

IN RE: New York Society for the Relief of the Ruptured and Crippled, Maintaining the Hospital for Special Surgery

DOCKET NUMBER: 12-31780-CON

AGREED SETTLEMENT

On or about August 13, 2012, New York Society for the Relief of the Ruptured and Crippled, maintaining the Hospital for Special Surgery ("HSS or the "Applicant") submitted a certificate of need ("CON") application to the Office of Health Care Access ("OHCA") seeking approval to acquire a 1.5 Tesla Magnetic Resonance Imaging ("MRI") unit to be located in Stamford, Connecticut with an associated capital expenditure of \$3,245, 583.

The application was filed under Docket No. 12-31780-CON. On September 20, 2013, OHCA issued its Final Decision denying the Applicant's CON application. On or about October 15, 2013, HSS filed an administrative appeal in the Superior Court for the Judicial District of Stamford-Norwalk at Stamford bearing Docket No. FST-CV-13-6020149-S. By order of the Superior Court, this appeal was transferred to the Tax and Administrative Appeals Session of the Superior Court for the Judicial District of New Britain bearing Docket No. HHB-CV-13-6022722-S (hereinafter the administrative appeal is referred to as, "Docket No. HHB-CV-13-6022722-S").

Wherefore, HSS and OHCA sought to resolve the issues raised under Docket No. HHB-CV-13-6022722-S and entered into good-faith settlement discussions in order to avoid the continued expense of litigation;

Wherefore, HSS's original proposal sought to acquire an MRI scanner to serve its own patients who are commercially insured or who privately pay for services received; HSS now proposes to acquire an MRI scanner to serve all Connecticut residents, including Medicaid recipients and the uninsured;

ORDER

NOW, THEREFORE, OHCA and the Applicant, HHS, hereby stipulate and agree to the terms of settlement with respect to the Applicant's request to acquire a 1.5 Tesla MRI unit to be located in Stamford, Connecticut with an associated capital expenditure of \$3,245, 583:

1. HHS's request to acquire a 1.5 Tesla MRI unit to be located in Stamford, Connecticut with an associated capital expenditure of \$3,245, 583 is **approved**.
2. HSS shall ensure that there is equal access to the MRI service located in Stamford to all patients, including Medicaid recipients and the uninsured;
7. HSS shall apply to the Connecticut Medicaid program and make all efforts to comply with the requirements of participation;

8. HSS shall institute the same Financial Assistance Program at its Connecticut site that is in place at its main campus in New York. Currently under this program, uninsured patients with income levels below 500% of the U.S. Health and Human Services Poverty Guidelines will be eligible for a discounted patient bill. In addition, insured patients may be eligible for discounts toward their copayments, deductibles and other fees depending on income and reasonably available assets;
9. HSS shall establish clinic sessions to provide additional physician services at its Connecticut site for Medicaid recipients and the uninsured to improve the accessibility of services for this patient population;
 - a. Clinic sessions shall run two days per month.
 - b. Clinic sessions shall be staffed by fully credentialed Medical Doctors employed by HSS.
 - c. All services available during private sessions shall be available during clinic sessions and shall be subject to the same quality standards applicable at all HSS locations.
 - d. Clinic patients shall have access to all HSS services.
10. Availability of the aforementioned services to Medicaid and uninsured patients at HSS's Connecticut site shall be communicated to area health care providers, including community based health centers. HSS shall accept referrals for:
 - a. Musculoskeletal MRI services at its Connecticut site from local health care providers as needed; and
 - b. Other specialized musculoskeletal services available during clinic sessions from local health care providers, community based health centers or other sources as needed.
11. HSS shall allocate or block not less than one-third of its Connecticut MRI appointment slots to Connecticut residents;
12. Appointments for MRI services at the Connecticut site shall be scheduled on a "first come, first served" basis, regardless of referral source or payer. If wait times consistently exceed one week, strategies for expanding capacity (e.g. extending hours of operation) shall be considered;
13. HSS shall take all practical steps to achieve a payer mix that includes 10% Connecticut Medicaid and 2% uninsured patients for its Connecticut MRI service within the first year of operation, including but not limited to outreach efforts described in 9 and 10 above. HSS shall provide a plan detailing the foregoing steps to be taken within sixty (60) days of the execution of this settlement. HSS shall report such payer mix to OHCA at the end of its first year of operation and if this threshold is not met, HSS shall work with OHCA

to re-evaluate its outreach initiatives and develop strategies to increase utilization by Connecticut Medicaid and uninsured patients;

