

HEAL NY – PHASE 21
Restructuring Initiatives in Medicaid Redesign
Request for Grant Applications #1111091024

Questions and Answers

Eligible Applicants

Q1. Would Article 31 clinics that have been affected by the closure of psychiatric hospital beds be eligible to apply under the Restructuring Initiatives in Medicaid Redesign RFA?

A1. No. Article 31 clinics are not eligible for funding under this RFA.

Q2. Can facilities who are seeking to develop specialty units due to decreased census apply?

A2. Yes, but the applicant would have to document that the establishment of the specialty unit(s) was compatible with the delivery of more efficient, higher-quality health care for the community. The specialty service would also be subject to any applicable public need methodologies set forth in 10 NYCRR Part 709.

Q3. If a CON has been submitted for a program closure and/or bed decertification, can an applicant still request funds under HEAL?

A3. No. The submission of a CON application indicates that funding for the project is already available to the applicant. HEAL funds may not be used to supplant existing funding.

Q4. Are you precluded from applying and receiving money from HEAL 21 if you already applied for a CON?

A4. See answer #3.

Q5. If an Article 28 diagnostic & treatment facility meets the general eligibility requirements, is the organization eligible to apply for HEAL funds or only a rate adjustment & APG enhancement?

A5. Diagnostic and treatment centers are not eligible to apply for HEAL funds under this RFA. A D&TC could be eligible for HEAL funds as a sub-grantee if it was part of a network and the application was submitted by a hospital or nursing home. However, the applicant or nursing home could not serve merely as a conduit for funds allocated to the D&TC (see Q17).

Q6. Would a project that involves restructuring of county & hospital-based care management services into a new independent not-for-profit organization, be considered for funding under this RFA? The new not-for-profit would provide comprehensive care coordination and management services through contracts with primary care provider organizations, hospitals, long-term care facilities, and county health departments. Would such a project be more competitive if the hospital were willing to decertify some excess bed capacity?

A6. Funding would depend on the lead applicant. HEAL funds are meant to support capital projects involving changes in physical plant and equipment requisite or conducive to services consolidation, downsizing, mergers and other restructuring activities and can be directed to hospitals and nursing homes. Management services do not meet this criterion. Medicaid rate adjustments are available to providers for transition but linked to a facility's Medicaid plan.

Q7. Under general eligibility requirements (2a), if a facility was subject to restructuring by the Berger Commission would be qualify in meeting the "subject to" criterion?

A7. No. Substantial HEAL funding was made available under HEAL Phase 4 for facilities that were subject to the mandates of the Berger Commission. These facilities may apply for funding under this RFA but only for activities unrelated to or beyond the parameters of the Berger Commission mandates to which they were subject.

Q8. If a hospital proposes to establish either an urgent care or primary care facility without merging, consolidating, establishing shared governance, reducing beds and undergoing service reconfiguration, is this activity eligible for funding? The hospital has a significant market share and meets all of the "additional" considerations for preference in funding that are related to Medicaid and uninsured populations listed on page 5 of the guidance.

A8. Such projects would be eligible for consideration, but projects that do not involve downsizing, consolidation, inter-facility collaboration or other restructuring activities will not be viewed as favorably as those that do.

Q9. This question refers to RFA Section 2 – Eligible Applicants. We plan to submit an application seeking HEAL grant awards and we meet the eligibility criteria of RFA Section 2c – Eligibility for HEAL Grant Awards. However, our eligibility is less clear regarding Section 2a – General Eligibility Requirements. We plan to request a HEAL award for two purposes – long-term debt reduction (with a corresponding bed reduction) and campus renovation/modernization. However, we are not sure that these uses are included in Section 2a. The third bullet includes 'restructuring' as an eligible requirement; does that also include debt restructuring? Moreover, some of the eligible activities listed in RFA Section 3 – Eligible Activities do not appear to fit into the Section 2a requirements (i.e. bed reductions). Can you please clarify the requirements/scope of activities that meet the Section 2a General Eligibility Requirements?

A9. See Section 8 of the RFA, which lists the types of operational activities (8a) and activities associated with capital projects (8b) that are eligible for funding. These are detailed examples but do not constitute an exclusive or exhaustive list. As stated in 8a and 8b, eligible activities include but are not limited to those listed.

Q10. Would applicants pursuing bed reductions and modernization qualify?

A10. Yes, provided that these activities would promote efficiency, sustainable cost control and better health care outcomes appropriate to identified community needs.

Q11. Concerning 2a General Eligibility Requirements on page 3 of the RFA, is a nursing home that is proposing to close its ADHC program and convert it to a PACE program, eligible as a “facility subject to...restructuring?”

A11. Conversion of an ADHC to a PACE program would be eligible for consideration but a mere program change, without accompanying reconfiguration of physical plant, inpatient downsizing, inter-provider collaboration or other features of restructuring may not be viewed as a strong application relative to other submissions.

Q12. Eligibility: Reconstruction Home and Health Care Center, Inc. d/b/a Beechtree Care Center. The primary question is: **Is Beechtree eligible under any of the Medicaid Rate Adjustments or Enhancements base upon the aforementioned narrative?**

Reconstruction Home and Health Care Center, Inc. d/b/a Beechtree Care Center (Beechtree) is a 120 bed Not-For-Profit Skilled Nursing Facility located in Tompkins County.

Tompkins County is one of the few counties listed as being deficient in the number of skilled nursing home beds available to meet long-term health care needs.

Beechtree has experienced an approx. 10% reduction in Medicaid reimbursement rates since July 2011.

Beechtree has experienced a Medicaid recovery amount of approx. \$570,000 at a negotiated recoupment rate of 4.5% plus interest.

Medicaid resident case mix is at approx. 75% which is 10% or more in excess of the average for all nursing homes in Tompkins County.

