



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

Shawna Craigmile, LCSW, DSRIP Director
UNIVERSITY HSP SUNY HLTH SC
750 East Adams Street
Syracuse, New York 13210

Dear Ms. Craigmile:

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 University Hospital SUNY Health SC in its capacity as lead for the Central New York PPS under the Delivery System Reform Incentive Payment (DSRIP) Program. In that letter, we notified you that your waiver request 8.07, related to Hospice Services, 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 regulatory waiver responses below are 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 Central New York PPS Project Plan application is addressed below.

Background and justification provided in your request:

This regulation states that hospice residences may not be located in an Article 28 facility. The goal of this project is to reduce 30-day readmissions, many of which stem from patients who return to hospitals for pain management. CNYCC has determined that there is a lack of necessary resources and facilities to care for these patients in parts of CNYCC's service area. As a result, this regulation is a barrier to increasing access to hospice care for CNYCC's Medicaid population. A waiver of this regulation to allow the establishment of hospice residences in Article 28 facilities would fill a large gap that currently exists in the continuum of care. Greater access to these services would result in better care and a higher quality of life for the effected Medicaid population. It would also cause a reduction in 30-day readmissions related to pain management, and ED visits generally.

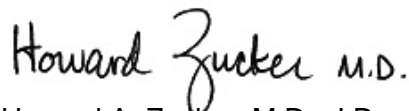
Response to waiver request: Approved. 10 NYCRR 717.4 (a) will be waived contingent on compliance with all hospice residence requirements detailed in Article 40 of the New York Public Health Law. Statute requires an Article 40 hospice in an Article 28 facility to be residential in character and physical structure. Standards for hospice residential standards and physical structure can be found in 10 NYCRR 791, 10 NYCRR 717.4, 10 NYCRR 717.2 and 10 NYCRR 794.6, respectively.

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.

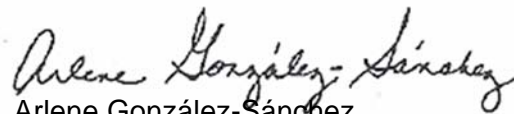
Please note that the Department will continue to publish on its website a list of regulatory waivers that have been approved to assist PPSs in determining whether additional waivers may be appropriate for the activities within a PPS. Additional requests for waivers, as well as any questions regarding 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



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



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