



Department of Health

ANDREW M. CUOMO
Governor

HOWARD A. ZUCKER, M.D., J.D.
Commissioner

LISA J. PINO, M.A., J.D.
Executive Deputy Commissioner

June 18, 2021

DAL NH 21-12

Re: Young Adult Unit
Demonstration Program

Dear CEO/CFO/Administrator:

New York State Public Health Law (PHL) was recently amended to add a new section 2808-e, authorizing the Commissioner to approve two residential health care units for medically fragile children in transition to young adults and young adults with medical fragility on a demonstration basis. This act takes effect August 17, 2021 and expires two years after the effective date, at which point the Department of Health (Department) shall submit a report to the Governor, temporary President of the Senate, and the Speaker of the Assembly regarding the results of the demonstration program, including a recommendation regarding an expansion for the program.

This letter explains the purpose of the demonstration program, the application process, and what will be required of providers selected to operate a young adult unit (YAU) under the demonstration program. All proposals are due to the Department by July 13, 2021.

Young Adult Unit Purpose:

Section 2808-e of the PHL defines “children with medical fragility” as children up to age 21 who have a chronic debilitating condition or conditions, are at risk of hospitalization, are technology-dependent for life or health-sustaining functions, require complex medication regimens or medical interventions to maintain or to improve their health status, and/or require ongoing assessment or intervention to prevent serious deterioration of their health status or medical complications that place their life, health or development at risk. This section further defines “young adults with medical fragility” as individuals who meet the definition of children with medical fragility, but for the fact such individuals are between 18 and 35 years old.

Advances in medical technology have led to an increasing number of children residing in pediatric nursing homes surviving past infancy and early childhood, into adolescence, and even adulthood. These individuals have a wide range of complex medical conditions which, as these children survive and transition into adulthood, has resulted in an aging pediatric skilled nursing facility (SNF) population with demand for specialized programs to serve those aging out of pediatric SNFs. This transition has also become traumatic for families of these young adults who are placed with elderly residents and often in settings that are significantly different than the pediatric nursing homes that they have lived in, often for many years. The primary goal of this demonstration program is to serve this aging-out pediatric SNF population through the provision of appropriate services delivered in the most efficient manner.

The Department may periodically request information concerning the implementation of PHL § 2808-e and the operation of YAUs participating in the demonstration; as such, SNFs selected for this demonstration program must agree to submit such periodic reports to the Department. Applicants must also demonstrate the need for any services proposed within the YAU and emphasize how this program will benefit the aging-out pediatric SNF population.

Applicant Eligibility:

To apply to participate in the YAU demonstration program, the provider must be a pediatric SNF in good standing that meets the following criteria, as set forth in PHL § 2808-e(2)(d):

- Possesses at least 30 years of prior experience operating as a pediatric residential health care facility in the State or more than 30 years experience serving medically fragile pediatric patients; **and**
- Meets one of the following eligibility criteria:
 - Has over 160 licensed pediatric nursing home beds; or
 - Is currently licensed for pediatric nursing home beds, is co-operated by a system of hospitals, and such hospitals qualify for funds pursuant to a vital access provider assurance program or a value based payment incentive program, as administered by the Department in accordance with all requirements set forth in the state's federal 1115 Medicaid waiver standard terms and conditions.

Additionally, all providers applying to participate in this demonstration program must meet all applicable Conditions of Participation, as set forth in Title XVIII of the federal Social Security Act (Medicare) and 42 CFR Part 483, and be in compliance with State regulations at 10 NYCRR Part 415.

Finally, providers must:

- Have a pre-opening survey, if determined necessary by the Department;
- Have a current SNF license. If the YAU will be operating at a site other than an existing location, a new SNF operating certificate will be required;
- Be staffed by qualified staff as determined by the Department;
- Have a separate dedicated space for the YAU, which can be freestanding or a separate and distinct unit or wing in a pediatric or adult nursing home; and
- Collect information and submit reports to the Department on an annual basis to quantify the benefits of the program for residents and illustrate a synergistic relationship with pediatric SNF providers.

Young Adult Unit Proposal Requirements:

Proposals must address the configuration of the YAU. The Department will consider a range of bed sizes based on the aging out pediatric population; however, per PHL § 2808-e(4), the applicant must propose and agree to one of the following plans:

- The applicant (i.e., the eligible pediatric SNF) proposes to construct a new SNF, to be constructed and operated on a parcel of land within the same county as that of the applicant, and the applicant will have site control over such newly constructed SNF; **or**
- The applicant proposes to repurpose a portion of a SNF that is currently serving geriatric residents or those with similar needs for the provision of nursing, medical, psychological, and counseling support services appropriate to the needs of nursing home-eligible young adults with medical fragility.

Young Adult Unit Proposal Process:

As provided for under Section 2808-e, the Department is hereby soliciting proposals from eligible pediatric SNFs to participate in the YAU Demonstration Program. Proposals shall include relevant schedules of the Certificate of Need application, as indicated below. Schedules can be found at: www.health.ny.gov/facilities/cons/

- Click on Forms and Schedules
- Under the heading *Schedules, Forms, and Guidance Documents* select the *List of CON Schedules* link

Schedules 6, 8, and 18 of the CON application form must be completed and submitted with the proposal. Additional Schedules will be required for full CON submission should the proposal be selected for the YAU Demonstration Program.

Please note all proposals should emphasize the benefits of a YAU demonstration, including, but not limited to:

- the absence of sufficient services for this population in nursing homes and in home and community-based care;
- a detailed strategy for treating residents in YAUs and for achieving measurable outcomes;
- staffing patterns for the proposed YAU program or detailed plans for recruitment of staff upon approval of this project; and
- the intake and discharge policies or procedures.

Please submit proposals, including the CON schedules noted above, as directed below. Proposals received will be reviewed to ensure they meet all requirements and the goals of the demonstration. Selection of proposals does not indicate approval to operate a YAU, as applications must undergo review under the CON process. Selected proposals will be required to submit a full CON application through NYSE-CON, with payment of fees, and receive Public Health and Health Planning Council recommendation.

Outline of proposal process:

- Proposals received by Department of Health;
- Proposals will be reviewed and evaluated;

- Notifications will be sent out regarding whether or not proposals have been selected for the YAU Demonstration; and
- The SNFs selected will be required to submit a full CON through NYSE-CON, as instructed in the award letter. The CON will undergo a review through the CON process which includes recommendation from the Public Health and Health Planning Council.
- Once the Act takes effect on August 17, 2021 and a CON submission has been received by the Department, selected SNFs may continue to care for eligible children with medical fragility who have reached the age of 21 and resided for at least thirty consecutive days at the pediatric SNF until such time that the young adult turns 35 or the young adult facility becomes operational, whichever is sooner.
- CON submissions must be filed with the Department within 6 months of the effective date of the law.

Proposals must be sent by July 13, 2021 either: Electronically: CCRC@health.ny.gov or by mail to:

CCRC Unit
ATTN: Mike Heeran
Center for Health Care Facility Planning, Licensure and Finance
New York State Department of Health
Room 1805, Corning Tower ESP, Albany, NY 12237

If you have any questions, please contact CCRC@health.ny.gov.

Sincerely,

Tracy F. Raleigh, Director
Center for Health Facility Planning,
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and Oversight