

**APPLICATION FOR DETERMINATION OF NEED
EMERGENCY APPLICATION
ST. ELIZABETH'S MEDICAL CENTER
DON APPLICATION #BMCHS-24090514-EA**

**BY
BMC HEALTH SYSTEM, INC.
ONE BOSTON MEDICAL CENTER PLACE
BOSTON, MA 02118**

SEPTEMBER 9, 2024

BMC HEALTH SYSTEM, INC.
DON APPLICATION #BMCHS-24090514-EA
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APPENDIX 1:
DON APPLICATION FORM



Massachusetts Department of Public Health

Determination of Need

Application Form

Version: 11-8-17

Application Type:	Emergency Application	Application Date:	09/09/2024 3:54 pm
Applicant Name:	BMC Health System, Inc.		
Mailing Address:	One Boston Medical Center Place		
City:	Boston	State:	Massachusetts
		Zip Code:	02118
Contact Person:	Nicole Sexton	Title:	Associate General Counsel
Mailing Address:	One Boston Medical Center Place		
City:	Boston	State:	Massachusetts
		Zip Code:	02118
Phone:	6176387918	Ext:	
E-mail:	Nicole.Sexton@bmc.org		

Facility Information

List each facility affected and or included in Proposed Project

1 Facility Name:	BMC Community Hospital Corporation II - St. Elizabeth's Medical Center		
Facility Address:	736 Cambridge Street		
City:	Boston	State:	Massachusetts
		Zip Code:	02135
Facility type:	Hospital	CMS Number:	220036
Add additional Facility		Delete this Facility	

1. About the Applicant

1.1 Type of organization (of the Applicant):	nonprofit
1.2 Applicant's Business Type:	<input checked="" type="radio"/> Corporation <input type="radio"/> Limited Partnership <input type="radio"/> Partnership <input type="radio"/> Trust <input type="radio"/> LLC <input type="radio"/> Other
1.3 What is the acronym used by the Applicant's Organization?	BMCHS
1.4 Is Applicant a registered provider organization as the term is used in the HPC/CHIA RPO program?	<input checked="" type="radio"/> Yes <input type="radio"/> No
1.5 Is Applicant or any affiliated entity an HPC-certified ACO?	<input checked="" type="radio"/> Yes <input type="radio"/> No
1.5.a If yes, what is the legal name of that entity?	BMC Health System, Inc., inclusive of Boston Accountable Care Organization, Inc.; and BMC Integrated Care Services, Inc.
1.6 Is Applicant or any affiliate thereof subject to M.G.L. c. 6D, § 13 and 958 CMR 7.00 (filing of Notice of Material Change to the Health Policy Commission)?	<input checked="" type="radio"/> Yes <input type="radio"/> No

- 1.7 Does the Proposed Project also require the filing of a MCN with the HPC? ☒ Yes ☐ No
- 1.7.a If Yes, has Material Change Notice been filed? ☒ Yes ☐ No
- 1.7.b If yes, provide the date of filing. 9/10/2024
- 1.8 Has the Applicant or any subsidiary thereof been notified pursuant to M.G.L. c. 12C, § 16 that it is exceeding the health care cost growth benchmark established under M.G.L. c. 6D, § 9 and is thus, pursuant to M.G.L. c. 6D, §10 required to file a performance improvement plan with CHIA? ☐ Yes ☒ No

1.9 Complete the Affiliated Parties Form

2. Project Description

2.1 Provide a brief description of the scope of the project.

See Appendix 2: Determination of Need Narrative

2.2 and 2.3 Complete the Change in Service Form

3. Delegated Review

3.1 Do you assert that this Application is eligible for Delegated Review? ☒ Yes ☐ No

3.1.a If yes, under what section? Emergency Application

4. Conservation Project

4.1 Are you submitting this Application as a Conservation Project? ☐ Yes ☒ No

5. DoN-Required Services and DoN-Required Equipment

5.1 Is this an application filed pursuant to 105 CMR 100.725: DoN-Required Equipment and DoN-Required Service? ☐ Yes ☒ No

