



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

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March 18, 2020

Andrew Levine, Esq.
Barrett & Singal
One Beacon St, Suite 1320
Boston, MA 02108

VIA EMAIL

RE: Notice of Final Action DoN # 19102312-TO

Dear Mr. Levine:

At their meeting of March 11, 2020, the Commissioner and the Public Health Council, acting together as the Department, voted pursuant to M.G.L. c.111, §25(c) and the regulations adopted thereunder, to approve the Determination of Need (DoN) application filed by AmSurg BMC, Inc. for a proposed Transfer of Ownership to acquire ownership interest in Pioneer Valley Surgicenter, LLC, an existing licensed ambulatory surgery center located at 3550 Main Street, Springfield, MA. This Notice of Final Action incorporates by reference the Staff Report, the Addendum to the Staff Report, and the Public Health Council proceedings concerning this application

This Application was reviewed pursuant to M.G.L. c. 111, § 25(c), and the regulatory provisions of 105 CMR 100.000 et seq. Based upon a review of the materials submitted, the Department found that the Applicant has met each DoN factor and approves this Determination of Need application for a Transfer of Ownership subject to all standard conditions (105 CMR 100.310)¹ and pursuant to 105 CMR 100.360, subject to Other Conditions listed below. The total capital expenditure for the Proposed Project is \$6,169,990.00. There is no required CHI contribution.²

In compliance with the provisions of 105 CMR 100.310 A (2) and (11) the Holder shall submit an acknowledgment of receipt to the Department (attached) and also include a written attestation of participation or intent to participate in MassHealth.

¹ A Determination of Need Application for Transfer of Ownership pursuant to 105 CMR 100.735 is exempt from 105 CMR 100.310(A)(5), (6), (7), (9), (10) and (13).

² A Determination of Need Application for a Transfer of Ownership pursuant to 105 CMR 100.735 is exempt from the Determination of Need Factors (5) and (6), unless otherwise specified.

In compliance with the provisions of 105 CMR 100.310 A (12), which require a report to the Department, at a minimum on an annual basis, including the measures related to achievement of the DoN factors for a period of five years from completion of the Proposed Project, the Holder shall address its assertions with respect to all the factors.

Other Conditions:

In order to demonstrate that the Proposed Transfer of Ownership will add measurable public health value in terms of improved health outcomes, quality of life, to further demonstrate the need of the Applicant's Patient Panel, and to meet delivery system transformation related to meeting the needs of ACO patients, the Holder shall, on a yearly basis:

Unless otherwise noted, "surgical procedures" means the 5 top CPT codes for each (GI, ENT, and hand surgery) performed that reporting year. Such CPT codes shall be provided each reporting year.

1. Report on the shift in scheduling surgical procedures at BMC to PVSC and any resulting reduction of such procedures at BMC, using the number of surgical procedures at BMC and PVSC.

Holder is expected to show trends of increases in utilization at PVSC and decreases in utilization at BMC for appropriate surgeries.

2. Report on progress in reduction of wait times for surgical procedures at BMC.
Holder shall Report on the time interval (in days) from when the case was initiated for scheduling in EPIC, to the next available outpatient surgery appointment. Holder shall Report on the following:
 - a) Median number of days between ordering and receipt of surgery
 - b) Any policy changes instituted as a result of Holder's evaluation of increasing days
3. Track and provide evidence of timely communications with patients' referring physician before and after PVSC surgical procedures, including
 - a) how information was communicated
 - b) the timeframes within which such communications took place before or after interactions with patients under the referring provider's care.

Reporting shall include reporting on PVSC current procedures to share patient data, including across electronic health systems, and, as it may become applicable, through its membership in PVIX.

4. Report on improvement of measures outlined in Attachment 1.

Attachment 1: Required Measures for Annual Reporting

The Holder shall provide, in its annual report to the Department, reporting on the following measures. These metrics will become part of the annual reporting on the approved DoN, required pursuant to 105 CMR 100.310(A)(12).

