



# Commonwealth of Massachusetts Department of Public Health

## *Update on the Implementation of the revised Determination of Need Regulation 105 CMR 100.000*

---

**Nora J. Mann, Esq.**  
**Director, Determination of Need**

**October 11, 2017**



---

## Then and Now

---

- ❑ Rapidly evolving healthcare market.
- ❑ **1971:** DoN established.
  - ✓ **Providers:** Care largely provided in standalone, not-for-profit hospitals or small group practices.
  - ✓ **Payment:** Fee-for-service or cost-based reimbursement. Rate setting commission set public rates.
  - ✓ **DON:** Focused on protecting MA from state overspending on new technologies and duplicative services. Goal was to prevent saturation through non-duplication of services.
- ❑ **2016:** Post-Chapter 224 and ACA health reform.
  - ✓ **Providers:** Provider consolidation. Complex health systems that closely control patient referral patterns.
  - ✓ **Payment:** Systems taking on increased risk and no government rate setting.
  - ✓ **DON:** The historical objective of non-duplication of services, became increasingly out of alignment with DPH mission (*i.e.* population health) and state goals for delivery system transformation.



---

## DoN Today Reflects the DPH Mission

---

- ❑ **Significantly streamlines and simplifies DoN regulations**, reduces administrative burdens, makes common-sense reforms, and enhances cross-agency collaboration and coordination;
- ❑ **Modernizes DoN** to reflect today's health care market by incentivizing value-based, population health-driven competition;
- ❑ **Increases transparency and objectivity** by requiring community engagement;
- ❑ **Adds accountability** by requiring post-approval reporting on public promises made by DoN applicants;
- ❑ **Meaningfully infuses public health into DoN**, supporting successful health care reform and provider transitions to greater risk;
- ❑ **Aligns community investments with data-driven needs.**



---

## DoN Health Priorities -

---

**Substance Use Disorders**

**Housing Stability/ Homelessness**

**Mental illness and mental health**

**Chronic disease (with a focus on cancer, heart disease, and diabetes)**



---

## Six Factors

---

1. Applicant Patient Panel Need, Public Health Value, and Operational Objectives.
2. Health Priorities.
3. Compliance.
4. Financial Feasibility and Reasonableness of Expenditures and Costs.
5. Relative Merit.
6. Community-based Health Initiatives.



---

# Major New Principles

---

## Applicant

The health system.

## Access

We expect that the Applicant will look critically at access – as a function of all its parts.

## Patient Panel and Need

Need is now a function of the Patient Panel and the Patient Panel is defined as all the patients coming thru the door in the past 36 months.

## Value

Will the project increase access, address barriers, provide quality care at the lowest aggregate cost?



---

# Major New Principles

---

## Public Health Value

Requires a showing that the proposed project is need based, evidence informed, and outcome oriented.

## Community Engagement

We look at evidence that the project is the result of community engagement and planning.



---

# Major New Principles

---

## Competition

The project will compete on the basis of price, TME, and provider costs.

## Relative Merit

This proposal is better than other alternatives and was selected, based upon an analysis of evidence based strategies and public health interventions, to meet patient panel need.

## Financial feasibility

Applicant must provide an analysis by an independent CPA showing that this project is feasible and that there is sufficient assets to meet capital and operating costs without negative impacts or consequences to the patient panel.



---

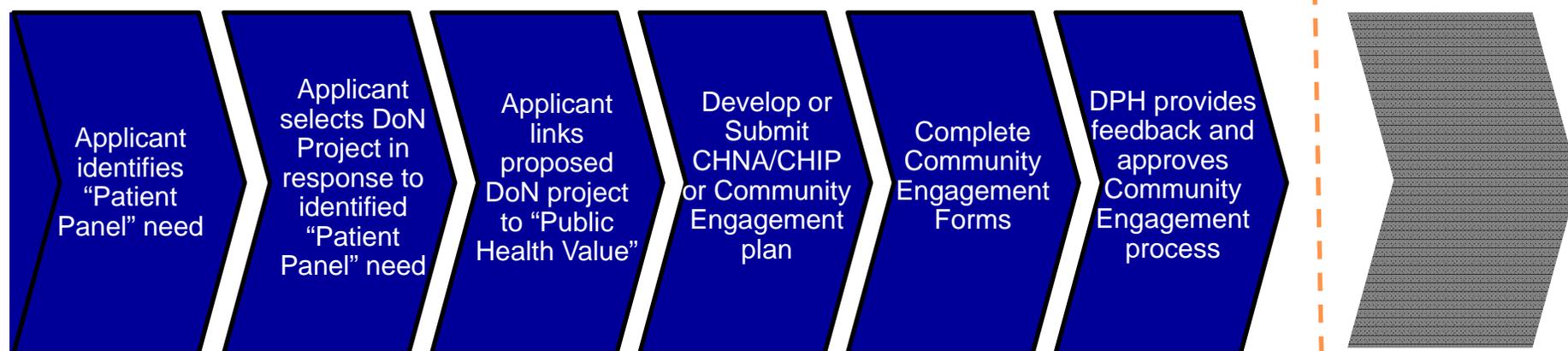
# Community-based Health Initiatives

---

- Strategic
- Organized
- Tied to the state health priorities.



