



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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February 15, 2018

VIA EMAIL - alevine@barrettsingal.com

Andrew Levine, Esq.
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Boston, MA 02108-3106

RE: Notice of Final Action DoN Application No. PHS-17071716-TO
Partners HealthCare System, Inc.

Dear Mr. Levine:

At their meeting of February 14, 2018, the Commissioner and the Public Health Council, acting together as the Department, voted pursuant to M.G.L. c.111 section 51-53 and the regulation promulgated thereunder, specifically, 105 CMR 100.735, to approve with conditions the Determination of Need application through which Partners Healthcare System, Inc. (Partners) proposes to become the sole corporate member of the Foundation of MEEI, Inc. which is, in turn, the parent of the Massachusetts Eye and Ear Infirmary (MEEI)

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 Determination of Need application was reviewed pursuant to M.G.L. c.111 section 51-53 and the regulation promulgated thereunder, specifically, 105 CMR 100.735. Based upon a review of the materials submitted, the Department finds that the Applicant, now Holder has met each DoN factor and approves this Determination of Need application pursuant to 105 CMR 100.735. Approval is subject to 105 CMR 100.735(D)(3) relative to noncompliance, to the Standard Conditions relevant to Transfers of Ownership, and the following additional requirements which shall become conditions of the DoN:

Other Conditions

1. The date of the DoN shall constitute the Baseline Date for the purpose of MEEI's Network Participation. Network Participation shall mean, for the purposes of these conditions, MEEI's participation in MassHealth fee for service and managed care,

Medicare fee for service and managed care, and in commercial payer contracts, including its rate of participation in limited network and tiered products and the tier in which MEEI is placed.

2. In its first report mandated by 105 CMR 100.310(L), the Holder will provide baseline measures for MEEI's OPH and ORL services followed by subsequent annual submission of data for MEEI's OPH and ORL services.
 - a. A report on the percentage change in reimbursement rates (facility and physician) to MEEI's OPH and ORL services, as measured against the statewide cost growth benchmark.
 - b. A description of the then-current Network Participation of MEEI, including but not limited to the number of:
 - i. Limited network products;
 - ii. Tiered products, including MEEI's tier level for each of these products;
 - iii. Other commercial products;
 - iv. MassHealth Fee for Service;
 - v. MassHealth Managed Care
 - vi. Medicare Fee for Service; and
 - vii. Medicare Managed Care
 - c. A description of the current payer mix of MEEI, reported by each of the insurance product categories listed in 2.b, above with the addition of self-pay;
 - d. The percentage of Partners and non-Partners patients seen at MEEI;
 - e. A description of the operating efficiencies and savings associated with those operational efficiencies achieved by integrating MEEI into Partners in the past year and cumulatively since the Baseline Date.
3. Partners and MEEI will ensure that MEEI's OPH and ORL services will participate in Massachusetts Medicaid managed care organizations (MMCOS and Medicaid ACOs) and in MassHealth fee for service plans at least to the same extent as MEEI participated in such organizations and plans on the Baseline Date.
4. At such time as MEEI joins Partners in contract negotiations with commercial payers, Partners and MEEI will ensure that MEEI participates (subject to its ability to meet the criteria required by commercial payers of all providers) in limited network and tiered products at least to the same extent as MEEI participated in such limited network and tiered network products on the Baseline Date.
5. With respect to each of the Assessment Tools that the Applicant has defined (see Attachment 3 to the Staff Report) the Holder shall, in its first report mandated by 105 CMR 100.310(L), submit to the Department: a report that details, for each: the baseline measures; expected benchmarks; measure specifications; and the anticipated time to meet goals. This information shall be updated annually in accordance with 105 CMR 100.310(L).

6. With respect to its commitment to improve detection, screening, or treatment, a report that:
 - a. describes the core set of OPH and ORL measures;
 - b. sets forth established benchmarks; and
 - c. defines quality outcomes over time

Any and all measures shall include baseline measures, measure specifications, and expected benchmarks for these proposed improvements. These reports shall be updated annually in accordance with 105 CMR 100.310(L).

7. At such time as MEEI joins the Holder in contract negotiations with commercial payers, in addition to the Holder's obligation to ensure that its health status adjusted total medical expense does not exceed the health care cost growth benchmark established under M.G.L. c. 6D, §9, the Holder and MEEI will ensure that the contracted rates for MEEI's OPH and ORL services do not increase in any calendar year by any amount that exceeds the Commonwealth's cost growth benchmark for such year. The parties shall annually certify compliance with this section to the Department and provide any requested documentation necessary to assess compliance.

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,

~S~

Nora J. Mann, Esq.
Director
Determination of Need Program

cc: Sherman Lohnes, Director, Division of Health Care Facility Licensure and Certification
Rebecca Rodman, Deputy General Counsel
Samuel Louis, Office of Health Equity
Mary Byrnes, Center for Health Information and Analysis
Steven Sauter, MassHealth
Katherine Mills, Health Policy Commission
Ben Wood, Office of Community Health Planning