6. Transfer of Ownership

6.1 Is this an application filed pursuant to 105 CMR 100.735? ☐ Yes ☒ No

7. Ambulatory Surgery

7.1 Is this an application filed pursuant to 105 CMR 100.740(A) for Ambulatory Surgery? ☐ Yes ☒ No

8. Transfer of Site

8.1 Is this an application filed pursuant to 105 CMR 100.745? ☐ Yes ☒ No

9. Research Exemption

9.1 Is this an application for a Research Exemption? ☐ Yes ☒ No

10. Amendment

10.1 Is this an application for a Amendment? ☐ Yes ☒ No

11. Emergency Application

11.1 Is this an application filed pursuant to 105 CMR 100.740(B)? ☒ Yes ☐ No

11.2 Is the emergency situation due to a government declaration?

☐ Yes ☒ No

11.3 If No, Please describe the destruction/substantial damage to the Applicant's Health Care Facility and its impact upon public health.

See Appendix 2: Determination of Need Narrative

12. Total Value and Filing Fee

Enter all currency in numbers only. No dollar signs or commas. Grayed fields will auto calculate depending upon answers above.

Your project application is for: Emergency Application

12.1 Total Value of this project:	<div>XXX \$140,000,000.00**</div>
12.2 Total CHI commitment expressed in dollars: (calculated)	<div>\$0.00</div>
12.3 Filing Fee: (calculated)	<div>\$0.00</div>
12.4 Maximum Incremental Operating Expense resulting from the Proposed Project:	<div></div>
12.5 Total proposed Construction costs, specifically related to the Proposed Project, If any, which will be contracted out to local or minority, women, or veteran-owned businesses expressed in estimated total dollars.	<div></div>

**The Total Value of the Project reflects the amount listed in the Asset Purchase Agreement. It includes the purchase price for both Good Samaritan Medical Center and St. Elizabeth's Medical Center. It is subject to adjustment per the terms of the Asset Purchase Agreement.

13. Factors

Required Information and supporting documentation consistent with 105 CMR 100.210

Some Factors will not appear depending upon the type of license you are applying for.

Text fields will expand to fit your response.

Documentation Check List

The Check List below will assist you in keeping track of additional documentation needed for your application. Once you have completed this Application Form the additional documents needed for your application will be on this list. E-mail the documents as an attachment to: DPH.DON@state.ma.us

- ☐ Copy of Notice of Intent
- ☐ Certification from an independent Certified Public Accountant
- ☒ Notification of Material Change
- ☒ Articles of Organization / Trust Agreement

Document Ready for Filing

When document is complete click on "document is ready to file". This will lock in the responses and date and time stamp the form.

To make changes to the document un-check the "document is ready to file" box. Edit document then lock file and submit

Keep a copy for your records. Click on the "Save" button at the bottom of the page.

To submit the application electronically, click on the "E-mail submission to Determination of Need" button.

This document is ready to file:



Date/time Stamp: 09/09/2024 3:54 pm

E-mail submission to
Determination of Need

Application Number: BMCHS-24090514-EA

Use this number on all communications regarding this application.

☐ Community Engagement-Self Assessment form

APPENDIX 2:
DON NARRATIVE

In accordance with the provisions set forth at 105 CMR 100.740: Emergency Applications, BMC Health System, Inc. ("Applicant") is filing this Notice of Determination of Need ("Application") with the Massachusetts Department of Public Health ("Department"). On May 6, 2024, Steward Health Care System LLC ("Steward") and its affiliated debtors, including Steward St. Elizabeth's Medical Center of Boston, Inc. ("SEMC"), filed a voluntary petition for relief under Chapter 11 of the United States Bankruptcy Code in the United States Bankruptcy Court for the Southern District of Texas ("Emergency Situation"). Pursuant to sections 105, 363, and 365 of the Bankruptcy Code, and in an effort to preserve patient care and prevent the closure of SEMC, the Applicant, through its corporate affiliate BMC Community Hospital Corporation, entered into an Asset Purchase Agreement ("APA") to buy certain assets and liabilities of SEMC. These assets and liabilities were then assigned to another of the Applicant's corporate affiliates, BMC Community Hospital Corporation II d/b/a St. Elizabeth's Medical Center. In response to this Emergency Situation, the Applicant submits this request for a Transfer of Ownership of SEMC, a 306-bed academic medical center, and a Boston University teaching hospital located at 736 Cambridge Street, Boston, MA 02135 to ensure continued access to healthcare services, and prevent harm to the greater Boston community and surrounding areas, whose residents rely on SEMC for essential care.

