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December 12, 2024

Commissioner  
Alaska Department of Health and Social Services  
3601 C Street, Suite 902  
Anchorage, AK 99503

RE: Request for Determination That Certificate of Need Review is Not Required

Dear Commissioner Hedberg:

In accordance with 7 AAC 07.031(a)(3)(B), please accept this letter as a formal request to determine that a certificate of need is not required under AS 18.07.031 for Foundation Health Partners, LLC (FHP) to replace a Magnetic Resonance Imaging modality (MRI) located in its Fairbanks Imaging and Breast Center (FIBC). The replacement of the MRI in the FIBC is a routine replacement and therefore is excluded from the type of expenditure that requires certificate of need review. The routine replacement of the obsolete MRI at FIBC is necessary to continue to meet the needs of the patients in the community and provide quality healthcare services in the communities served by FHP.

As part of FHPs operations, medical equipment is routinely replaced due to expired service warranties, contractual agreements and normal lifespan terminations. The MRI at issue (Siemens Avanto, Serial # 400-171914) was originally purchased in May 24, 2005. As of December 31, 2021, the lifespan of the MRI has substantially elapsed and the service warranties are reaching expiry. Due to the high imaging demands from the community, and the importance of a scanner with up-to-date technology, FHP needs to replace the MRI imminently. The proposed replacement modality will be a Siemens Magnetom Vida. The replacement MRI will neither increase current technological capacity, nor will it result in a change in the scope of services offered at the FIBC. It will simply allow FIBC to maintain current patient needs and meet patient expectations at contemporary best-care standards.

Under Alaska law, a person may not make an expenditure unless authorized under the terms of a certificate of need issued by the department. AS 18.07.031. "Expenditure" expressly does not include costs associated with routine maintenance and replacement of equipment at an existing health care facility. Id. at (e). "Routine replacement of equipment" is defined under 7 AAC 07.900 (34) as the "customary, ordinary, or usual replacement of worn out, broken, or obsolete equipment." Id. at (A). "Routine replacement of equipment" does not include replacement of medical equipment that increases the technological capacity of the equipment or facility, so long as the increase does not result in a change in the scope of services that are being provided. Id. at (B).

A determination that no CON is required for this routine replacement is supported by prior decisions of the Alaska Department of Health and Social Services (Department). On August 14, 2008, the Department determined that a CON was not required for South Peninsula Hospital to replace its then-current MRI with a 1.5 Tesla MRI with a cost estimate between \$1.8 and \$1.9 million. That determination was based on the fact that the replacement was a routine replacement of equipment as defined in AS 18.08.031(e) and that there was no planned increase in MRI services.

Applying Alaska law to the facts as set forth, the replacement of the MRI at the FIBC is not an expenditure under AS 18.07.031 because these costs are associated with the replacement of equipment which is obsolete. Much like the South Peninsula Hospital decision described above, since the current MRI at FIBC has reached its end-of-life, the MRI is obsolete and therefore falls under the definition of routine replacement of equipment such that a certificate of need is not required.

Pursuant to the requirements of 7 AAC 07.031 highlighted below, the following is a description of each component to replace the MRI:

- **Clear, complete, and current description of the proposed activity, including a description of each component of the activity proposed to be undertaken;**
  - FHP is proposing to replace the obsolete MRI in its FIBC with a new MRI. The project will consist of a relocation of the MRI space (see proposed future state floor-plan below), and modest associated construction to buildout the new shell space, including lead shielding and structural modifications to ensure the new space can accommodate the installation and operation of the new MRI. The construction includes replacing the existing door with a wider door, cutting and trenching the concrete floor to allow a revised arrangement of the cable and cooling line, the addition of a condensate drain for the new MRI, the addition of an overhead monitor, camera, and patient lift, renovations to the MRI control room, to add an observation window, the addition of a faucet with automatic control, and the addition of oxygen/suction. Lastly, the existing chillers will be evaluated and connected to extend existing piping to provide chilled water for the replacement MRI.
- **Certified estimate of the total cost of each proposed component of the proposed routine replacement;**
  - MRI Shell Space Buildout Design costs:
    - MRI Shell Design/Construction Documents \$318,042
    - Construction Administration \$16,200

(MRI Shell Design Total \$334,242)

- Equipment Costs:

- MRI: \$1,474,204
- Patient Lift: \$ (estimate) – n/a
- IT Integration: \$ (estimate) – n/a

- Chiller Design/Construction Documents\*:

- Chiller Design/Construction Documents: \$12,200 (included in MRI Shell Design Cost)
- Construction Administration: \$1,800 (included in MRI Shell Design Cost)

(Chiller Design Total: \$14,000)

\*Chiller construction costs are included in MRI Shell Design Costs

- MRI Shell Space Buildout Construction Costs (proposal): \$2,854,958

- **Estimated starting date and completion date for the routine replacement.** The estimated starting date will be March 1, 2025. The estimated date for completion of the routine replacement is May 11, 2025.

Based upon the above information, we respectfully request you confirm our understanding that a CON review is not necessary for the replacement of the MRI at FIBC. FHP is not adding additional MRIs, but rather is replacing an obsolete machine in order to maintain current patient capacity and continue to meet the needs of the Fairbanks community. Please let me know if you need additional information in order to expedite this request for determination.

If you have any questions about this request for determination, please contact Joanna Kanayurak at (907) 987-6232. The above information is certified as true and correct as of the date of this letter.

Sincerely,



Shelley D. Ebenal, CEO