

December 26, 2017

Cassandra B.Y. Tomarchio
Commissioner/Reviewer
Maryland Health Care Commission
4160 Patterson Avenue
Baltimore, Maryland 21215

Re: Anne Arundel Medical Center Mental Health Hospital
Application for Certificate of Need
Docket No. 16-02-2375

Dear Commissioner Tomarchio:

On behalf of Baltimore Washington Medical Center, Inc. ("UM BWMC"), I write to provide brief comments on the Applicant's Response to Health Services Cost Review Commission Questions, submitted on December 11, 2017.

Specifically, UM BWMC wishes to emphasize its concern that the special psychiatric hospital proposed by Anne Arundel Medical Center ("AAMC") might in the future be treated as an Institution of Mental Disease ("IMD") for purposes of the IMD exclusion rule applicable to federal Medicaid reimbursement for adult patients. Under current law, an IMD is defined as "a hospital, nursing facility, or other institution of more than 16 beds, that is primarily engaged in providing diagnosis, treatment, or care of persons with mental diseases, including medical attention, nursing care, and related services." 42 U.S.C. § 1396d(i). Thus, an inpatient psychiatric unit in AAMC, an acute general hospital, would not be subject to the IMD exclusion, but the new facility AAMC proposes would be an IMD if it expanded by a single bed.

In response to Question No. 4, AAMC reiterated its prior commitment that it will not seek to expand its bed capacity beyond 16 beds unless Maryland is granted a waiver of other relief from the IMD exclusion. To date, there is no lasting solution to the IMD exclusion, and without a Certificate of Need ("CON") condition requiring Commission approval to expand bed capacity, there would be no legal restriction to prevent the hospital from becoming an IMD. In particular, under COMAR § 10.24.01.03E(2), a special hospital may expand bed capacity by the lesser of 10 percent or 10 beds every two years. If the proposed hospital became an IMD, it may not be in a position to care for adult Medicaid patients, leaving other hospitals, including UM BWMC, to care for those patients.

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As explained in previous submissions, UM BWMC urges that the most efficient and cost-effective alternative for the proposed project is for AAMC to add bed capacity within its existing acute general hospital. Moreover, this option would not implicate the IMD exclusion rule at all. However, in the event the Commission determines to approve the proposed project as a stand-alone special hospital, the Commission should impose a condition to require Commission approval before the facility may expand its bed capacity.

Thank you for your continued consideration of this matter.

Sincerely,



Thomas C. Dame

cc: Paul E. Parker, Director, Center for Health Care Facilities
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