Beechtree has experienced losses in each of the last three years.

The loss trend has been moving in a favorable direction due to efficiency efforts for years 2008, 2009 and 2010; (\$352,920), (\$225,619) and (\$13,326) respectively. With the rate reductions and recovery's the loss for 2011 is projected to be significantly higher.

Beechtree has had a negative fund balance in each of the last three years. Beechtree has a current ratio of less than 1:1 for each of the last three years.

With current reimbursements Beechtree will have insufficient cash to make monthly payments on its 5 million mortgage balances in January 2012 without outside assistance.

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With current reimbursements Beechtree will have insufficient cash to make payroll January 2012 with outside assistance.

Beechtree is a provider of long-term skilled nursing care that fulfills an unmet health care need for the community based on the volume of Medicaid and indigent patients served. Beechtree is a key component in protecting access to care with a cost effective delivery of health care services for the community.

Beechtree is not currently in closure and it is not known if other closures in the area have adversely affected operations.

Beechtree is not currently in merger, acquisition or other modification status and it is not known if other nursing home activities in the area have adversely affected operations.

A 12. Based on the aforementioned narrative Beechtree Care Center would not be eligible for assistance under this announcement since they have not met any of the following requirements necessary to qualify:

- a facility undergoing closure
- a facility impacted by the closure of other health care facilities
- a facility subject to merger, acquisition, consolidation or restructuring; or
- a facility impacted by the merger, acquisition, consolidation or restricting of other health care facilities.

Q13. Does this activity qualify Schuyler Hospital to apply for HEAL grants based on the statement in section 3 of the application: "operational activities that would help ensure a smooth transition to the reconfigured arrangement of providers, services and patterns of care" to allow the organization to renovate its former inpatient obstetrical space?

About a month ago, Schuyler Hospital in Montour Falls, a critical access facility, affiliated with Cayuga Medical Center at Ithaca (CMC). This affiliation has both organizations maintaining separate and independent governance structures. However, CMC's financial officer is invited to Schuyler's financial planning sessions, a member from each organization's board will be elected to the affiliated organization's board and management assistance will be provided to operational areas identified by both CMC and Schuyler Hospital. The primary goal of this affiliation is to create a clinical integrated core delivery network to meet the needs of the Schuyler Hospital service are now and into the future in ways that will enhance both organizations' operational and financial viability and that will strengthen both organizations' ability to realize our respective visions and honor our shared values. Our secondary goal is to form a Rural Health Network as defined by Center for Medicaid and Medicare Services. The success of this affiliation will be measured by its ability to further improve our quality outcomes, customer service and operational efficiencies while keeping care local.

Recently, Schuyler Hospital closed their inpatient obstetric department. In that space, CMC would like to see Schuyler Hospital renovate that unit to allow for outpatient exam space for both orthopedics and pre/post natal care which is needed in Schuyler County.

CMC has committed to providing orthopedic and sports medicine physicians as well as to assist in bringing in midlevel obstetric providers.

A13. Projects to convert inpatient capacity to needed outpatient services are eligible for consideration. However, any cessation of inpatient services will be subject to review under 10 NYCRR 709.1 to ensure that such conversions do not reduce access to needed care.

Q14. Would a Public sponsored SNF be eligible for grant funding if it were to file a plan of closure and request Heal Grant funding to pay off bonds and fund layoff and legacy costs related to employee salary and benefits?

A14. Funding to pay off bonds and other liabilities, and employee-related obligations such as pension funds, are eligible for consideration under this RFA.

Q15. Would a Public sponsored SNF be eligible for grant funding if it were to sell the facility to a new operator? Would Heal Grant funding be used in a sale of a County SNF to pay off bonds and fund employee legacy cost after the change of ownership?

A15. This would depend on the circumstances of the proposed transaction. Funds would not be available for a transaction in which the principal benefits of HEAL funding were to redound ultimately to the purchaser.

Q16. Is there a definition of “restructuring” as used in this RFA (Section 2a)? Is there a cutoff date for qualifying closures, mergers, acquisitions, consolidations or restructuring (Section 2a) for which applicants (particularly those claiming to be “impacted by” such) may seek assistance? If only *prospective* closures, mergers, et al. will be considered as qualifying events, will DOH publish a list of such prospective events for public review and consideration prior to the submission deadline? If not, how would otherwise eligible applicants be made aware of them?

A16. Restructuring refers to the numerous examples of eligible activities and costs listed throughout the RFA. All requests for assistance must be submitted by the deadline shown on the front of the RFA. Prospective closures, mergers and similar transactions require Certificate of Need (CON) review. All pending CON applications are listed on the Department’s Web site at www.health.ny.gov.

Q17. Is an FQHC eligible for the capital portion (Section 2c) if it is part of a defined network or other qualifying commonly controlled system?

A17. The network, which would have to include a general hospital or a nursing home, would have to be the applicant for the funds. Although a D&TC in a network (whether an FQHC or not) might benefit to some degree from the award, the project could not be simply one in which the network acted as a conduit for HEAL funds allocated to the D&TC. The D&TC’s activities would have to be integral to a larger project for which it

was appropriate for the network's hospital or nursing home to receive funding under the terms of the RFA.

Q18a. If a project has a pending CON, can that project be funded by the grant?

A18a. See answer #3.

Q18b. If not, will a project that has withdrawn their CON prior to the deadline be rated lower than other like projects?

A18b. This would be seen as a withdrawal for the purpose of seeking HEAL funding for an already-funded CON project. See answer #3.

Q19. Can a project already funded through a Berger or other HEAL grant receive additional funds from this grant?

A19. No. Earlier HEAL awards for partial support of larger projects were made with the applicant having documented that funding was available for the balance of the project. HEAL funds may not be used to supplant existing funding. *However*, funding may be available to go beyond the parameters of the Berger or other HEAL project.

