



Department
of Health

Office of
Mental Health

Office of Alcoholism and
Substance Abuse Services

July 5, 2018

Millennium Collaborative Care P.P.S.
Elizabeth Thelen
1461 Kensington Avenue
Buffalo, New York 14215

Dear Ms. Thelen:

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 Millennium Collaborative Care 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 that 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 Millennium 10 NYCCR 709.3

Background and justification provided in your request:

We are requesting a waiver for regulation 709.3 in regard to bed need methodology for an eight-bed expansion at GreenField Health and Rehabilitation (GHRC). Of the 50 SNFs in our network, only a handful are deemed “preferred providers” by our largest hospital partners, Kaleida and ECMC. This designation indicates that the facilities have low rehospitalization rates and high-quality ratings per the Nursing Home Compare 5 Star quality system. These facilities receive large amounts of referrals and are now beginning to enter bundled payment agreements with the hospital partners. This high-volume processing results in a strain on available beds and resources in our community to treat and stabilize our vulnerable Medicaid patients who are at risk for hospital and ED use.

Two of Millennium’s DSRIP projects target avoidable ED use: Hospital Home Care Collaborative Solutions (2bviii) and ED Care Triage (2biii). These programs intervene with patients visiting the ED who could have sought treatment in a community setting for their non-emergent concerns. 2biii seeks to connect these patients back to their Primary Care Physician through scheduling appointments and transportation, performing the PAM survey, and educating the patient on appropriate ED utilization. 2bviii seeks to divert patients from the ED back to the community for treatment when appropriate through the use of Home Care and SNF services. In the past, 1,102 patients in WNY had a potentially preventable readmission. With additional beds in the community, we may be able to divert more patients to a high-quality SNF. It is essential that the SNFs we would be diverting to are of high quality and have good documented readmission rates, otherwise we risk the patient not only revisiting the ED, but also be admitted to the hospital if their condition worsens.

Millennium has recently begun facilitating region-specific networks of providers working together to improve specific measures including overutilization of the ED in WNY. Working with PC sites to encourage direct admission into a SNF for stabilization when appropriate is one of the potential solutions being worked through. These direct admissions require bed availability in the community, which amongst our high-quality providers is limited. Primary Care providers will need to collaborate with community providers who can assist in the stabilization of patients in the community (when appropriate) and coordinating this care in an effective, proactive manner to avoid the impending hospital/ED visit.

It’s important to note and address the sharp rise we will see in our 65+ population. In Erie and Wyoming Counties, we will see 24,273 more residents enter this new age bracket, an increase of 14.7%. GHRC is in the middle of five zip codes with the fastest growing population of those 65+ in the next five years. As need methodology by county in regulation section 709.3 is from a projection for 2016, this will not meet the bed need today or by 2020 (data obtained from NYS SPARCS). ECMC projected an increase of inpatient stays and ED visits for 2017. With a rapidly aging population, we need more community resources for those residents who would require 24-hour skilled care to meet the goals by 2020 and beyond. The double-digit percentage growth in surgical volume at ECMC will also necessitate the need for greater community resources. As the population requires post-acute care, the INTERACT project, which is also implemented and successful at GHRC will help to ensure that patients aren’t readmitted after they are discharged to the community. GHRC has partnered with other DSRIP organizations such as CHHAs with the common goal of re-hospitalization reduction, and have had a very low observed readmission rate of 4.51% for calendar years 2015-2016.

Wyoming County currently has two SNFs and an unmet projected need of 161 beds. We predict this will grow as programs offering more efficient community-based care increase. As GHRC is the closest and highest rated nursing home in Erie County to Wyoming County and Wyoming County Community Hospital (WCCH), it would be most effective to allow for the waiver and the expansion of beds. WCCH had a significant rise in ED visits from 2015 to 2016, and projections for 2017 continue to show an increase. As the county is currently under-bedded with an aging population, additional skilled nursing beds could help offset many resulting

inpatient admissions. In addition, surgical cases at WCCH are increasing, with a projected increase of 119% over 2015/2016. Orthopedic and Inpatient surgeries are also on the rise, further lending credence to the need for this waiver for GHRC.

Response to waiver request:

Bed Need Methodology. Denied. The request to waive 10 NYCRR 709.3 for an eight-bed expansion at GreenField Health and Rehabilitation (GHRC) is denied. The Department uses a 97% threshold occupancy to indicate a need for more beds in any given county. Erie and Wyoming counties have an overall average nursing home occupancy rate of 92% and 91%, respectively. This leaves an average of 477 vacant beds in both counties. The Department has looked into Millennium Collaborative Care PPS's network capacity, even within the network's nine identified "preferred providers," which have an average of 81 vacant beds, and found there is sufficient vacancy to undertake this project. Furthermore, the impact of this waiver on DSRIP outcomes is questionable given DSRIP Year 4 has already begun and construction is needed prior to bed availability.

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.

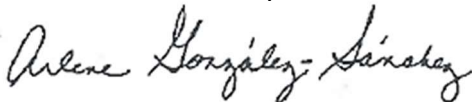
Please note that the Department will continue to publish on its website a list of regulatory waivers that have been approved to assist PPSs in determining whether additional waivers may be appropriate for the activities within a PPS. Additional requests for waivers, as well as any questions regarding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

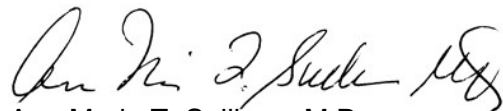
Sincerely,



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