A. Identity of the Applicant

The Applicant is a Massachusetts non-profit integrated health care system comprised of corporate affiliates that provide a variety of services. The Applicant is the sole corporate member of the following six corporate affiliates: (1) Boston Medical Center Corporation, the Applicant's academic safety net hospital; (2) BMC Community Hospital Corporation II d/b/a St. Elizabeth's Medical Center, the new corporate entity that will comprise SEMC; (3) Boston Medical Center Health Plan, Inc., a non-profit corporation established to administer the WellSense Health Plan, a managed care organization providing comprehensive health insurance coverage options through Medicaid, Qualified Health Plans, and Senior Care Options to Massachusetts and New Hampshire residents; (4) Clearway Health, LLC, a pharmacy management services business with expertise in the operation of advanced health system specialty pharmacy programs; (5) BMC Insurance Co., Ltd. of Vermont, a non-profit dormant captive insurance company originally formed to provide insurance coverage for property and certain liability exposures arising from acts of terrorism under the Terrorism Risk Insurance Act of 2002; and (6) BMC Community Hospital Corporation d/b/a Good Samaritan Medical Center, the new corporate entity that will comprise Good Samaritan Medical Center. Additionally, the Applicant owns 49% of Tellica Imaging – Massachusetts, LLC, a Delaware corporation formed to provide imaging services to residents in Massachusetts.

The Applicant provides primary, specialty, and tertiary care through its subsidiaries, affiliates, and community health care center partners. It also provides access to a managed care organization, an accountable care organization ("ACO"), and other health related programs. Many of the patients served by the Applicant and its affiliates are under-resourced populations facing social determinants of health barriers, as well as health disparities.

Boston Medical Center Corporation d/b/a Boston Medical Center ("BMC") is the Applicant's academic safety net hospital with its main campus located at One Boston Medical Center Place in Boston. In total, BMC is currently licensed to operate 616 beds. It is one of the largest safety net hospitals in New England, as well as one of the busiest trauma and emergency services centers in New England. BMC is the primary teaching affiliate for the Boston University Chobanian

& Avedisian School of Medicine. BMC provides a wide range of emergency, outpatient, and inpatient services, with over seventy (70) medical specialties and subspecialties.

B. Nature of the Emergency Situation

As previously stated, on May 6, 2024, Steward and its affiliated debtors, including SEMC, filed a voluntary petition for relief under Chapter 11 of the United States Bankruptcy Code in the United States Bankruptcy Court for the Southern District of Texas. This Emergency Situation necessitates the potential closure of SEMC, which threatens the public health of Boston area residents, including those individuals in the neighborhoods of Allston-Brighton, Back Bay and West Roxbury, as well as Brookline, Newton, Waltham, Weston and Watertown (“Service Area”) that rely on the hospital for all aspects of care, including emergency services. SEMC’s 2021 Community Health Needs Assessment outlines health care services provided by the hospital including inpatient and outpatient care, as well as family medicine, cardiovascular care, women and infants’ health, oncology, neurology, and orthopedics.

