



December 15, 2015

CNY DSRIP Performing Provider System  
Kristen Mucitelli-Heath, DSRIP Director  
University Hospital SUNY Health Systems  
750 East Adams Street  
Syracuse, New York 13210

Dear Ms. Mucitelli-Heath:

The New York State Department of Health (Department), the Office of Mental Health (OMH), and the Office of Alcoholism and Substance Abuse Services (OASAS) are pleased to respond to the request for waivers from certain regulatory requirements, submitted under the Delivery System Reform Incentive Payment (DSRIP) Program. This letter responds to the request submitted by University Hospital SUNY Health Systems, in its capacity as lead for the Central New York Care Collaborative Performing Provider System.

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, and OASAS 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, any regulatory waivers approved herein are for projects and activities as described in the Project Plan application and any implementation activities reasonably associated therewith. Such regulatory waivers 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 for which the waiver was granted. Further, any regulatory waivers approved are only for the duration of the projects for which they were requested.

The approval of regulatory waivers are 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.

Specific requests for regulatory waivers included in the Central New York Care Collaborative PPS Project Plan application are addressed below.

**1 Central New York Care Collaborative 10 NYCRR Part 760, 761.2(b) 2.a.i, 2.a.iii, 2.b.iii, 2.b.iv, 3.a.ii, and 3.b.i**

**Background and Justification submitted in your waiver request:**

Allow CHHAs to expand their service areas in the PPS region to improve continuity of care, expand community-based services, and reduce preventable hospital use. In some cases, the CHHAs that will expand their services are affiliated with hospitals which will improve continuity of care. The waiver will also assure that the PPS can provide home care services across its broad geographic region. The waiver is requested for projects 2.a.i, 2.a.iii, 2.b.iii, 2.b.iv, 3.a.ii, and 3.b.i. As an initial use of the waiver, in order to implement project 2.b.iv to reduce 30-day readmissions and to avoid preventable readmissions generally for other projects, St. Joseph's Hospital Health Center Certified Home Health Care Agency would expand its services to Madison, Cayuga, Lewis, and Oneida counties.

**Response to Waiver Request:**

**CHHA service area expansion.** 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 of ongoing public meetings. Your input in this process is encouraged and welcome.

**2 Central New York Care Collaborative Title 10, Part 405; §405.2(e)(3) and §405.4(c)(5) 2.a.i., 2.a.iii, 2.b.iii, 2.b.iv, 2.d.i, 3.a.i, 3.a.ii. 3.b.i, 3.g.i, 4.a.iii, and 4.d.i**

**Background and Justification submitted in your waiver request:**

Request to streamline the credentialing process within the PPS. This waiver would enable CNYCC to establish a shared credentialing process and standards to: (1) conduct primary source verification; (2) screen for Medicare and Medicaid exclusion; and (3) assure consistent standards to promote quality and patient safety, relying on data available to partner organizations and to the PPS through its own monitoring and data collection. The waiver would reduce the cost and administrative burden of credentialing by partner organizations, and would allow health care professionals to practice in different settings as needed for care coordination without duplicative credentialing.

**Response to Waiver Request:**

**Credentialing.** Approved. The PPS requested a waiver of 10 NYCRR 405.2, for the purpose of allowing the PPS to gather and store credentialing information in a central repository and share such information with PPS providers as appropriate is approved. There must be a

process in place for each provider in the PPS. Each individual practitioner must be privileged by each facility.

**3 Central New York Care Collaborative 10 NYCRR §600.9(c). 2.a.i, 2.a.iii, 2.b.iii, 2.b.iv, 2.d.i, 3.a.i, 3.a.ii, 3.b.i, 3.g.i, 4.a.iii, and 4.d.i**

**Background and Justification submitted in your waiver request:**

Required to ensure that DSRIP-related distribution of revenue and collaborative arrangements among participating providers do not violate this regulation, which prohibits regulated entities from sharing gross income or net revenue with non-established entities. This regulation has been identified as a potential impediment to DSRIP flow of funds. We seek a waiver to ensure that financial agreements or other processes providing for the DSRIP flow of funds among PPS partners for the purpose of DSRIP project execution is permissible. It is important to permit this PPS function in a manner that does not constitute illegal fee-splitting with non-established providers.

**Response to Waiver Request:**

**Revenue Sharing.** Approved. The PPS requested a waiver of 10 NYCRR 600.9(c), pertaining to revenue sharing. The waiver is approved only to the extent that the regulation otherwise would prohibit providers from receiving DSRIP incentive payments distributed by the PPS Lead utilizing the DSRIP flow of funds protocol.

**4 Central New York Care Collaborative 10 NYCRR 710.1(b). 2.a.i, 2.a.iii, 2.b.iii, 2.b.vi, 2.b.iv, 3.a.i, 3.a.ii, 3.b.i, 3.g.i, 4.a.iii, and 4.d.i**

**Background and Justification submitted in your waiver request:**

For all these projects, CNYCC will seek to enhance the exchange of healthcare information to improve care coordination and patient care and reduce preventable hospital admissions. The projects require expanded use of HIT technologies and interoperability, which will require investment in new EHR technologies, outlay of capital and the provision of vendor services. The reason for the waiver request is to relieve the PPS and partner organizations from having to submit new certificate of need applications and receive prior review and approval for HIT acquisition, installation, modification or outlay of capital. We request a waiver because the regulation, as currently constructed, could significantly delay the timeline for activities such as those outlined above and impede CNYCC's ability to meet DSRIP project milestones.

**Response to Waiver Request:**

**HIT Standards.** Approved. The PPS requested a waiver of 10 NYCRR 710.1(b), pertaining to CON review of Health Information Technology (HIT) changes in existing medical facilities. The waiver request is approved to waive the financial review; however, the Department must review each project on a case-by-case basis to ensure IT standards are met. The PPS should contact the Department's Office of Health Information Technology (OHIT) for approval. To do so, please contact: [SHIN-NY@health.ny.gov](mailto:SHIN-NY@health.ny.gov).

In cases where waivers are approved, the agencies will send letters directed to the providers, who otherwise would be responsible for complying with the regulatory provisions at issue. Further, providers 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 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 e-mail to [DSRIP@health.ny.gov](mailto: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  
New York State Department 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