Eligible Projects (Eligible Activities & Costs)

Q20. Will grant recipient expenditures related to assisting displaced workers to find employment and/ or to be retrained for a different healthcare job be considered an allowable grant-funded operational expense?

A20. No. Funds for training and placement of displaced workers are not capital expenditures. Funds for these purposes are periodically made available under the Health Workforce Retraining Initiative (HWRI).

Q21. If converting to assisted living would all beds in facility have to be assisted living beds.

A21. No. A partial conversion of RHCF bed capacity would be eligible for consideration.

Q22. Can funds be used to establish new hospital-based outpatient medical practices for Medicaid patients *without* proposing any inpatient downsizing?

A22. Yes, but see answer #8.

Q23. Can funds be used for the reconfiguration and relocation of existing outpatient Medicaid services to support increased capacity and reduce hospital admissions?

A23. Yes, this type of project would be eligible for consideration.

Q24. In reference to HEAL Grant awards that would support the costs associated with the closure of a residential health care facility, is there a maximum cap on the amount awarded to an individual applicant?

- a) If yes, to question #23, would the maximum cap vary by the county where the facility is located?
- b) If yes, to question #23a, what is the maximum cap for a HEAL Grant award supporting the closure of a residential health facility in Westchester?

A24. There is no predetermined maximum or limit on the amount of HEAL funds that may be made available to an individual applicant under this RFA. The applications that demonstrate the best understanding of patient centered community health needs with creative forms of provider relationships will be funded.

Q25. There appear to be three preferences: 1) Application supported by workgroup; 2) Financial performance or Commissioner approval; and 3) Serving vulnerable populations. Is each of these preferences taken into consideration for each project type (rate adjustment, APG enhancements, HEAL funds) or are some preferences only relevant to certain project types?

Q26. Is each preference awarded separately (i.e. an applicant could receive 0, 1, 2, 3 preferences) or are the preferences awarded as a whole (i.e. an applicant can only receive either 0 to 3 preferences)?

A25 and A26. These questions seek information on the Department's process for reviewing and scoring applications. The Department does not make review or scoring criteria public.

Q27. Under Preferences (2d), will preferences be given for facilities included in the Berger Commission?

A27. No. See answer #7.

Q28. Can applicants apply for more than one initiative as part of an overall service reconfiguration?

A28. General hospitals and nursing homes may apply for both HEAL grants and rate or APG adjustments. Diagnostic and treatment centers (D&TCs) and certified home health agencies may apply only for rate adjustments or APG enhancements as a separate applicant. Applications that include multiple providers and multiple-funding requests, however, must be for activities integral to each other, and not for separate, unrelated projects.

Q29. Is funding available for consolidation of non-clinical services if such consolidation is part of a larger clinical consolidation effort?

A29. The purpose of the RFA is to make assistance available for restructuring activities aimed at improving the efficiency and effectiveness of clinical and community-based services. Support of non-clinical services would not be the highest measure of these goals.

Q30. If a hospital received a previous HEAL NY award to partially support a project, can the institution request for additional support through this RGA for the balance of the project cost?

A30. No. See answer #19.

Q31. How can applicants best demonstrate that they have been impacted by closure, merger, acquisition, consolidation or restructuring of other health care facilities?

A31. It is left to the applicant to describe and document such impact.

Q32. Is the discharge of debt an allowed request for substantial nursing home downsizing as well as closures?

A32. The discharge of debt for downsizing would be eligible for consideration, but only to facilitate a downsizing activity that constituted a substantial restructuring of the facility or a significant reconfiguration of its services. Debt reduction for minor reductions in bed capacity would not be considered.

Q33. Does the RFA apply to providers who are downsizing and/or closing a portion of a facility rather than considering a complete closure?

A33. Yes, projects to downsize or close portions of a facility are eligible for consideration.

Q34. Can grant proceeds be used for modernization/new construction projects?

A34. Yes, provided that they are related to the overall purposes of the RFA. If unrelated to inpatient downsizing, expansion of outpatient, ambulatory or community-based care, service consolidation, inter-provider collaboration or other features of restructuring, the application would not be viewed favorably relative to other submissions.

Q35. If we applied for HEAL 19 and we are now preparing to apply for the Restructuring Initiatives in Medicaid Redesign RFA. Our question is what happens to the HEAL 19 after we have applied for this RFA? Is it superseded or will it continue to be considered on its own merits?

A35. The Department will make no further HEAL 19 awards. If you wish for your Phase 19 project to be considered under this RFA, you must submit a new application that meets the format and content requirements set forth in this solicitation. The project would also have to meet the goals and purposes of this RFA.

Q36a. If a project was previously submitted as a Certificate of Need (CON) application and demonstrated capability with non-HEAL funding, but is now altered in a significant way to incorporate key initiatives of this HEAL proposal that were not part of the previously submitted CON application, e.g., governance change or bed reduction, would the project be eligible for HEAL funding in this round?

A36a. The applicant would have to amend the CON application to reflect the change, and only those costs related to the change would be eligible for consideration under this RFA. The applicant would also have to maintain its earlier commitment of non-HEAL funding to the project.

Q36b. Would a previously submitted CON application that proposed non-HEAL funding that is not altered in a significant way but could meet the goals of this HEAL round be eligible for HEAL funding, to replace the previously proposed funding source, particularly in light of the difficulty in accessing the financing markets?

A36b. No. See answer #3.

Q37. Would the following be an eligible project: a nursing home proposes to receive a HEAL grant that it will use as follows:

- a) A portion to be used as a payout to existing shareholders to induce them to close the nursing home?
- b) A portion to be used by the nursing home for any closing costs?
- c) A portion to be provided by the nursing home to an unrelated third party for the construction of ALP beds?