Unless otherwise noted, “surgical procedures” means the 5 top CPT codes for each (GI, ENT, and hand surgery) performed that reporting year. Such CPT codes shall be provided each reporting year.

1. All Cause Transfers/Admissions upon discharge for all surgical procedures at PVSC, using Centers for Medicare and Medicaid Services (CMS) ASC-4 All Cause Hospitalization Transfer/Admission. This shall be reported by age cohorts 0-21 years, 21-64 years and 65+.
2. Patient Experience/Satisfaction Survey Measures (Press Ganey)
Collapsed responses (collapse responses Fair, Poor and Very Poor). Holder shall report on the following for all surgical procedures at PVSC:
 - a) Any category receiving a “Fair” or less rating
 - b) Overall patient response rate and a breakdown of respondent rate by race, as possible
 - c) Policy changes instituted as a result of Holder’s evaluation of lower ratings.
3. Unplanned Hospital Visits from all surgical procedures performed at PVSC within 30 days post discharge from PVSC.
Holder shall report on variance from intended outcome for the following indications of all surgical procedures within 30 days post-discharge from PVSC to the extent that such variance is reported to PVSC within 30 days post-discharge:
 - (a) Surgery and anesthesia-related complications
 - (b) Serious medical event following anesthesia (i.e., CVA, ML coma)
 - (c) Cardiac and/or pulmonary arrest or distress
 - (d) Death/loss of limb or function
 - (e) Complications requiring additional treatment or surgical intervention
 - (f) Accidental punctures/perforations; colon perforations
 - (g) DVT/pulmonary emboli
 - (h) Infections (including deep tissue, organ/systemic involvement, TASS, and endophthalmitis)

Holder shall report on rate*, using:

- a) Numerator: Number of patients who experienced a-h above;
- b) Denominator: The number of patients who had any surgical procedure.
- c) Any policy changes instituted as a result of Holder’s evaluation around trends in hospital ED visit or admissions, using Centers for Medicare and Medicaid Services (CMS) ASC-9, by age and as possible, race/ethnicity.

Rates shall not decrease* from baseline on, for any year

***If rates do not improve, Holder shall report on reasons why and outline plans for improvement.**

Ongoing compliance with the conditions and all terms of the DoN is, pursuant to the Regulation, a precondition to the filing of any future DoN by the Holder.

Sincerely,

A handwritten signature in black ink, appearing to read "Margo Michaels". The signature is fluid and cursive, with the first name "Margo" written in a larger, more prominent script than the last name "Michaels".

Margo Michaels MPH
Director
Determination of Need Program

c: Sherman Lohnes, Division of Health Care Facility
Licensure and Certification
Elizabeth Kelley, Bureau of Health Care Safety and
Quality
Daniel Gent, Division of Health Care Facility
Licensure and Certification
Rebecca Rodman, General Counsel's Office
Samuel Louis, Office of Health Equity

Mary Byrnes, Center for Health Information Analysis
Steven Sauter, MassHealth
Katherine Mills, Health Policy Commission
Ben Wood, Office of Community Health Planning
Elizabeth Maffei, Office of Community Health
Planning
Eric Gold, Attorney General's Office

**Acknowledgment of Receipt of Determination of Need and
Attestation Regarding Participation in MassHealth**

Pursuant to 105 C.M.R. § 100.310(A)(2) we, the undersigned chief executive officer and board chair of _____ (the "Holder"), hereby acknowledge that the Holder is in receipt of the Determination of Need Notice of Final Action, dated _____, issued by the Massachusetts Department of Public Health (the "Department") with respect to Application No. _____. This attestation is being provided to the Department and to all Parties of Record within thirty (30) days of the Determination of Need Notice of Final Action.

In addition, pursuant to 105 CMR 100.310(A)(11), we hereby attest that _____ (the Health Care Facility or Facilities for which the Notice of Determination has been issued) [participates, or intends to participate] in MassHealth pursuant to 130 CMR 400.000 through 499.000.

IN WITNESS WHEREOF, the undersigned have duly executed this Attestation on this _____ (date)

Name, Chief Executive Officer and signature

Name, Board Chair and signature