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March 22, 2019

VIA E-MAIL AND REGULAR MAIL

James C. Buck, Esquire
Gallagher, Evelius & Jones, L.L.P.
218 North Charles Street, Suite 400
Baltimore, Maryland 21201

Re: Request for Exemption from Certificate of Need Review
Consolidation of University of Maryland Harford Memorial Hospital and University of Maryland Upper Chesapeake Medical Center

Dear Mr. Buck:

Maryland Health Care Commission staff has reviewed the modified request of University of Maryland Upper Chesapeake Medical Center ("UCMC") and University of Maryland Harford Memorial Hospital ("HMH") for an exemption from Certificate of Need ("CON") review for the proposed merger and consolidation of HMH with UCMC. Based on its review of the information contained in this request, staff has the following questions and requests for additional information or clarification:

The Charity Care Policy

1. Based on the information submitted, it is not possible to determine whether your charity care policy is in compliance with the "Determination of Probable Eligibility" subpart of this standard (COMAR 10.24.19.04(C)(5)(a)(i)). Describe how this determination is made, and what information is required in order to convey probable eligibility (as contrasted with what is required to make final determination.[1]

[1] Note that the standard requires a two-day turnaround for a determination of probable eligibility, which allows a patient to know their likely eligibility for charity care without having to retrieve documentation that might not be readily available. As long as there is a simple procedure to assess probable eligibility, it is acceptable for the facility to require documentation prior to granting a final determination of eligibility.

If your review of your process and application forms do not comply with this standard, please revise it to do so.

2. You did not address the distribution of your charity care public notice (COMAR 10.24.19.04(C)(5)(a)(ii)). Please provide a copy of this public notice and describe how you will disseminate it to your service area population on an annual basis.

Bed Need

3. Looking at this exemption request along with the requested FMF exemption yields an increase of 39 observation beds (see table below).

	HMH today 2017	UCMC Today 2017	Total Today 2017	HMH future	UCMC future	Psych Hospital, Future	FMF future	System total in 2024	Change
MSGA beds	50	137	187	0	182	0	0	182	-5
Psych beds	26	0	26	0	0	40	0	40	+14
OBs beds	16	46	62	0	77	0	24	101	+39

In essence, the FMF replacing HMH increases observation beds by 50% over the facility it is replacing; meanwhile UCMC is proposing to increase observation beds by 67%. Between the two facilities, Upper Chesapeake is proposing a total increase of 63%. Staff has not been able to find a justification for this increase. Please explain.

4. The FY2022 projected changes in discharges and patient days in Table F appear significant. Please explain the methodology and/or rationale that resulted in the following projections.

   a) Pediatric discharges increase by 15.1% in (121 vs. 105).
   b) Observation discharges increase by 8.2%, with a significant 54.2% increase in patient days from FY2021 (29,041 vs. 18,830).
   c) Psychiatric discharges increase by 4% and patient days increase by 32.7%.
   d) Total discharges increase by 4% and patient days increase by 17.5%, which is inconsistent with the historical data and trend line in the county.

5. The exemption request states (p. 41) that: "a … dedicated observation unit provides… for focused attention…from admission to the observation unit through discharge, thereby minimizing unnecessary testing and ultimately reducing lengths of stay." We understand this point but have the following questions:

   a) Is there any data or literature that you can cite to substantiate that statement?

b) The applicant's LOS projection does not reflect a belief in this statement (i.e., current LOS is 1.0 and projected LOS is 1.5). Why not? It seems that the assumed observation LOS should be reduced in a way that would reduce the projected need for observation beds. Please explain.

6. Table 12 shows 12,694 total MSGA discharges in FY2022, but totaling the number from Table F equals 12,590. Which is correct? Please provide an updated Table F that reflects the correct total.

7. Please explain the 1.5 day increase in observation ALOS (Table 20, p. 26) assumed in your projection. In particular, if the FMF admits observation patients, any that are transferred to UCMC at 48 hours would be admitted as inpatients due to the Medicare two day rule, so that should not impact observation ALOS at UCMC.

   Assumedly, significant efficiencies should be gained as patients are transferred from a dedicated observation unit to an inpatient unit, freeing up observation beds, and turning them over for use by other observation patients.