Such projects were approved in prior HEAL rounds (HEAL 12 in particular) but in those cases, eligible applicants included potential ALP developers, who used HEAL funds to pay nursing home owners to close and then conducted their own ALP projects, which replaced the closed nursing home beds with the lower level of care ALP beds. Because only hospitals and nursing homes may apply in this round, that more direct arrangement, which fostered the closing of significant numbers of nursing home beds, is not available as an option, and this alternate arrangement is being considered.

A37. Of the uses questioned above, only construction and closing costs incurred by the nursing home would be eligible expenses.

Q38. Can a nursing home propose to restructure by reducing SNF beds only (i.e., without simultaneously expanding community-based services)? Section 3C, page 8.

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A38. *It is expected that a bed reduction project will include a service reconfiguration that reflects increased patient centered care through creative community provider configurations.*

Q39a. The RFA discusses Outcomes and Quality (Section 5, page 10). Does the AHRQ Facility Survey on Patient Safety Culture (paragraph 2) apply to nursing homes?

Aa. Yes. See <http://www.ahrq.gov/qual/patientsafetyculture/nhsurvindex.htm>

Q39b. The RFA discusses Outcomes and Quality (Section 5, page 10). If a nursing home has not completed the AHRQ Facility Survey on Patient Safety Culture (paragraph 2) can it plan to utilize it in the project period and include other quality/safety metrics that it has available currently?

A39b. Yes.

Q40. Page 4, Section 2D: How will NYSDOH evaluate applicant proposals? Are there specific scoring criteria that will be used based on the preferences indicated?

A40. The Department and DASNY do not make scoring or weighting criteria public.

Q41. Is there a form for rating submitted applications that prospective applicants can see?

A41. The Department and DASNY do not make evaluation documents public.

Q42. Page 17, Section 10B: Though not required, are letters of support from prospective partnering organizations and/or providers looked favorably upon?

A42. Letters of support from prospective partnering organizations that evidence willingness to participate in a collaborative effort may be beneficial.

Q43. Page 38, Tech App Checklist: Where can the Multiple Provider / Participant Consent Form be found?

A43. A Multiple Provider / Participant Consent Form has been made available on the DOH website for this RFA.

Q44. Page 43, Section B2, Community Need: If two hospitals are considering an affiliation in close proximity to each other, can market/patient/demographic/utilization data for that geographic area be combined?

A44. Yes.

Q45. Referring to sec 4a (page 8-9) we are interested in DOH's answer to the following:

In announcing this RFA, Commissioner Shah indicated that some facilities could be eligible for temporary increases in their Medicaid payment rates, including hospitals, nursing homes, diagnostic and treatment centers (clinics) and certified home health agencies (CHHA's). These rate adjustments will support the costs of operational activities designed to help ensure a smooth transition to the delivery of more efficient and appropriate services resulting from mergers, consolidations, bed reductions, closures and other restructuring activities.

In 2006 the Little Sisters of the Poor entered into an agreement with DOH to temporarily decertify 34 skilled nursing beds at Our Lady of Hope Residence in Latham as part of the Rightsizing Demonstration Program. In 2011, the Little Sisters received approval to maintain this temporary decertification as we awaited approval of our ALP conversion application.

Since 2006, Our Lady of Hope has operated annually from a deficit position due principally from the loss of income resulting from this 34 bed decertification and the subsequent low reimbursement rate we receive (one of the lowest in the state).

Can the Little Sisters of the Poor/Our Lady of Hope Residence apply for a temporary rate increase to offset the prior 6 years deficits?

Our Lady of Hope Residence/Little Sisters of the Poor has continually operated from a deficit position since the decertification of 34 skilled nursing beds in 2006 as we awaited the next step in the Rightsizing process. That step is ALP conversion.

ALP conversion at Our Lady of Hope Residence will require the restructuring both our physical space and our operational management as we transition 34 skilled nursing beds to ALP beds here in Albany County. A smooth transition will provide increased access to total care for an underserved population (elderly poor) served by the Little Sisters while enhancing service delivery efficiency at a rate less than that of the skilled nursing rate. This temporary rate adjustment seems appropriate and justified in light of the savings to the Medicaid program converting these 34 beds will create long term.

A45. Any operating rate adjustment provided under this RFA is a prospective adjustment and as such costs incurred prior to the application are not eligible for reimbursement.

Q46. Referring to sec 4b (page 9) we are interested in DOH's answer to the following:

In announcing this RFA, Commissioner Shah indicated that, "Awards will primarily support capital projects such as ... inpatient nursing home capacity to assisted living and other less restrictive forms of long-term care." Clearly an ALP Program would fall within Commissioner Shah definition. But as we review the RFA, preparing to reconfigure our facility to implement an ALP Program and close the existing hole in the continuum of care for an underserved population (elderly poor), it is not clear that such a cost savings, service enhancing measure would qualify for HEAL Capital Projects funding as outlined on page 9, sec 4b.

Will the conversion of skilled nursing beds to ALP beds qualify for HEAL Capital Projects funding?

A46. Yes, reconfiguration projects responsive to community need would be eligible to apply.

Q47. Page 9, HEAL Grant Awards: If two hospitals are considering an affiliation, would HEAL funds be available to relieve long-term debt that has covenants forbidding affiliation or merger?

A47. Yes, if the covenant forbidding affiliation or merger would apply only to the duration of the debt, and the debt were retired, with HEAL funds or otherwise, the prohibition would no longer be in effect.

Q48. Can a lead applicant submit more than one capital project application under HEAL? Can an organization be a partner in one capital project request for a HEAL award and a lead applicant in another?

Q49. Can an institution file more than one application?

