



The Commonwealth of Massachusetts  
Executive Office of Health and Human Services  
Department of Public Health  
Determination of Need (DoN) Program  
250 Washington Street Boston, MA 02108

**CHARLES D. BAKER**  
Governor

**KARYN E. POLITO**  
Lieutenant Governor

**MARYLOU SUDDERS**  
Secretary

**MONICA BHAREL, MD, MPH**  
Commissioner

June 18, 2019

Andrew Levine, Esq.  
Barrett & Singal  
One Beacon Street  
Suite 1320  
Boston, MA 02108-3106

VIA EMAIL

RE: Notice of Final Action DoN # 18121721-AS

Dear Attorney Levine:

At their meeting of June 12, 2019, the Commissioner and the Public Health Council, acting together as the Department, voted pursuant to M.G.L. c.111, §51 and the regulations adopted thereunder, to approve the Determination of Need application filed by Natick Surgery Center (the Applicant) to establish a freestanding, three operating room Ambulatory Surgery Center (ASC) which is located at 313 Speen Street, Natick, MA. This Notice of Final Action incorporates by reference the Staff Report and the Public Health Council proceedings concerning this application, all of which are incorporated herein by reference.

This Application was reviewed pursuant to M.G.L. c. 111, § 51 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 renovation of 13,000 gross square feet (GSF) of space for \$10,056,917 (December 2018 dollars) subject to all standard conditions (105 CMR 100.310) and pursuant to 105 CMR 100.360 subject to other conditions listed below.

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. In addition to the ASC's obligation to participate in MassHealth, pursuant to 105 CMR 100.310(11), Holder must ensure that all physicians and health professionals who practice at the facility are enrolled as participating providers of MassHealth to ensure patients have equitable access to all clinicians at the facility regardless of payer. (See document attached.)

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 Additional Conditions:**

1. The Holder shall demonstrate improved public health value by ensuring access for patients regardless of payer and linguistic ability:
  - a. In addition to the ASC's obligation to participate in MassHealth, pursuant to 105 CMR 100.310(11), Holder must ensure that all physicians and health professionals who practice at the facility are enrolled as participating providers of MassHealth to ensure patients have equitable access to all clinicians at the facility regardless of payer.
  - b. The Holder's website shall provide a clear offer for patients to access services in the language the patient can understand, speak, or write for effective interaction with administrative and medical personnel at the new ASC.
2. The Holder shall provide, in its first report to the Department, a description or reproduction of its price transparency tool and demonstrate how its tool has helped individuals make informed decisions.
3. With its annual report required by 105 CMR 100.310(12), the Holder must provide the following information to ensure health equity, evidence of care coordination, and the highest possible quality of care.
  - a. The Holder shall track and report the numbers of patients by primary care provider zip code.
  - b. The Holder shall track and provide evidence of timely communications with patients' primary care providers before and after surgery, specifically how information was communicated, and the timeframes within which such communications took place before or after interactions with patients under the primary care provider's care.
  - c. The Holder shall track and report the following, stratified by age group, sex, race and ethnicity, zip code, and payer mix including fee-for-service versus managed contracts:
    - a) use of interpreter services
    - b) the length of time from the date of final specialty consultation to the date of surgery
    - c) the number of patients referred to PT/OT, and the number who completed their PT/OT
    - d) clinical and quality of life outcomes for each type of surgery and as a minimum for:
      - i. infection,
      - ii. surgical revision,
      - iii. nerve injury,
      - iv. all cause visit to emergency department or admission to hospital within 7 days after surgery.

The Holder shall provide reports with as much specificity as possible while ensuring that reporting is compliant with HIPAA confidentiality requirements.

4. The Holder shall demonstrate continued annual growth in the proportion of patients under managed/risk contracts receiving care at the ASC compared to those under fee-for-service plans (payer plan type) and stratified by payer mix, at a minimum by Medicaid, Medicare, and Commercial. In reporting its payer plan type, the Holder must show the proportion of patients served under each plan type relative to a benchmark that reflects the plan type proportions for the new ASC's patient panel. If the Holder cannot demonstrate continued annual growth, or the Holder continues to serve a disproportionate number of fee-for-service patients relative to the benchmark, then the Holder must submit with its annual report an explanation for why growth of patients under managed/risk contracts could not be achieved in the prior year, as well as a plan for improving growth of this group in the coming year.

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,



Margo Michaels, MPH  
Director, Determination of Need Program

cc: Sherman Lohnes, Director, Division of Health Care Facility Licensure and Certification  
Elizabeth Kelley, Director, Bureau of Health Care Safety and Quality  
Daniel Gent, Division of Health Care Facility Licensure and Certification  
Rebecca Rodman, Deputy General Counsel  
Samuel Louis, Office of Health Equity  
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Elizabeth Maffei, Office of Community Health Planning  
Mary Byrnes, Center for Health Information Analysis  
Steven Sauter, MassHealth  
Katherine Mills, Health Policy Commission  
Eric Gold, Attorney General's Office  
Kerry Whelan, Government Affairs, Shields Healthcare

1 attachment