   While it is incorrect to "double count" an observation patient that stays in a bed as an inpatient, (p. 25), a dedicated observation unit does allow "double use" of the observation bed, where patients will need to be moved when transferred to inpatient status. This should eliminate the need to inflate ALOS in the observation unit. Please respond to the following:

   a) The projection model presented does not appear to account for this increase in efficiency in use of rooms from turnover. Won't this reduce the total need of observation beds, i.e. you get to "double count" some of the observation beds, because more than one patient can be in the bed per day due to turnover?

   b) Conversely, if the projection model used is correct, then wouldn't it be in the public interest to only approve approximately 51 inpatient beds, (77 requested divided by 1.5), and take advantage of the fact that the same bed, when used for the observation and inpatient stays, is more efficient, since there won't be a need to impose an inflation factor for double counting hours, as described on page 25 in Table 19?

   c) The request (p. 3) states, "...the net increase in observation capacity does not account for MSGA (beds) used presently at both UCMC and HMH for patients in observation status or for time patients spend in observation after 12:00a.m. on the day they are admitted as inpatients." By building the number of dedicated observation beds in the model, isn't it likely that UCMC will have too many MSGA beds since observation patients will no longer be occupying those beds as observation patients?

Adverse Impact on Charges

8. Describe where UM UCH is in the process of negotiations with HSCRC regarding its GBR proposal.

Cost Effectiveness

9. No cost estimates are provided for the five alternative approaches to expansion of UCMC (p. 28-32). But the applicant's "analysis" of the options refers to a "review of the cost and benefits of the available options."

   Provide a more comprehensive discussion of the "costs and benefits" of the alternatives considered. Explicitly discuss the effectiveness of each alternative in terms of the project's key objective – providing the sufficient space needed to provide the inpatient services that will no longer be available at HMH after its conversion to an FMF. The assessment should compare and contrast the particular effectiveness of providing more bed space, given that this is essentially the only need directly addressed by the chosen Option 1A, with respect to the conversion of HMH.

Efficiency

10. Please list examples of the operational efficiencies that will be gained by consolidating the inpatient services of the two facilities in one location.

11. Please explain why creating dedicated observation units is a more efficient than expanding inpatient units that can be used flexibly as either observation beds or inpatient beds?

Patient Safety

12. The observation rooms proposed to be built at UCMC are designed as semiprivate, in contrast to those proposed at the FMF, which would all be private rooms. The rationale for private observation rooms at the FMF is that private rooms result in better infection control and lower infection rates, reduced recovery time for patients, greater privacy for patient-provider communications, and enhanced patient and family experience. In light of that and the fact that private rooms are becoming the industry standard, please explain the decision to make the observation beds at UCMC semi-private.

Shell Space

13. The potential use of the proposed shell space is only vaguely described and not compellingly justified ("UCMC also proposes to construct one floor of shell space to

accommodate future growth of the Kaufman Cancer Center's diagnostic and treatment services and/or additional future inpatient or observation needs").

a) Define the most likely use of the proposed shell space with more clarity, and specify the likely time frame in which that would occur.
b) Describe the current diagnostic and treatment services housed in the Kaufman Cancer Center.
c) Describe the proportion of capacity at which each of those services are operating.
d) Given the significant increase of observation beds being proposed in this exemption request, the fact that projected county demographics are stable, and declining inpatient use rates, how likely is the need for this space to materialize?

Please submit four copies of your responses within ten working days of receipt. Also submit the response electronically, in both Word and PDF format, to Ruby Potter (ruby.potter@maryland.gov). If additional time is needed to prepare a response, please let me know at your earliest convenience.

As with the request itself, all information supplementing the request must be signed by person(s) available for cross-examination on the facts set forth in the supplementary information, who shall sign a statement as follows: "I hereby declare and affirm under the penalties of perjury that the facts stated in this application and its attachments are true and correct to the best of my knowledge, information, and belief."

Should you have any questions regarding this matter, please contact me at (410) 764-8782.

Sincerely,

Eric N. Baker, Program Manager
Certificate of Need
Health Care Facilities Planning & Development

cc: Lyle E. Sheldon, President and CEO, UM Upper Chesapeake Health System
Russell Moy, M.D., Acting Health Officer, Harford County
Kevin McDonald