A48 and A49 Yes, multiple applications can be submitted by an applicant, but keep in mind that they will be competing against each other. An organization could also be a partner in a different application.

Q50. Is there a statewide allocation in available funding for Medicaid Reimbursement Rates and APG rates? Is the allocation a part of the \$450M HEAL allocation? If not, what is the source of the funding?

A50. No, there is not a statewide allocation of funds, and it is not part of the allocation of HEAL funds. Rate enhancements for Medicaid rates and APG rates would be funded through the normal Medicaid rate funding process.

Q51. If an organization applied under HEAL 19 and has not been funded, can the organization re-apply for the same project under this HEAL initiative?

A51. Yes, the organization may re-apply, provided that the project meets the goals and purposes of this RFA; and provided that the organization submits a new application that meets the format and content requirements set forth in the RFA.

Q52. Will applications that have been previously submitted under HEAL 19 that are still “active” for consideration be eligible for funding under this initiative or would they need to be resubmitted under this RFA?

A52. Yes, the organization may re-apply, provided that the project meets the goals and purposes of this RFA; and provided that the organization submits a new application that meets the format and content requirements set forth in the RFA.

Q53. Would applications that have been previously submitted under HEAL 19 need to be submitted under a separate application for this RFA, does it need to be withdrawn under HEAL 19?

A53. Yes, a new application would need to be submitted. The P 19 application would not need to be withdrawn. All unfunded applicants to HEAL NY Phase 19 have been notified of this opportunity and encouraged to review this posting to see if they could qualify under this RFA.

Q54. How many awards does the NYSDOH plan to make statewide?

Q55. Will there be a maximal number of awards for LI institutions?

A54 and A55. The actual number of awards will depend on the number and quality of applications received.

Q56. What is the possible dollar range of the awards? Is there a maximal funding request?

Q57. Is there a maximum grant award available to a facility?

A56 and A57. There is no expected range of award size and there is no maximum funding request.

Q58. Must the reduction in inpatient capacity include a reduction of inpatient beds, or can it include a reduction in other inpatient capacity (support space, etc)?

A58. A reconfiguration project must include a reduction in staffed inpatient beds or other clinical services. A reduction of support space would not be eligible for consideration.

Q59. Can the grant money be used to fund a feasibility study of converting a hospital's inpatient capacity to outpatient capacity where the actual work of the restructuring would be done outside the RFA's timeframe and be paid for by the institution rather than with grant funds?

A59. As with previous HEAL solicitations for capital restructuring, downsizing of inpatient care and activities to improve the efficiency and accessibility of care rendered to patients are the priorities of this RFA. A project proposing a feasibility study alone will lack a demonstrable favorable impact on the delivery of patient care and will not likely be scored favorably.

Q60. Would county health centers being converted from D&T clinics to FQHCs (in partnership with regional hospitals) qualify for funding under this RFA if the project expands access for Medicaid patients to outpatient services?

A60. Conversion to a FQHC does not change a clinic's licensure status as a D &TC under Article 28. A hospital, or a network that included a general hospital, would have to

be the applicant for the HEAL funds. Although a D&TC (whether an FQHC or not) might benefit to some degree from the award, the project could not be simply one in which the hospital or network acted as a conduit for HEAL funds allocated to the D&TC. The D&TC's activities would have to be integral to a larger project for which it was appropriate for the hospital or network to receive funding under the terms of the RFA.

Q61. Our facility is contemplating a project whose completion would exceed the anticipated two-year grant period. Would a funding request that includes only the portion of an eligible project that can be completed during the grant period be considered?

A61. Yes, all contract deliverables must be completed within the two year contract time period.

Q62. In a project associated with the reduction of bed capacity, must the full complement of beds be reduced by the completion of the grant period?

A62. Yes, all contract deliverables must be completed within the two year contract time period.

Q63. We are a health system comprised of multiple facilities. Would we be precluded from being awarded funding for more than one eligible project (e.g. in different counties)?

A63. No.

Q64. If we are awarded funding of a capital nature, will Medicaid reimburse the full cost capitalized for a project related this grant in its reimbursement rate?

A64. Medicaid will continue to reimburse according to current practice.

Q65. Is a project associated with bed closure or downsizing and subsequent development of housing limited to licensed /supportive housing or can funding be requested to support unlicensed, low-income housing?

A65. Funding will be limited to hospitals and nursing homes for collaborations, closings and downsizing projects.

Q66. For a nursing facility that is downsizing (but not closing), can grant funds be used to reduce existing debt? If so, what kind of debt is permissible?

A66. Payment of principal and of costs reasonable and necessary for restructuring of debt are eligible under this RFA for collaborations, closings and downsizing projects.

Q67. In cases where a response to a recent Solicitation of Interest for ALP beds has already been submitted for review, would the project be eligible for requesting grant funding for ALP development?

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A67. Only applicants whose ALP beds were approved under SOI 1 or 2 would be eligible. No additional SOI approvals will be forthcoming until later in 2012.

Q68. As noted in Section 3b. Facility Conversions, in cases where a project proposes facility closure or downsizing in order to create additional ALP capacity, will DOH approval for additional ALP capacity be granted along with the award?

A68. Not at this time (see answer #67). However, applicants may submit requests for ALP slots under the Nursing Home Rightsizing program, as authorized under legislation passed in 2004. Applications for HEAL funding for ALP slots approved under the Rightsizing program would be eligible for consideration.

Q69. When facility downsizing or closure is contemplated, are other forms of licensed housing projects outside of the Medicaid ALP program, e.g. ALR, Adult Homes, Enriched Housing eligible for grant funding?

A69. Yes, ALR, Adult Homes, Enriched Housing projects would be eligible for grant funding as part of nursing home application.

