

Adjusting CON Dollar Thresholds

March 30, 2022



Authority to Adjust CON Dollar Thresholds



- The Board may periodically adjust the monetary thresholds. In doing so, the Board must reflect the same categories of health care facilities, services, and programs recognized in the statute. Any adjustment by the Board shall not exceed an amount calculated using the cumulative Consumer Price Index rate of inflation. 18 V.S.A. § 9434(e).

Jurisdictional “Triggers” with Dollar Thresholds

Hospitals	Non-Hospitals
Construction, development, purchase, renovation, or other establishment of a health care facility or any capital expenditure by or on behalf of a hospital for which the capital cost exceeds \$3.0M	\$1.5M
The purchase, lease, or other comparable arrangement for a single piece of diagnostic and therapeutic equipment for which the cost, or in the case of a donation the value, is in excess of \$1.5M	\$1.0M
The offering of a health care service or technology having an annual operating expense that exceeds \$1.0M for either of the next two budgeted fiscal years, if the service or technology was not offered or employed by the hospital within the previous three fiscal years	\$0.5M

Conceptual CON Dollar Thresholds

Hospitals	Non-Hospitals
Planning activities where project is anticipated to cost in excess of \$30.0M.	Same
Exclusion for expenditures not exceeding \$3.0M made in preparation for obtaining a conceptual CON	\$1.5M

Dollar Thresholds – Dates of Last Revision



§ 9434 Category	\$ CON Threshold	Last Revised Date
(a)(1) Non-hospital capital cost	\$1,500,000	7/1/2003 2003, No. 53, § 10
(a)(4) Non-hospital equipment cost	\$1,000,000	7/1/2003 2003, No. 53, § 10
(a)(5) Non-hospital operating cost	\$500,000	7/1/2003 2003, No. 53, § 10
(b)(1) Hospital capital cost	\$3,000,000	7/1/2003 2003, No. 53, § 10
(b)(2) Hospital equipment cost	\$1,500,000	7/1/2018 (from \$1,000,000) 2017, Adj. Sess., No. 167, § 6
(b)(3) Hospital operating cost	\$1,000,000	7/1/2018 (from \$500,000) 2017, Adj. Sess., No. 167, § 6
(c) Conceptual	\$30,000,000	7/1/2007 (from \$20,000,000) 2007, No. 27, § 7
(c) Non-hospital exemption for expenditures made in preparation for obtaining Conceptual CON	\$1,500,000	7/1/2007 2007, No. 27, § 7
(c) Hospital exemption for expenditures made in preparation for obtaining Conceptual CON	\$3,000,000	7/1/2007 2007, No. 27, § 7

Recap

- Presented on March 2, 2022.
- Opened a special comment period on March 3, 2022.
- Emailed the following entities to solicit comments:
 - VAHHS
 - VNAs of Vermont
 - Vermont Medical Society
 - Health First
 - Office of the Health Care Advocate
 - University of Vermont Health Network
 - Bi-State Primary Care Association
 - Blue Cross Blue Shield of Vermont
 - MVP
 - VPQHC
 - AHS (last week)
- Received a comment from UVMHN urging the Board to increase the CON thresholds by the maximum amount allowed by statute (and to do so annually going forward).

Recommendation

Increase each of the dollar thresholds by 12.18%.

§ 9434 Category	\$ Threshold	Proposed \$ Threshold
(a)(1) Non-hospital capital cost	\$1,500,000	\$1,682,693
(a)(4) Non-hospital equipment cost	\$1,000,000	\$1,121,795
(a)(5) Non-hospital operating cost	\$500,000	\$560,898
(b)(1) Hospital capital cost	\$3,000,000	\$3,365,386
(b)(2) Hospital equipment cost	\$1,500,000	\$1,682,693
(b)(3) Hospital operating cost	\$1,000,000	\$1,121,795
(c) Conceptual	\$30,000,000	\$33,653,864
(c) Non-hospital exemption for expenditures made in preparation for obtaining Conceptual CON	\$1,500,000	\$1,682,693
(c) Hospital exemption for expenditures made in preparation for obtaining Conceptual CON	\$3,000,000	\$3,365,386

Calculating Maximum Adjustment

- “Any adjustment by the Board shall not exceed an amount calculated using the cumulative Consumer Price Index rate of inflation.”
 - **Starting Point:** A rate of inflation is a measurement of change in prices or a change in the value of money over time. Where does the time period the Board is supposed to measure begin?
 - **CPI:** There are multiple indexes (e.g., CPI-U vs. CPI-W, CPI all items vs. CPI medical care, seasonally adjusted vs. not seasonally adjusted). What is “the” CPI rate of inflation?

Starting Point

- Recommend starting from July 2018. All the thresholds were reviewed by the GMCB in 2017 and two of the hospital thresholds were adjusted by the Legislature effective July 1, 2018. To maintain the relative relationship between the various thresholds, this date, July 2018, should be used as the starting point for the cumulative CPI calculation.
- Calculating cumulative CPI separately for each threshold would allow the Board to materially change the relative relationships between the CON thresholds. For example, the equipment threshold for non-hospitals (\$1.0 million) is currently 2/3 of the equipment threshold for hospitals (\$1.5 million). Calculating cumulative CPI growth from the date of each threshold's last revision, the threshold for non-hospitals could be increased to \$1,534,747 (53.47% for CPI-U all items from July 2003) while the threshold for hospitals could only be increased to \$1,682,693 (12.18% for CPI-U all items from July 2018) – resulting in an almost 1/1 relationship.

CPI

CPI	Seasonally Adjusted	Growth (July 2018 – Jan. 2022)
All items in U.S. city average, all urban consumers	Yes	12.18%
Medical care in U.S. city average, all urban consumers	Yes	10.21%
All items in U.S. city average, all urban consumers	No	11.56%
Medical care in U.S. city average, all urban consumers	No	10.28%
All items in New England, all urban consumers	No	10.20%
Medical care in New England, all urban consumers	No	11.17%

Questions?

- **Potential Motion:** Increase each of the dollar thresholds in 18 V.S.A. § 9434(a)-(c) by **12.18%**.
- **Next Steps:** Action would be effectuated through a bulletin.
 - 2018 amendment specifically removed the requirement that adjustments be done by rule.