Moreover, this report outlines the health care needs of local residents including high rates of chronic disease, such as cardiovascular conditions, behavioral health, Diabetes, obesity, and high blood pressure. The needs assessment also discusses how area residents are impacted by the social determinants of health, including housing instability, higher rates of poverty, and a lack of access to care. The loss of this vital institution will create a substantial hardship on the greater Boston community and surrounding towns, as well as other area health care providers who must absorb additional patients in need of services. The closure of SEMC will also tax an under-resourced community still seeking to recover from the COVID-19 pandemic. With the majority of local residents facing barriers to obtaining care, such as a lack of transportation and uninsurance, the closure of SEMC will exacerbate health disparities, including a lack of access to care for those most in need.

C. Nature, scope, location, and projected costs of the Proposed Project

To address the Emergency Situation described above, the Applicant, through its corporate affiliate BMC Community Hospital Corporation, has entered into an APA to buy certain assets and liabilities of SEMC. These assets and liabilities are being assigned to another of the Applicant’s corporate affiliates, BMC Community Hospital Corporation II. Consequently, the Applicant is seeking a Transfer of Ownership of SEMC to BMC Community Hospital Corporation II (“Proposed Project”), so it may preserve care for area residents and operate the 306-bed academic medical center located at 736 Cambridge Street, Boston. This transaction will ensure that area residents have access to urgent and emergent health care services, including inpatient, outpatient, and behavioral health care. Additionally, the continued operation of SEMC will ensure that under-resourced populations have access to timely services, addressing disparities, and promoting health equity.

The projected costs for the Proposed Project are currently being reviewed. The APA outlines the purchase price for SEMC¹, but capital and operating costs are being evaluated.

¹ The Total Value of the Proposed Project reflects the amount listed in the APA. It includes the purchase price for both SEMC and Good Samaritan Medical Center. It is subject to adjustment per the terms of the APA.

D. Demonstration that the Proposed Project will address the Emergency Situation, and that without issuance of a Notice of Determination of Need, the public health will be measurably harmed

The Proposed Project will ensure continued access to health care services in the greater Boston area with no impact on available capacity. SEMC provides vital health care services to its patients. Due to increased volume at all area hospitals following the COVID-19 pandemic, demand for health care services in the area is high. A lack of available health care services in SEMC's Service Area will measurably harm residents. This harm will persist unless SEMC remains open. The Applicant's operation of SEMC guarantees access to high quality care and timely treatment for area residents.

The Applicant's Proposed Project will ensure continued availability of acute care services without disruption for residents in the region. The Applicant affirms its commitment to providing a continuum of care at SEMC, including the provision of a comprehensive range of services such as primary care, cardiology, cancer care, surgery and other inpatient services, as well as emergency care. As discussed with staff at the Department, following the change of ownership, the provision of all services at SEMC, including maternal and child health services (such as obstetrics, newborn nursery, and NICU services) is subject to the availability of staff, and ensuring quality and patient safety standards. Accordingly, the Applicant intends to complete a robust evaluation of all service lines at SEMC in the coming months.

E. Other Services

The Applicant notes that SEMC operated a fifteen (15) bed inpatient geriatric psychiatry unit at Carney Hospital in Dorchester. Due to the closure of Carney Hospital on August 31, 2024, this unit was closed. Consequently, the Applicant requests that the Department designate these 15 inpatient geriatric psychiatry beds as out of service. The Applicant is committed to ensuring access to critically needed inpatient psychiatry beds as a result of the ongoing behavioral health emergency in the Commonwealth. The designation of these 15 beds as out of service will allow the Applicant the opportunity to determine the best processes for bringing these beds back into service as quickly and safely as possible.

APPENDIX 3:
AFFIDAVIT OF TRUTHFULNESS AND COMPLIANCE



Massachusetts Department of Public Health

Determination of Need

Affidavit of Truthfulness and Compliance

with Law and Disclosure Form 100.405(B)

Version: 7-6-17

Instructions: Complete Information below. When complete check the box "This document is ready to print:". This will date stamp and lock the form. Print Form. Each person must sign and date the form. When all signatures have been collected, scan the document and e-mail to: **dph.don@state.ma.us** Include all attachments as requested.

