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Health Care Association of Michigan Seeking Injunctive Relief to Halt Bed Need Report from Taking Effect

The Health Care Association of Michigan (HCAM) is seeking a preliminary injunction to prevent the enforcement of a bed need report that will add nearly 3,000 nursing facility beds in the state. The lawsuit was filed against the Michigan Department of Health and Human Services (MDHHS) and the Certificate of Need (CON) Commission in the Court of Claims in Lansing on Monday, December 16.

The 2019 Nursing Facility Bed Need Report was approved by the CON Commission on September 19 and stated that an additional 2,800 beds were needed in Michigan. However, current occupancy rates of 80.6 percent indicate this is not the case.

Paul Delamater of the University of North Carolina at Chapel Hill, who performs the calculation to determine the projected bed need, recently submitted a report to MDHHS that concluded “even if presented perfect input data, the methodology produces inaccurate results.” In his report, Mr. Delamater recommends that major modifications to the CON Commission’s methodology be considered because of the erroneous results it produces.

“The members of HCAM agree that the methodology used to project bed need in the state of Michigan is deeply flawed,” said Melissa Samuel, President/CEO of HCAM. “Adding nearly 3,000 beds based on a methodology that the department’s own expert says is defective is a serious mistake.”

The CON Commission has convened a standard advisory committee (SAC) to review the methodology and make recommended updates that will reflect today’s long-term care environment and take into account current occupancy rates.

“The primary purpose of CON is to help control costs while insuring access to quality health care services,” said Samuel. “From that standpoint, HCAM requested the CON Commission not accept the bed need numbers which were calculated using a defective methodology. When they voted to move forward we had no other option than to seek injunctive relief. With the workforce challenges currently occurring in health care as a whole and specifically the long-term care profession, the addition of these beds could directly impact the quality of care provided while adding substantial costs to the Michigan Medicaid system.”

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