Q70. Is a project associated with facility closure or downsizing of beds and the subsequent development of a CCRC eligible for funding under this initiative?

A70. Yes, but funding will be restricted to eligible applicant nursing homes. CCRCs are not eligible. The proposed CCRC would also have to expand care significantly to the underserved, in keeping with the purposes of this RFA.

Q71. Is a project not associated with downsizing or closure, but one that proposes to construct licensed supportive housing (e.g. an Assisted Living Residence) eligible for funding?

A71. A project that lacks a reduction in inpatient capacity will likely not be reviewed favorably. An application that partnered with a nursing home would be viewed more favorably.

Q72. Can grant funding be utilized to acquire land for projects that fall under the guidelines of this initiative?

A72. Yes, acquisition of land would be an allowable cost.

Q73. Does the grant require, or merely suggest a downsizing of nursing home beds for each project? Would grant applications be considered if they demonstrate that the project would result in preventing/avoiding nursing home care for a population aging in place, or that the project would result in a community being less reliant on facility-based care?

A73. Although this RFA does not require a bed reduction component, an application may be viewed more favorably if it involves a reduction of bed capacity.

Q74. As a network of four Article 28 diagnostic and treatment centers in New York City (which does not include a hospital or residential health care facility), our agency has experienced an increase in uninsured clients and clients who are using our sliding fee scale. Our health centers provide comprehensive reproductive health services, including family planning services, gynecological exams, pregnancy tests, emergency contraception, surgical and medication abortion, HIV testing and counseling, HPV vaccinations, screening for intimate partner violence, and male health services. We also provide sexual and reproductive health education and training for youth and adults, as well as advocacy around sexual and reproductive health and rights. Through the Restructuring Initiatives in Medicaid Redesign RFP, are we eligible to apply for the Medicaid Rate Adjustment and/or APG Enhancement component of this grant funding opportunity?

A74. Yes, diagnostic and treatment centers are eligible to apply for the Medicaid Rate Adjustment and/or APG Enhancement.

Q75. Please clarify whether DOH is seeking through this RFA to support operational activities relating to a specific event or location (categories 1, 2 and 3), or whether activities can be applied to system restructuring in a broader sense? In other words, can the "activities to ensure a smooth transition" developed under this RFA apply across all regions in response to statewide service reconfiguration (such as Medicaid health homes, AIDS services and mental health targeted case management programs for SPMI populations), or must they be tied to bed closings in a specific facility?

A75. Only service reconfigurations of individual or collaborating facilities would be considered eligible. Statewide service reconfigurations of programs or services as referred to in the question would not be eligible.

Q76. Must New York City projects address only the Brooklyn MRT work group recommendations? If so, must operational activities be tied specifically to category 1), 2) and 3) restructuring actions at a single facility, or can activities provide general support to the Brooklyn region? An example of this would be partnering with a hospital that is not being restructured in order to help them absorb the new demands from one that has restructured or is in the process of reconfiguring services. Would this be acceptable?

A76. No, NYC projects are not limited to Brooklyn work group recommendations.

Q77. Consider this scenario: A hospital has a network of extension clinics that it would like to cease operating, and has entered into discussions with a D&TC about taking over the network. The development of the network was funded in part with debt financing, backed by real estate mortgages. To make the takeover affordable for the D&TC, the hospital would like to apply for HEAL capital grant dollars (a) to reduce the outstanding debt, (b) to recover site acquisition costs, and (c) to fund needed renovations (e.g., roof repair, signage changes) and re-equipping of some or all of the centers (e.g., HIT

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installation of D&TC compatible HIT hardware and software). The D&TC would like to apply for a reimbursement rate adjustment for (a) start-up/working capital support (e.g., staffing changes and recruitment, staff HIT retraining, patient transitioning/marketing/outreach), (b) consultant support, e.g., to improve operating efficiencies, and (c) costs (legal and other) incurred in taking over the operations and the network's debt.

Questions:

- a)** Can/Should these be packaged as one application with the hospital as the lead applicant?
- b)** Are these eligible uses for capital grant dollars?
- c)** Are these eligible uses for a reimbursement rate adjustment?
- d)** If the D&TC were in a position to bring dollars to the table in the form of debt to fund say the re-equipping, could the applicant still request grant dollars for a reduction of the existing debt, which would better position the D&TC to manage its overall debt-burden?

A 77:

a.) That is for the prospective applicant(s) to determine.

b.) See sections 2(a) and 2(c) of the RFA.

c.) See sections 2(a) and 2(b) of the RFA.

d.)In the example given, the D&TC would be the ultimate main beneficiary of the HEAL grant. This would not be acceptable under this RFA. HEAL funds could be used to further a collaborative relationship between the hospital and the D &TC to further access to care and improve health care outcomes. However, the hospital could not act simply as a conduit for HEAL funds allocated to the D&TC. The D&TC's activities would have to be integral to a larger project in which it was appropriate for the hospital to receive funding under the terms of the RFA.

Q78. Regarding ANY applications for rate adjustments:

a) Would you please clarify the example provided in Attachment 1a. It appears that this is an example of a combination Rate Adjustment and Capital Grant request – is that so? If so, should both sets of application materials be submitted – those for Rate Adjustments and those for HEAL Grant Awards? The funds shown on Attachment 1a for “Enhance existing FQHC” are solely facility development costs and are not the initial operating funding for service enhancements that might be needed in connection with these capital expenditures – though the notes column references initial costs.

b) Any there specific kinds of expenditures that would be ineligible? Outreach to maintain access? Costs of recruiting and paying new providers to enhance access? Planning and start-up Costs associated with adding new services to an existing provider, e.g., setting up urgent care or establishing behavioral health services that will enhance

access? How about recruiting and paying care management staff to improve service delivery? What about costs for consultants costs to support care delivery transformation?

c) How will the rate adjustments be structured? Will they be based on prospective spending or retrospective funding? If it is not prospective, based on a projected spending plan, the cash flow of the FQHC in this example would be compromised.

