



Department of Health

ANDREW M. CUOMO
Governor

HOWARD A. ZUCKER, M.D., J.D.
Commissioner

SALLY DRESLIN, M.S., R.N.
Executive Deputy Commissioner

December 28, 2016

Susan Van der Sommen, Senior Director
Mohawk Valley (Leatherstocking PPS)
Bassett Medical Center
1 Atwell Road
Cooperstown, New York 13326

Dear Ms. Van der Sommen:

On March 11, 2015, the Department of Health (Department), the Office of Mental Health (OMH), and the Office of Alcoholism and Substance Abuse Services (OASAS) were pleased to respond to the request for waivers from certain regulatory requirements submitted by Bassett Medical Center in its capacity as lead for the Mohawk Valley/Leatherstocking PPS under the Delivery System Reform Incentive Payment (DSRIP) Program. In that letter, we notified you that your waiver request 22.02, related to CHHA expansion of service area, required additional review.

Pursuant to Public Health Law (PHL) § 2807(20)(e) and (21)(e) and in connection with DSRIP Project Plans and projects under the Capital Restructuring Financing Program which are associated with DSRIP projects, the Department, OMH, OASAS and OPWDD may waive regulations for the purpose of allowing applicants to avoid duplication of requirements and to allow the efficient implementation of the proposed projects. However, the agencies may not waive regulations pertaining to patient safety nor waive regulations if such waiver would risk patient safety. Further, any waivers approved under this authority may not exceed the life of the project or such shorter time periods as the authorizing commissioner may determine.

Accordingly, the pending regulatory waiver response below is for projects and activities as described in the Project Plan application and any implementation activities reasonably associated with those activities. The regulatory waiver may no longer apply should there be any changes in the nature of a project. It is the responsibility of the PPS and the providers that have received waivers to notify the relevant agency when they become aware of any material change in the specified project that goes beyond the scope of which the waiver was granted. Further, the regulatory waiver approved is only for the duration of the projects for which it was requested.

The approval of regulatory waivers is contingent upon the satisfaction of certain conditions. In all cases, providers must be in good standing with the relevant agency or agencies. Other conditions may be applicable as set forth in greater detail below. The failure to satisfy any such conditions may result in the withdrawal of the approval, meaning that the providers will be required to maintain compliance with the regulatory requirements at issue and could be subject to enforcement absent such compliance.

The specific pending request for regulatory waiver included in the Mohawk Valley/Leatherstocking PPS Project Plan application is addressed below.

22.02 Mohawk Valley 10 NYCRR Part 760 2.b.viii, 3.d.iii, & 3.g.i

Background and justification provided in your request:

The PPS is seeking regulatory waivers for Certified Home Health Agencies (CHHA) listed below to operate outside of their permitted geographic service areas:

1. At Home Care, Inc. (AHC) Certificate of Authorization (COA) No. 3824601 Fac ID # 3912 Regulatory waiver for AHC to operate as a CHHA in Oneida and Madison Counties
2. Community Health Center of St. Mary's Healthcare and Nathan Littauer Hospital (CHC) COA No. 1758601 Fac ID # 3298

The PPS is requesting a regulatory waiver for CHC to operate a CHHA in Oneida County and regulatory waiver for HCR to operate as a CHHA in Oneida, Herkimer and Chenango Counties. Approval will result in the CHHAs as PPS Partners to serve the home health needs of the PPS service area. Ineffective management and care coordination of medically complex patients is a major driver of avoidable hospital use. CHHAs are of significant importance in meeting the needs of the community and cutting reducing costs by preventing avoidable admissions. Follow-up care and coordination after hospital discharge-the cornerstone services provided by a CHHA-are key weapons in meeting the program's goals. The PPS has CHHA partners that currently do not serve the entire PPS geographic area. The CHHAs have the capacity to expand their geographic service areas into the identified counties

Response to waiver request:

Expansion of CHHA service area. Denied. Article 36 of the Public Health Law mandates that service area expansions be based on a need methodology and further be subsequently approved by the Public Health and Health Planning Council (PHHPC). The DSRIP regulatory waiver authority does not permit the Department to waive statutory requirements. However, we recognize that more flexible regulatory models for approval of home and community-based care are essential for the State to achieve its health care system transformation goals. Development of such models are one of the topics being explored by the Department and PHHPC in a series ongoing public meetings. Your input in this process is encouraged and welcome.

In cases where waivers are approved, the agencies will send letters directed to the providers which otherwise would be responsible for complying with the regulatory provisions at issue. Providers further will be advised that agency staff who conduct surveillance activities will be notified that these regulatory waivers have been approved; however, they should maintain a copy of their waiver letters at any site subject to surveillance.

Please note that the Department will continue to publish on its website a list of regulatory waivers that have been approved to assist PPSs in determining whether additional waivers may be appropriate for the activities within a PPS. Additional requests for waivers, as well as any questions regarding the foregoing, may be sent by email to DSRIP@health.ny.gov with Regulatory Waiver in the subject line.

Thank you for your cooperation with this initiative. We look forward to working with you to transform New York's delivery system.

Sincerely,



Howard A. Zucker, M.D., J.D.
Commissioner of Health



Ann Marie T. Sullivan, M.D.
Commissioner
New York State Office of Mental Health



Arlene González-Sánchez
Commissioner
New York State Office of Alcoholism
And Substance Abuse Services