



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

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Governor

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Lieutenant Governor

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Commissioner

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July 17, 2024

Crystal Bloom, Esq
Partner
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VIA Email: Crystal.Bloom@huschblackwell.com

Notice of Final Action: Beth Israel Lahey Health Surgery Center Plymouth, LLC
DoN# 22062915-AS

Dear Attorney Bloom,

At their meeting of July 17, 2024, the Commissioner and the Public Health Council, acting together as the Department, voted pursuant to M.G.L. c.111, §25C and the regulations adopted thereunder, to approve the Determination of Need (DoN) application filed by Beth Israel Lahey Health Surgery Center Plymouth, LLC for the development of a freestanding ambulatory surgery center (ASC) to be located at 41 Resnik Road, Plymouth, MA. The Proposed Project is for a new construction of 19,091 gross square feet, which will accommodate four operating rooms, sixteen pre/post operative bays, and associated administrative space. This Notice of Final Action incorporates by reference the Staff Report and the Public Health Council proceedings concerning this application.

This application was reviewed pursuant to M.G.L. c. 111, §25C 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 subject to all standard conditions (105 CMR 100.310) and pursuant to 105 CMR 100.360, subject to Other Conditions listed below. The total capital expenditure for the Proposed Project is \$16,349,011.00 (October 2023 dollars) and the required CHI contribution is \$817,450.55.

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 include a written attestation of participation or intent to participate in MassHealth.

In compliance with 105 CMR 100.310(A)(12), which requires 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.

Please notify the DoN Program at DPH.DON@mass.gov of the anticipated completion date of all the components of the approved Project once it has been established. Additionally, please send an email confirming the Project's completion (licensure/ amended licensure approval date) and the first day of operations to determine the annual DoN reporting timeline.

Other Conditions to the DoN

1. Of the total required CHI contribution of \$817,450.55
 - a. \$198,231.76 will be directed to the CHI Statewide Initiative.
 - b. \$594,695.27 will be dedicated to local approaches to the DoN Health Priorities.
 - c. \$24,523.52 will be designated as the administrative fee.
2. To comply with the Holder's obligation to contribute to the CHI Statewide Initiative, the Holder must submit a check for \$198,231.76 to Health Resources in Action (the fiscal agent for the CHI Statewide Initiative) **within 30 days** from the date of the Notice of Approval.
 - a. Payments should be made out to:
Health Resources in Action, Inc. (HRiA)
2 Boylston Street, 4th Floor
Boston, MA 02116 Attn: MACHHAF c/o Bora Toro
DoN project #: 22062915-AS
 - b. Please send a PDF image of the check or **confirmation of payment** to DONCHI@Mass.gov and dongrants@hria.org

If you should have any questions or concerns regarding the payment, please contact the CHI team at DONCHI@Mass.gov.

3. In addition to BILH ASC's obligation to participate in MassHealth, pursuant to 105 CMR 100.310(11), the Holder must certify annually that all physicians and health professionals who practice at the facility are enrolled as participating providers of MassHealth to support equitable access to all clinicians at the facility regardless of payer.
4. In order to support equitable access to BILH's services, the Holder will report on annual efforts to promote health equity at BILH Surgery Center, including but not limited to efforts to identify and address disparities in access to BILH's services, and efforts to advance the provision of culturally and linguistically appropriate services at BILH.
5. The Holder shall report on BILH Surgery Center patients stratified by race and ethnicity, patient origin (zip code), and payer mix.
6. The Holder shall report on ongoing efforts to increase Medicaid in its payer mix, detailing the strategies being implemented to achieve this goal.
7. The Holder will report on Surgical Volume by Specialty for both the BILH Surgery Center and BID Plymouth based on the case type listed below. Annual reporting should

demonstrate that the new ASC is reducing the volume of low acuity surgeries at BID Plymouth.

SURGICAL VOLUME BY CASE TYPE
Foot & Ankle
General/Other
Hand
Joint Replacement
Joint Arthroscopy
Spine
Trauma
Total

The DoN program shall review the data received in accordance with Condition 7 to determine whether one or more of the following Referral Indicators is present:

- a) A material increase in total volume of the targeted surgeries at the BID Plymouth
- b) A material decrease in total volume of targeted surgeries at BILH Surgery Center

If the DoN Program finds any one or more of the Referral Indicators, the matter shall be referred to the Public Health Council (PHC) for review to determine whether BILH Surgery Center is in violation of one or more of the conditions and thus out of compliance with the terms of this Notice of DoN.

Upon referral to the PHC based upon any one or more of the Referral Indicators, BILH Surgery Center shall have an opportunity to show cause why the PHC shall not find one or more of the Referral Indicators.

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,

Dennis Renaud

Dennis Renaud
Director, Determination of Need Program

cc:

Antonio Sousa, Acting Director, Bureau of Health Care Safety and Quality
Rebecca Kaye, General Counsel's Office
Stephen Davis, Director, Division of Health Care Facility Licensure and Certification
Judy Bernice, Division of Health Care Facility Licensure and Certification
Hilary Ward, Health Care Facility Licensure and Certification
Samuel Louis, Office of Health Equity

Jennica Allen, Division of Community Health Planning and Engagement
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Katelyn Teague, Division of Community Health Planning and Engagement
Katherine Mills, Health Policy Commission
Roxanne Rocco, Center for Medicaid and Medicare Services
Christopher King, Executive Office of Health and Human Services
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