A 78:

a) It is an example of a combination Rate Adjustment and Capital Grant request. Yes, it would then be necessary to submit a joint application containing both the support materials for the capital grant and the rate adjustment request.

b) See section 8(a) of the RFA.

c) The rate adjustments are prospective and will be funded through the normal Medicaid rate funding process.

Q79. It appears that an existing D&TC that seeks to develop a new community-based center to address barriers to access CANNOT be the applicant for a HEAL grant to fund the capital needed – is that correct? In other words, only if the development of the center is associated with a hospital restructuring of some kind or other would the D&TC be able join the application and be a sub-recipient of any HEAL capital grant awarded?

A79. Yes, that is correct. D&TCs are not eligible for this RGA's HEAL grant awards. A D&TC could benefit from an award to a hospital (or an eligible Article 28 network), but the proposal could not be simply one in which the hospital acted as a conduit for HEAL funds allocated to the D&TC. The D&TC's activities would have to be integral to a larger project in which it was appropriate for the hospital to receive funding under the terms of the RFA.

Q80. If an existing D&TC seeks to develop a new community-based center or expand services, that is NOT specifically linked to a hospital restructuring, but addresses issues associated with community residents' access care– is that D&TC eligible to apply for a rate adjustment for the start-up costs for that new center or service expansion (which could be a new free-standing urgent care center being developed to help decrease unnecessary ER utilization)? This presumes that the D&TC is able to secure the capital funding for the facility development from another source.

A80: The capital component of the APG rates along with capital and Operating components of the FQHC rates with change in scope of services are revised as per Part 86-4.16, so please see that section.

Q81. Is a scenario in which an FQHC takes over operation or ownership of a hospital's outpatient department and/or community-based sites as part of a restructuring an

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acceptable proposal? If so, would the hospital and the FQHC submit a joint application? Would HEAL capital funds be available for this acquisition, either in part or in whole?

A81. HEAL funds can only be used for capital projects. A D&TC may not apply for HEAL funds in the RFA. In the example given, the D&TC would be the purchaser and would be the ultimate main recipient and beneficiary of the HEAL grant, with the hospital acting principally as a funding conduit. This would not be acceptable under this RFA. See also answer #77 and #79.

Q82. Under part 3B, would the conversion of SNF beds to ALP beds within an existing facility qualify for this grant funding? Would this conversion be given preference for funding?

A82. Yes. The conversion of SNF beds to ALP beds within an existing facility would be an eligible activity. Refer to pages 4 and 5 for information regarding preferences.

Q83. If SNF beds are converted to ALP beds in an existing (SNF) facility, will the Medicaid rate for the new ALP beds be adjusted upward for the capital cost component of the conversion?

A83: Under this RFA ALPs are not eligible for a rate enhancement. HEAL grants are the potential funding source for ALPs.

Q84. For an organization proposing to downsize, but not close, may HEAL funds be used to retire debt (Section 8b, #4, page 13)?

A84. The discharge of debt for downsizing would be eligible for consideration, but only to facilitate a downsizing activity that constituted a substantial restructuring of the facility or a significant reconfiguration of its services. Debt reduction for minor reductions in bed capacity would not be considered.

Q85. If you are located in a county that is deemed as having an unmet bed need for skilled nursing, can you decertify beds to transition to another type of service such as an assisted living program? Would this be viewed negatively? Are there funds available to help offset operational losses of providing the care to the community, if you are in an unmet need county?

A.85a. Decertification of RHCF beds in an area with unmet bed need would be viewed negatively, unless the applicant could demonstrate a stronger need for assisted living or other forms of noninstitutional care in the planning area. HEAL funds are for capital projects and may not be used to support ongoing operational expenses or losses.

Also, what considerations are made for hospital based nursing homes as their revenue, reimbursement and expense can be identified, but are part of an entity whose financial audits and calculations are for the entire entity?

A85b. The hospital could identify the nursing home unit as a cost center, but as the operator of the unit, the hospital and its overall financial condition would be taken into account in any consideration for a HEAL award. The nursing home unit could not be treated as an applicant separate from the hospital operator.

Q86. Regarding the demonstration of cost savings and favorable return that is required for both rate adjustments and capital awards (Section 3), may both applicant-specific *and systemic* benefits be considered? (If not, the requisite savings would not be calculable in many situations.)

A86. Yes.

Q87. Section 4a of the RFA says D&TC applicants may request reimbursement rate adjustments “as provided for under the amended 10 NYCRR ... Section 86-8.15”. Neither the DOH website’s “unofficial” version of Title 10 nor the Department of State’s website at <http://www.dos.ny.gov/info/nycrr.html> includes that section. Can DOH provide the relevant text or a link to an electronic source?”

A87: Section 86-8.15 has not yet been approved to be part of the Title 10. This section has been proposed and is being reviewed. The proposed amended text is below.

Subpart 86-8 of title 10 of NYCRR is amended by adding a new section 86-8.15, to read as follows:

86-8.15 Closures, mergers, acquisitions, consolidations, restructurings and inpatient bed decertifications.

(a) The commissioner may grant approval of a temporary adjustment to rates calculated pursuant to this subpart for eligible ambulatory care facilities licensed under article 28 of the Public Health Law (“PHL”).

(b) Eligible facilities shall include:

(i) facilities undergoing closure;

(ii) facilities impacted by the closure of other health care facilities;

(iii) facilities subject to mergers, acquisitions, consolidations or restructuring; or

(iv) facilities impacted by the merger, acquisition, consolidation or restructuring of other health care facilities.

