



The Commonwealth of Massachusetts  
Executive Office of Health and Human Services  
Department of Public Health  
250 Washington Street, Boston, MA 02108-4619

CHARLES D. BAKER  
Governor

KARYN E. POLITO  
Lieutenant Governor

MARYLOU SUDDERS  
Secretary

MARGRET R. COOKE  
Acting Commissioner

Tel: 617-624-6000  
[www.mass.gov/dph](http://www.mass.gov/dph)

**MEMORANDUM**

TO: Interested Parties

FROM: Lara Szent-Gyorgyi, Director, Determination of Need Program

DATE: November 9, 2021

RE: Amendments to Previously Approved DoN Projects – Construction Costs

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In this current market, related to the COVID-19 pandemic, with supply shortages and rising costs, construction costs are changing quickly.<sup>1,2,3</sup> The Department of Public Health (DPH) is aware of the challenges this presents relative to Determination of Need (DoN) Applications and Projects.

In recognition of these unusual circumstances, effective immediately, until further notice, the DoN Program is issuing the following changes to the standard DoN process.

1. Pursuant to 105 CMR 100.405 (C), when filing a DoN the Applicant shall publish a notice of intent of its Application, and of any amendment thereto at least 14 days prior to the Submission Date of such Application or amendment with the Department. This notice is required, among other things, to state the Total Value of the Proposed Project. Given the fluid construction costs, if an Applicant finds that the Project costs changes between the time the notice of intent was filed and the Application or amendment is filed, the Applicant will not be required to re-publish the notice of intent but will acknowledge and explain the difference in cost in the application.
2. Pursuant to 105 CMR 100.100, the definition of Significant Change includes (2) “Any increase or decrease in the maximum Capital Expenditure over 10% of the inflation adjusted originally

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<sup>1</sup> <https://canada.constructconnect.com/dcn/news/economic/2021/08/construction-costs-continue-to-rise-in-global-markets-as-recovery-accelerates-ff-report>

<sup>2</sup> <https://www.mainebiz.biz/article/planned-memory-care-center-in-bridgton-slowed-by-rising-construction-costs-will-break>

<sup>3</sup> <https://www.theunion.com/news/everything-has-gone-up-contractors-observe-increase-in-construction-costs-nevada-county-acute-affected-by-bay-area-migration/>

approved total expenditure.” For DoN Holders who experience an increase in Capital Expenditure costs above 10% after receiving the Notice of DoN and when construction is ready to begin that is solely the result of an increase in construction costs, an Amendment will not be required. The Holder should provide the Department with notice of the increase, delineating the increases and providing justification for the cost increase. For these projects, the filing fee and the CHI contribution will be increased according to the increase in Capital Expenditure.

DoN will continue to monitor the supply shortages and rising costs related to the COVID-19 pandemic and may amend or rescind this memorandum as needed.

Please direct any questions or comments about this memorandum to the DoN Program at [dph.don@state.ma.us](mailto:dph.don@state.ma.us).