issued RFP.

Center. The Center for Health Information and Analysis (CHIA).

Commission. The Health Policy Commission.

Grant Program or Grant. The Grant program authorized under Section 29 of Chapter 224 of the Acts of 2012.

Executive Director. The Executive Director of the Health Policy Commission.

For Profit Hospital or For Profit Hospital System. A hospital or hospital system that is not exempt from Federal income tax or is not incorporated under M.G.L. Chapter 180, Section 3.

Fund. The Distressed Hospital Trust Fund established in Section 2GGGG of M.G.L. Chapter 29.

Non-Profit. An organization exempt from Federal income tax; and/or an organization incorporated under M.G.L. Chapter 180, Section 3.

Relative Prices. The contractually negotiated amounts paid to providers by each private and public carrier for health care services, including non-claims related payments and expressed in the aggregate relative to the payer's network-wide average amount paid to providers, as calculated by the Center under M.G.L. Chapter 12C, Section 10 and regulations promulgated therein.

Request for Proposals or RFP. The Request for Proposals or RFP issued by the Commission pursuant to 958 CMR 5.04.

Teaching Hospital. A non-community hospital, or academic medical center, as defined by the Center.

Statewide Median Relative Price. The benchmark established by the Center by comparing relative price levels across payers' networks for all acute hospitals. The statewide median relative price is used by the Commission to determine eligibility for the Fund.

Qualified Acute Hospital. A hospital eligible to receive a grant from the Fund. A qualified acute hospital shall not include (1) a hospital that is a teaching hospital; (2) a hospital whose relative prices are determined by the Commission to be above the statewide median relative price; or (3) a for-profit hospital or a hospital that is part of a for-profit system.

5.03 Grant Application Requirements.

- (1) An eligible Applicant is a qualified acute hospital, as determined by the Commission at the time of issuance of an RFR, using the best available data from the Center.
- (2) All requests for grant funding must support one or more of the following purposes:
 - (a) to improve and enhance the ability of community hospitals to serve populations efficiently and effectively;
 - (b) to advance the adoption of health information technology, including interoperable electronic health records systems;
 - (c) to accelerate the ability to electronically exchange information with other providers in the community to ensure continuity of care;
 - (d) to support infrastructure investments necessary for the transition to alternative payment methodologies, including technology investments in data analysis functions and performance management programs, including systems to promote provider price transparency, necessary to aggregate and analyze clinical data on a population level;

- (e) to aid in the development of care practices and other operational standards necessary for certification as an accountable care organization or ACO under M.G.L. section 15 and 6D;
- (f) to improve the affordability and quality of care; or
- (g) to plan or develop grant proposals supporting one or more of the purposes in 5.03(2)(a) through (f).

5.04 Request for Proposals.

- (1) The Commission, through the Executive Director, shall issue one or more Requests for Proposals (“RFP”). The RFP shall specify the information Applicants shall be required to submit in connection with the application.
- (2) Applications must be submitted to the Commission in the form and manner specified in the RFP and by the date specified in the RFP.

5.05: Materials to be Submitted by Applicants.

The RFP shall require Applicants to submit the following

- (1) Applicant contact information;
- (2) Narrative description of the Applicant;
- (3) Narrative summary of request for grant funding, including the total amount of grant funding requested, justification for the amount requested and a timetable for expenditure of funds;
- (4) A plan that defines specific goals for improving the efficiency and affordability of the hospital care over a multi-year period;
- (5) The programs the Applicant shall use to meet the goals, and the evidence-base for these programs where applicable;
- (6) A budget necessary to implement the plan, including a detailed description of any funding or in-kind contributions the Applicant or Applicants will be providing in support of the proposal;
- (7) A plan for sustaining any investments after the expiration of grant funds;
- (8) Any other private funding or private sector participation the Applicant anticipates in support of the proposal; and
- (9) Any other information necessary to review the application as specified in the RFP.

5.06: Criteria for Awarding Grants.

The Executive Director shall evaluate all applications that meet all of the minimum requirements listed in 958 CMR 5.03 using the following criteria:

- 1) The financial health of the qualified acute hospital and the demonstrated need for investment, taking into account all resources available to the particular provider including the relationship or affiliation of the particular provider to a health care delivery system

and the capacity of the system to provide financial support for the acute hospital; provided that, in assessing financial health, the commission shall take into account days cash on hand, net working capital and earnings before income tax, payer mix, uncompensated care, and depreciation and amortization, and access to working capital, using data reported to the Center.

- 2) The anticipated return on investment, as measured by improved health care coordination and a reduction in health care costs;
- 3) Whether the investment will support innovative health care delivery and payment models as identified by the health care policy commission;
- 4) Geographic need and population need; and
- 5) Any other criteria specified in the RFR.

5.07: Review and Selection Procedure.

- (1) The Executive Director shall review all applications to determine if they have fulfilled all the application requirements and submitted all materials required in the RFP issued pursuant to 958 CMR 5.05. Applications that do not meet all the requirements and/or have not submitted all required materials in the RFP shall not be further reviewed and shall not be approved for funding.
- (2) The Executive Director shall further review applications that meet all required application requirements and have submitted all required materials in accordance with the criteria set forth in 5.06. The Executive Director may request an Applicant to submit any additional information it deems necessary to complete its review, including an oral presentation or interview. The Commission must receive all requested additional materials within five (5) business days of a request or the Executive Director may determine the application to be incomplete.
- (3) The Executive Director shall recommend to the Commission Applicants to receive grants and the amounts to be awarded, which may be an amount higher or lower than that requested by the Applicant. Recommendations for awards shall be made based on the availability of funds, the degree to which an Applicant meets the criteria and the degree to which the grant meets the Applicant's need for such funding.
- (4) The Commission shall make the final award decisions based on the recommendations of the Executive Director and criteria in 5.06. The Commission's decisions are final and not subject to appeal.
- (5) The Commission shall notify all Applicants of their selection or non-selection for a grant.

5.08: Grant Contract.

- (1) All Applicants selected to receive a grant must execute contracts with the Commission, as required by 815 CMR 2.05, in order to receive payment.

- (2) The Executive Director shall develop and execute grant contracts consistent with 958 CMR 5.08.
- (3) The grant contract shall specify, as applicable:
- (a) any financial, programmatic, technical or other reporting appropriate to monitor and evaluate the funded activities, including ongoing milestones, an annual progress review, and an evaluation process;
 - (b) any conditions or restrictions on the funding, including any monitoring of the grantee's operations, including where appropriate, an independent financial and operational audit to recommend steps to increase sustainability and efficiency of the hospital;
 - (c) any additional means the Commission will use to hold the grantee accountable for proper performance under the grant;
 - (d) a limit on the amount each hospital may spend on administrative or overhead spending related to the approved project;
 - (e) any deadlines for completing components of the project; and
 - (f) provisions for repayment of all or a portion of funds to the Commission if the Commission determines that the funds were not used consistent with the approved grant application and contract.
- (3) Pursuant to a recommendation by the Executive Director, the Commission may terminate a grant if the grantee does not comply with the terms of the grant contract, if during the contract term the grantee is determined by the Commission to be no longer qualified, if the grantee does not expend grant funds within a reasonable period of time, or if the grantee fails to meet reporting requirements or milestones established pursuant to 958 CMR 5.08(3)(a).

5.09: Severability.

The provisions of 958 CMR 5.00 are severable. If any provisions or the application of any provision to any provider of elder care services or circumstances is held invalid or unconstitutional, such invalidity shall not be construed to affect the validity or constitutionality of any remaining provisions of 958 CMR 5.00.