# Example Community Health Initiative Process: Before PHC Decision

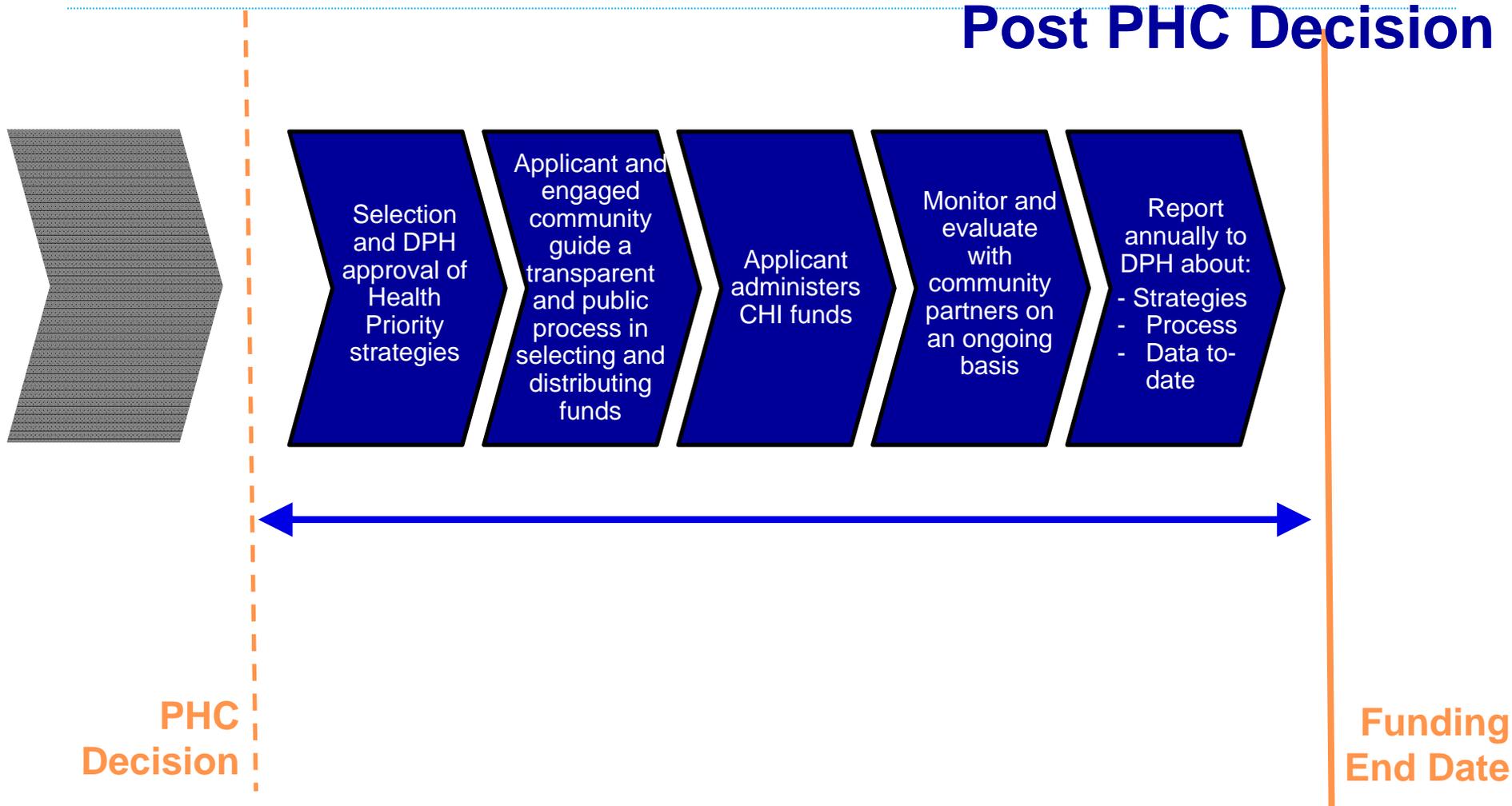


*This is an example timeline of the CHI Process that occurs as a part of the Determination of Need application process.*

**PHC  
Decision**



# Example Community Health Initiative Process: Post PHC Decision





---

## Benchmarking and Accountability

---

- Regulation section 100.310 (L)
  - Annual Reporting to the Department
- Regulation section 100.310 (M)
  - PHC discretion to impose consequences for non-compliance.



---

## Additional Changes

---

- ❑ PHC review of Long term care projects over \$3 million;
- ❑ Ambulatory Surgery Capacity moratorium lifted – with guardrails;
- ❑ Conservation Projects – new category;
- ❑ Transfers of Ownership – inquiry into patient need; and
- ❑ Posting of Pending Applications and Decisions.



***Questions?***

---