

**WAC 246-310-818 Special circumstances one- or two-station expansion—Eligibility criteria and application process.** (1) The department will approve one or two additional special circumstance stations for an existing kidney disease treatment center (center) if it meets the following criteria, regardless of whether the need methodology in WAC 246-310-812 projects a need for additional stations in the planning area:

(a) For 4.8 planning areas, the center has operated at or above an average of 5.0 patients per station for the most recent six consecutive month period preceding the letter of intent submission date for which data is available. Data used to determine patients per station must be obtained from the Network; or

(b) For 3.2 planning areas, the center has operated at or above an average of 3.5 patients per station for the most recent six consecutive month period preceding the letter of intent submission date for which data is available. Data used to determine patients per station must be obtained from the Network; and

(c) The center can accommodate one or two additional stations within its existing building, which may include shelled space. If renovation is needed to accommodate the additional station(s), renovation must be within the existing building.

(2) The department may approve special circumstance station expansions even if other kidney disease treatment centers not owned or affiliated with the applicant in the planning area are below the minimum patients per station operating thresholds set by WAC 246-310-812 (5) or (6).

(3) A center approved for two special circumstance stations under subsection (1) of this section is not eligible for further special circumstance expansions under this subsection until the department awards additional nonspecial circumstances kidney disease treatment centers in the planning area.

(4) As of the effective date of these rules, a center that has relocated all or part of its stations may not request a special circumstance one- or two-station expansion until three years have lapsed from the date the stations become operational. The three-year prohibition applies to any new kidney disease treatment center or centers whose station count is changed by the relocation of stations. The three-year prohibition will be retrospectively applied only to kidney disease treatment centers that were approved for partial or complete relocation after January 1, 2015.

(5) For 4.8 planning areas, a center is ineligible for a special circumstance one- or two-station expansion if the owner or affiliate has approved certificate of need stations in the planning area that have operated below an average of 4.5 patients per station for the most recent six consecutive month period preceding the letter of intent submission date. Data used to calculate patients per station must be obtained from the Network.

(6) For 3.2 planning areas, a center is ineligible for a special circumstance one- or two-station expansion if the owner or affiliate has approved certificate of need stations in the planning area that have operated below an average of 3.2 patients per station for the most recent six consecutive month period preceding the letter of intent submission date. Data used to calculate patients per station must be obtained from the Network.

(7) For 4.8 planning areas, a special circumstance one- or two-station expansion will not be approved if, with the requested new sta-

tion(s), the applicant's kidney disease treatment center would fall below a calculated 4.5 patients per station. Data used to make this calculation is the average patients per station from subsection (1)(a) of this section.

(8) For 3.2 planning areas, a special circumstance one- or two-station expansion will not be approved if, with the requested new stations(s), the applicant's kidney disease treatment center would fall below a calculated 3.0 patient per station. Data used to make this calculation is the average patients per station from subsection (1)(b) of this section.

(9) If a provider operates one or more kidney disease treatment centers within a planning area and applies for a special circumstance one- or two-station expansion in the planning area the department will not accept a letter of intent from that provider for additional stations to meet projected planning area need in the next nonspecial circumstance concurrent review cycle.

(10) Station(s) approved under this section must be operational within six months of approval, otherwise the approval is revoked.

(11) The department will provide a special circumstance one- or two-station expansion application form that incorporates the criteria for certificate of need approval. The application will not be approved unless the criteria are met. Special circumstances applications are evaluated independently of one another and accordingly without reference to the superiority criteria set forth in WAC 246-310-827. Therefore, multiple special circumstances applications may be approved in the same planning area during the same concurrent review cycle.

(12) Applicants must submit special circumstance one- or two-station expansion applications according to the schedule set forth in WAC 246-310-806(1).

(13) Special circumstance station applications will be treated as approved and will reduce net station need in the planning area when no nonspecial circumstance applications decisions are pending within the planning area. Special circumstance application approvals will not result in a reduction of net station need in the planning area when nonspecial circumstance application approvals decisions are pending within the planning area.

(14) The department will review special circumstance requests with the following considerations related to temporary emergency stations defined in WAC 246-310-825 and RCW 70.38.280.

(a) All calculations described in this section exclude temporary emergency stations.

(b) A center that operated temporary emergency stations due to a staffing shortage emergency situation, during the most recent six consecutive month period preceding the letter of intent submission date, is eligible to apply for special circumstances, if it has met all eligibility criteria described in this section. Centers operating temporary emergency stations during this period for temporary emergency situations other than staffing shortages are ineligible for special circumstance expansions.

(c) Pursuant to RCW 70.38.280 (2)(d), a center that operated temporary emergency stations due to a staffing shortage emergency situation may not exceed the number of patients served at the time of the exemption request. All calculations described in this section for the review of a center that operated temporary emergency stations due to staffing shortage emergency will have its patient census reported in the Network data limited to a maximum of the patients served at the

time of the emergency request for the months when the temporary emergency was in effect.

[Statutory Authority: RCW 70.38.135, 2023 c 48, and RCW 70.38.280. WSR 24-18-006, § 246-310-818, filed 8/22/24, effective 9/22/24. Statutory Authority: RCW 70.38.135. WSR 17-04-062, § 246-310-818, filed 1/27/17, effective 1/1/18.]