Application Number: Original Application Date:

Applicant Name:

Application Type:

Applicant's Business Type: ☒ Corporation ☐ Limited Partnership ☐ Partnership ☐ Trust ☐ LLC ☐ Other

Is the Applicant the sole member or sole shareholder of the Health Facility(ies) that are the subject of this Application? ☒ Yes ☐ No

The undersigned certifies under the pains and penalties of perjury:

1. The Applicant is the sole corporate member or sole shareholder of the Health Facility[ies] that are the subject of this Application;
2. I have read 105 CMR 100.000, the Massachusetts Determination of Need Regulation;
3. I understand and agree to the expected and appropriate conduct of the Applicant pursuant to 105 CMR 100.800;
4. I have read this application for Determination of Need including all exhibits and attachments, and certify that all of the information contained herein is accurate and true;
5. I have submitted the correct Filing Fee and understand it is nonrefundable pursuant to 105 CMR 100.405(B);
6. I have submitted the required copies of this application to the Determination of Need Program, and, as applicable, to all Parties of Record and other parties as required pursuant to 105 CMR 100.405(B);
7. I have caused, as required, notices of intent to be published and duplicate copies to be submitted to all Parties of Record, and all carriers or third-party administrators, public and commercial, for the payment of health care services with which the Applicant contracts, and with Medicare and Medicaid, as required by 105 CMR 100.405(C), et seq.;
8. I have caused proper notification and submissions to the Secretary of Environmental Affairs pursuant to 105 CMR 100.405(E) and 301 CMR 11.00; *will be made if applicable*
9. If subject to M.G.L. c. 6D, § 13 and 958 CMR 7.00, I have submitted such Notice of Material Change to the HPC - in accordance with 105 CMR 100.405(G);
10. Pursuant to 105 CMR 100.210(A)(3), I certify that both the Applicant and the Proposed Project are in material and substantial compliance and good standing with relevant federal, state, and local laws and regulations, as well as with all previously issued Notices of Determination of Need and the terms and conditions attached therein;
11. I have read and understand the limitations on solicitation of funding from the general public prior to receiving a Notice of Determination of Need as established in 105 CMR 100.415;
12. I understand that, if Approved, the Applicant, as Holder of the DoN, shall become obligated to all Standard Conditions pursuant to 105 CMR 100.310, as well as any applicable Other Conditions as outlined within 105 CMR 100.000 or that otherwise become a part of the Final Action pursuant to 105 CMR 100.360;
13. Pursuant to 105 CMR 100.705(A), I certify that the Applicant has Sufficient Interest in the Site or facility; and
14. Pursuant to 105 CMR 100.705(A), I certify that the Proposed Project is authorized under applicable zoning by-laws or ordinances, whether or not a special permit is required; or,
 - a. If the Proposed Project is not authorized under applicable zoning by-laws or ordinances, a variance has been received to permit such Proposed Project; or,
 - b. The Proposed Project is exempt from zoning by-laws or ordinances.

Corporation:

Attach a copy of Articles of Organization/Incorporation, as amended

Alastair Bell, MD, MBA	<i>Alastair Bell</i>	9/9/24
CEO for Corporation Name:	Signature:	Date
Mark Nunnally	<i>Mark Nunnally</i>	9/9/24
Board Chair for Corporation Name:	Signature:	Date

This document is ready to print: ☒

Date/time Stamp: 09/05/2024 2:24 pm

* been informed of the contents of

** have been informed that

*** issued in compliance with 105 CMR 100.000, the Massachusetts Determination of Need regulation effective January 27, 2017 and amended December 28, 2018

APPENDIX 4:
ARTICLES OF ORGANIZATION

Per instruction from the Department of Public Health, BMC Health System, Inc. ("Applicant") is providing a link to its corporate documents on the Massachusetts Secretary of State's website for accessibility purposes. Please use the following link to access the Applicant's Articles of Organization on the Secretary of State's website:

https://corp.sec.state.ma.us/CorpWeb/CorpSearch/CorpSearchRedirector.aspx?Action=PDF&Path=CORP_DRIVE1/2013/0619/000488840/0001/201339642200_1.pdf.