



Department  
of Health

Office of  
Mental Health

Office of Alcoholism and  
Substance Abuse Services

June 11, 2018

David Cohen, M.D.  
Executive V.P., Clinical Affairs & Affiliations  
Maimonides Medical Center  
4802 Tenth Avenue  
Brooklyn, New York 11219

Dear Dr. Cohen:

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 the Maimonides Medical Center Performing Provider System (PPS).

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 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 request for regulatory waiver is addressed below.

## **1 Maimonides 10 NYCCR Part 806 Subpart 86-1.31**

### **Background and justification provided in your request:**

The waiver is needed because the three hospitals are working to consolidate under OBHS. However, a full consolidation is not possible since the grant award is pending. However, the three hospitals are committed to move forward with integration and the waiver would allow them to achieve consistent financial reimbursement for services to Medicaid patients across OBHS. This will be an essential step in achieving the facility restructuring and integration. This stability would allow Kingsbrook Jewish Medical Center, The Brookdale Hospital Medical Center and Interfaith Medical Center to create a more financially integrated system as they work to qualify as a merger, acquisition and consolidation under 10 NYCRR 86-1.31.

The hospitals are requesting that payments be calculated based on the Subpart 86-1 acute-care rates of the hospital with the highest pre-combination rate currently, which is Interfaith Medical Center. This would allow the three hospitals to operate under consistent reimbursement rates while reinforcing the Department's support of the Kings County Transformation Project Grant. Additionally, the hospitals are aware that the State has estimated that a rebasing period is scheduled to occur in July 2018. In light of this waiver request, and the impact that a rebasing period may have in the future, the hospitals are also requesting that the hospital with the highest pre-combination rate at the time of rebasing apply across the three hospitals, which may not be Interfaith's rate at that point. The hospitals will continue to work to be fully consolidated prior to the expiration of any temporary rate adjustment.

### **Response to waiver request:**

**Approved for a rate adjustment for a maximum of 3-years.** It should be noted that if the DSRIP period that provides for a waiver of the regulation ends prior to the end of the 3-year period, the rate adjustment will also end effective as of that date. Therefore, if the hospitals undergo and complete a full asset merger before the end of the DSRIP period, the hospitals will be eligible for a rate adjustment for the full 3-year period. In the event that the three hospitals do not undergo a full asset merger by the end of the DSRIP period and DSRIP ends prior to 3-years from the start of the rate adjustment, the hospitals will revert back to their individual operating components based on the rate year data in effect for statewide hospitals at that time.

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 of Health 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](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 Zucker, M.D.*

Howard A. Zucker, M.D., J.D.  
Commissioner  
New York State Department of Health

*Arlene González-Sánchez*

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

*Ann Marie T. Sullivan, M.D.*

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