14. HSS shall implement educational and community outreach programs in the communities served by its Connecticut site. Implementation efforts shall include the following:
 - a. Establishing a Community Service Committee, led by HSS with representation from local Connecticut communities as well as partnering organizations, i.e. Stamford Hospital, community based health centers, local school systems, consumers, etc.;
 - b. Conducting a community needs health assessment in the catchment area around the Connecticut site within the first six months of operation and providing the results of the needs assessment to OHCA within thirty (30) days of completion;
 - c. Identifying community partners that work with the underserved;
 - d. Developing select programs to be offered to address the needs identified in the community needs health assessment, i.e., wellness classes, lectures, etc., either independently or in partnership with local providers (e.g. Stamford Hospital) based upon the results of the community needs health assessment;
 - e. Distributing publications via regular mail and/or electronically to the community, i.e., Health Connection newsletter; Health Connection Fast Facts;
 - f. Considering extension of existing HSS community outreach programs to the Connecticut service areas, as needed, based on the community needs health assessment. Programs may include, but are not limited to:
 - i. The Leon M. Root, MD Pediatric Outreach Program (POP).
 - ii. SNEAKER© (Super Nutrition Education for All Kids to Eat Right).
 - g. HSS community outreach programs shall include free health screening programs, including free musculoskeletal screening and education sessions to be offered at least quarterly; and
 - h. Include the Connecticut communities served by the Connecticut site within the HSS eAcademy consumer/patient programs, i.e., live streaming, webinars, etc.

15. HSS shall provide continuing professional/medical education on musculoskeletal magnetic resonance imaging to providers in the Connecticut service areas as follows:
 - a. HSS shall provide educational conferences on musculoskeletal magnetic resonance imaging targeted to at least the two following groups:
 - i. Program for Radiologists
 - ii. Program for Technologists
 - b. Conferences shall include education on musculoskeletal magnetic resonance imaging software, applications and best practices developed by HSS in collaboration with GE Healthcare.
 - c. Conferences shall be provided to meet demand but occur no less frequently than annually.

- d. HSS shall communicate the availability of its fellowship programs to Connecticut Radiology Residency programs and encourage application to these fellowship programs.
16. HSS shall seek to fill any additional non-medical doctor positions created as a result of the relocation and expansion of its Old Greenwich office to Stamford (approximately 25 positions) with qualified Connecticut residents;
17. Reporting to OHCA shall be required for a period of five (5) years following the opening of the Connecticut site. HSS shall immediately report to OHCA the date that the project has become fully implemented and the MRI service operational at the Connecticut location. This date shall be considered the implementation date for reporting purposes;
18. HSS shall provide documentation to OHCA evidencing acceptance within the Connecticut Medicaid Program in accordance with Condition 7. Such documentation shall be filed within thirty (30) days of approval as a Connecticut Medicaid provider;
19. HSS shall provide documentation to OHCA evidencing that HSS has provided notice to providers of its participation in the Connecticut Medicaid Program, in accordance with Condition 7 above. Such documentation shall be filed within thirty (30) days of approval as a Connecticut Medicaid provider;
20. The following shall be filed with OHCA within sixty (60) days subsequent to the one year anniversary of the implementation date for a period of five (5) years:
 - a. A report of the quality data on patient outcomes regarding HSS MRI Service Integration during the past operating year, including:
 - i. Report on the use of contrast for non MRI Angiography and report on comparison of the repeat studies where the base study from the outside institution used contrast ,
 - ii. Report on the number of repeat studies where it was determined that the outside study was not adequate for diagnosis,
 - iii. Summary of research findings from clinical practice studies (findings will also be incorporated into community based education for local radiologists where appropriate), and
 - iv. Hospital wide publicly reported measures enabled by HSS integrated care which includes MRI (readmission rates, surgical site infection rates, etc.);
 - b. The number of Connecticut Medicaid recipients and uninsured utilizing the clinic sessions during the past operating year, in accordance with Condition 9 above;

