



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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December 16, 2019

Daria Niewenhous, Esq.
Member
Mintz, Levin, Cohn, Ferris, Glovsky and Popeo, P.C.
One Financial Center
Boston, MA 02111

VIA EMAIL

RE: Notice of Final Action DoN # PHS-19072212-RE

Dear Ms. Niewenhous:

At their meeting of December 11, 2019, 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 application filed by Partners HealthCare System Inc. for a proposed project at Brigham and Women's/Mass General Health Care Center, Foxborough, consisting of the addition of one MRI and one CT scanner with associated limited renovations. 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, all of which are incorporated herein by reference.

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 DoN Required Equipment for the Proposed Project of \$9,476,208 (July, 2019 dollars) subject to all standard conditions (105 CMR 100.310) and pursuant to 105 CMR 100.360, subject to other conditions listed below. The total required CHI contribution is \$473,810.40.

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 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. More information on reporting will be provided closer

Other Additional Conditions:

In order to demonstrate that Proposed Project will add measurable public health value in terms of improved health outcomes, quality of life, and to further demonstrate the need of the Applicant's Patient Panel, the Holder shall, on a yearly basis:

1. Report on improvement of measures outlined in Attachment 1 (see below).
2. In order to demonstrate appropriate use of both MRI and CT, report on the effectiveness of the Foxborough Center providers' use of the American College of Radiology (ACR) Clinical Decision Support tool "ACR Select – NDSC" for Adult MRI or CT imaging orders (or any subsequent CDS). Holder shall provide, at minimum,
 - a) data showing yearly changes in "low utility" or "marginal utility" CT and MRI orders; and
 - b) percentage of provider response to alerts provided by ACR Select-NDSC (or any subsequent CDS)
3. In order to further demonstrate the need for MRI and CT among Partners' Patient Panel, report on the percentage of orders for CT and MRI coming from Partners' affiliated providers vs. those from any other provider.

CHI Conditions to the DoN

4. Of the total required CHI contribution of \$473,810.40:
 - a) \$45,485.80 will be directed to the CHI Statewide Initiative
 - b) \$409,372.18* will be dedicated to local approaches to the DoN Health Priorities
 - c) \$18,952.42 will be allowable for administrative costs

The Applicant is allowed to utilize up to 10% of the total amount dedicated to the implementation of the local CHI* dollars for evaluation.

5. To comply with the Holder's obligation to contribute to the Statewide CHI Initiative, the Holder must submit a check for \$45,485.80 to Health Resources in Action (the fiscal agent for the CHI Statewide Initiative).
 - a) The Holder must submit the funds to HRiA within 30 days from the date of the Notice of Approval
 - b) The Holder must promptly notify DPH (CHI contact staff) when the payment has been made
6. The Holder shall provide DPH with results of the plan to implement enhanced engagement strategies as described in the Community Engagement Plan Supplement and specific to the Foxborough community within four months of the date of the Notice of Approval.

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).

1. Patient Experience/Satisfaction (Press Ganey)

Overall satisfaction of care provided (**fair or lower only**)

Holder shall Report on the following:

- a) Satisfaction rate for patients receiving MRI and/or CT
- b) Patient response rate with a breakdown of respondents by race
- c) Any policy changes instituted as a result of Holder's evaluation of fair or lower ratings

Holder shall Report on progress in making (ongoing) reductions in

2. Wait Times: Holder shall Report on the following:

Time interval (in days) from when the case was initiated for scheduling in EPIC, to the next available outpatient appointment. Holder shall Report on the following:

- a) Median number of days between ordering elective MRI and imaging test performed.
- b) Median number of days between ordering elective CT and imaging test performed.
- c) Median number of days from the completion of a patient's CT/MRI service at the Foxborough Center to finalization of radiology report
- d) Any policy changes instituted as a result of Holder's evaluation of increasing days

3. Percentage of MRI scans that triggered a critical value alert ("CVA"). Holder shall report on the following:

- a) % of MRI scans that triggered a Level I (red), Level 2 (orange), or Level 3 (yellow) CVA
- b) % of compliance with Holder's policy for response to CVAs
- c) Any policy changes instituted as a result of compliance with the policy
- d) The Holder's most recent policy for (1 hour, 3 hours and 15 days, respectively) for Level 1,2 and 3 CVAs

Holder shall also report on imaging efficiency

4. Imaging Efficiency Measures

As is required for calendar year (CY) 2020 payment determinations, the Holder will report on four [CMS Outpatient Imaging Efficiency \(OIE\)](#) measures that are publicly reported within the Hospital Outpatient Quality Reporting (OQR) Program:

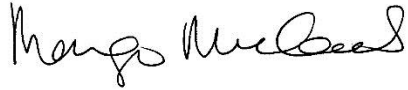
- a) MRI Lumbar Spine for Low Back Pain (OP-8)
- b) Abdomen Computed Tomography – Use of Contrast Material (OP-10)
- c) Thorax CT – Use of Contrast Material (OP-11)
- d) Simultaneous Use of Brain CT and Sinus CT (OP-14)

These publicly reported OIE measures are calculated using data from hospital outpatient claims paid under Medicare's Outpatient Prospective Payment System (OPPS). Since these data are calculated quarterly and reported to CMS yearly, Holder shall report these data on an annual basis, up to the most recent quarter. As will be required for all DoN annual reports, these data are reported 60 days

after the close of a quarter (or December 1, March 1, June 1 and September 1), depending on the due date of said report.

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, 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