(v) outpatient facilities of general hospitals which have entered into an agreement with the Department to permanently decertify a specified number of staffed hospital inpatient beds, as reported to the Department.

(c) Facilities seeking rate adjustments under this section shall demonstrate through submission of a written proposal to the commissioner that the additional resources provided by a temporary rate adjustment will achieve one or more of the following:

(i) protect or enhance access to care;

(ii) protect or enhance quality of care;

(iii) improve the cost effectiveness of the delivery of health care services; or

(iv) otherwise protect or enhance the health care delivery system, as determined by the commissioner.

(d) Such written proposal shall be submitted to the commissioner at least sixty days prior to the requested effective date of the temporary rate adjustment and shall include a proposed budget to achieve the goals of the proposal. Any temporary rate adjustment issued pursuant to this section shall be in effect for a specified period of time as determined by the commissioner, of up to three years. At the end of the specified timeframe, the facility shall be reimbursed in accordance with the otherwise applicable rate-setting methodology as set forth in applicable statutes and this Subpart. The commissioner may establish, as a condition of receiving such a temporary rate adjustment, benchmarks and goals to be achieved in conformity with the facility's written proposal as approved by the commissioner and may also require that the facility submit such periodic reports concerning the achievement of such benchmarks and goals as the commissioner deems necessary. Failure to achieve satisfactory progress, as determined by the commissioner, in accomplishing such benchmarks and goals shall be a basis for ending the facility's temporary rate adjustment prior to the end of the specified timeframe.

(e) Federally qualified health centers with reimbursement rates issued pursuant to PHL § 2807(8) may apply for a temporary rate adjustment pursuant to this section as an alternative rate-setting methodology in accordance with the provisions of PHL § 2807(8)(f).

Q88. Section 4a APG Rate Adjustments states that “Diagnostic and treatment centers (including FQHC’s) may request temporary adjustments in their APG rates to enhance or improve services. . . Diagnostic and treatment centers seeking APG rate adjustments under this announcement must demonstrate that the additional resources provided to the D & TC by a temporary adjustment will meet one or more of the criteria in (i), (ii), (iii) and (iv) listed above.” Are FQHCs entitled to this Medicaid rate add-on if they have NOT opted into APGs, meaning that the rate adjustment will be to their PPS rate?

A88. Yes, FQHCs are entitled to a potential Medicaid rate enhancement even if they have not opted into APGs. That is tentatively included in the proposed new wording of Part 86-8.15, which is printed above in the response to question 87.

Q89. With regard to capital projects (Section 8b), may an application consist solely of legal, planning and consulting fees related to the merger, consolidation, et al. (that is, with no construction component)?

A89. Yes, but these should be of a modest amount. HEAL funds are not intended as planning grants, nor should they support major consulting contracts.

Q90. Under what circumstances will payment of *existing* long term debt be allowed from HEAL proceeds (Section 8b)?

A90. Payment of existing long term debt by HEAL must be necessary to enable an applicant to implement a closure or reconfigure a facility to alternate use.

Q91. Can a project already funded through a Berger or other HEAL grant receive additional funds from this grant?

A91. No. Earlier HEAL awards for partial support of larger projects were made with the applicant having documented that funding was available for the balance of this project. HEAL funds may not supplant existing funding. See answer #19.

Financial/Funding

Q92. Page 10, Section 4B: Will awards represent any geographical preference and/or significance? Is there a preferred minimum/maximum funding request?

Q93. Are there specified regional allocations for funds?

A92 and 93. There are no predetermined regional or geographical allocations, although an attempt will be made to distribute funds to all regions of the state as warranted. There is no preferred minimum/maximum funding request.

Q94. Is there a minimum or maximum award for HEAL NY funds?

A94. No.

Q95. Is there a limit on the amount of HEAL Grant dollars that can be requested?

A95. No

Q96. Is there a limitation on the amount that may be requested for debt retirement and/or working capital needs as a result of the closure?

A96. No.

Q97. For capital projects, are matching funds required? The RFA says on the top of page 10, “applicants should demonstrate their organization’s commitment to the project in the form of funds from equity, commercial credit, DASNY, the Primary Care Development Corporation (PCDC) or other sources.”

A97. No. However applications may be more competitive if they can demonstrate a strong financial commitment to their proposed project.

Q98. Page 52, Project Fund Sources: Is there any preferred percentage for matched funding sources?

A98. No, matching funds are not required.

Q99. For capital projects, are matching funds required? The RFA says on the top of page 10, “applicants should demonstrate their organization’s commitment to the project in the form of funds from equity, commercial credit, DASNY, the Primary Care Development Corporation (PCDC) or other sources.”

A99. No.

Anti-Trust

Q100. Page 11, Section 7 Anti-Trust: If applying for certificate of public advantage is required of a project, should that be simultaneously with this application submission?

A100. An applicant should seek a certificate of public advantage (COPA) only if counsel has advised that the proposed merger or affiliation exposes the applicant to a risk of liability for violation of the antitrust laws. The COPA application regulations are still under development and should be adopted in the first quarter of 2012. However, if an applicant believes that a COPA is needed to support immunity from antitrust liability, it may request a COPA application from the Department and submit it in advance of adoption of the regulations. A decision to approve or disapprove the COPA will not be made until after the regulations are adopted.

Project Time Frame

Q101. What is the anticipated award date for HEAL Grants associated with this RFA?

A101. DOH anticipates announcing award decisions prior to March 1, 2012.

Q102. Is there a limit on the timeframe during which activities must be completed? (e.g., if the project includes construction, must the construction be completed within 24 months?)

A102. Yes, all project activities which are included in a grant contract to be completed by 2/28/14.

Miscellaneous

Q104. Will there be a bidder's conference date?

A104. No, there will not be a bidder's conference for this solicitation.