- c. Quantification of the discounts provided through the Financial Assistance Program for the approved site during the past operating year in accordance with Condition 8 above. The information shall be provided as both a dollar amount and a volume figure (i.e., the number of scans for which a discount was provided);
- d. A description of, as well as the frequency of, the free health screening programs during the past operating year and the area providers involved, in accordance with Condition 9 above;
- e. A description of, as well as the frequency of, educational sessions held during the past operating year and the topics discussed, in accordance with Conditions 14 and 15 above;
- f. A summarization of the collaborative efforts and the discussions with area hospitals and providers during the past operating year, in accordance with Condition 14 and 15 above;
- g. A summary of communication to Connecticut Residency programs regarding HSS's Fellowship programs, in accordance with Condition 15 above;
- h. The names of the radiologists from or licensed in Connecticut who participated in and completed the magnetic resonance imaging fellowship during the past operating year, in accordance with Condition 15 above.
- i. A listing of the positions, both employed or under contract, at the Connecticut site for the past operating year and the State in which the individuals that hold the listed positions, reside;
- j. A listing of the community needs identified and the community benefit activities undertaken during the past operating year, in accordance with Condition 14 above;
- k. A copy of the Community Service Plan Report, including a summary of Community Service Committee activities and a summary of completed and planned health screening and education activities during the past operating year, in accordance with Condition 14 above;
- l. Annual magnetic resonance utilization data based on number of scans shall be provided by zip code and by payer type. This data shall be filed in the following table format in Excel:

| Zip Code | Medicare | CT Medicaid | Other States' Medicaid | Other Government (CHAMPUS & Tricare) | Commercially Insured | Uninsured | Workers Compensation | Total for Zip Code |
|----------|------------|-------------|------------------------|--------------------------------------|----------------------|------------|----------------------|--------------------|
| 06001 | # of scans | # of scans | # of scans | # of scans | # of scans | # of scans | # of scans | # of scans |
| 06002 | # of scans | # of scans | # of scans | # of scans | # of scans | # of scans | # of scans | # of scans |
| ##### | # of scans | # of scans | # of scans | # of scans | # of scans | # of scans | # of scans | # of scans |

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| ##### | # of scans | # of scans | # of scans | # of scans | # of scans | # of scans | # of scans | # of scans |
| ##### | # of scans | # of scans | # of scans | # of scans | # of scans | # of scans | # of scans | # of scans |
| Total for CT zip codes | # and % | # and % | N/A | # and % | # and % | # and % | # and % | N/A |
| Total for other states zip codes | # and % | | # and % | # and % | # and % | # and % | # and % | N/A |
| Total all zip codes | # and % | # and % | # and % | # and % | # and % | # and % | # and % | N/A |

m. Annual MR utilization data based on number of scans shall be provided by zip code and by diagnostic category. This data shall be filed in the following table format in Excel:

| Zip Code | Diagnostic Category | Diagnostic Category | Diagnostic Category | Diagnostic Category | Diagnostic Category | Diagnostic Category | Diagnostic Category | Diagnostic Category |
|----------|---------------------|---------------------|---------------------|---------------------|---------------------|---------------------|---------------------|---------------------|
| 06001 | # of scans | # of scans | # of scans | # of scans | # of scans | # of scans | # of scans | # of scans |
| 06002 | # of scans | # of scans | # of scans | # of scans | # of scans | # of scans | # of scans | # of scans |
| ##### | # of scans | # of scans | # of scans | # of scans | # of scans | # of scans | # of scans | # of scans |
| ##### | # of scans | # of scans | # of scans | # of scans | # of scans | # of scans | # of scans | # of scans |
| ##### | # of scans | # of scans | # of scans | # of scans | # of scans | # of scans | # of scans | # of scans |

n. Other reporting as reasonably required by OHCA.

21. OHCA and HSS agree that this settlement represents a final agreement between the OHCA and HSS with respect to Docket No. 12-31780-CON. The execution of this settlement resolves all objections, claims and disputes, which may have been raised by HSS with regard to Docket Number 12-31780-CON;

22. HSS hereby agrees to withdraw its administrative appeal filed under Docket No. HHB-CV-13-6022722-S within two (2) business days of the execution of this settlement and provide evidence thereof to OHCA.

23. OHCA may enforce this settlement under the provisions of Conn. Gen. Stat. §§ 19a-642 and 19a-653 with all fees and costs of such enforcement being the responsibility of HSS; and

24. This settlement shall be binding upon HSS and its successors and assigns.

Signed by Louis Shapiro, President & CEO
(Print name) (Title)

12/23/13
Date

[Signature]
Duly Authorized Agent for
New York Society for the Relief of the Ruptured and
Crippled, maintaining the Hospital for Special Surgery

The above Agreed Settlement is hereby accepted and so ordered by the Department of Public Health Office of Health Care Access on December 26, 2013.

[Signature]
Lisa A. Davis, MBA, BSN, RN
OHCA Commissioner