



State of New Jersey
DEPARTMENT OF HEALTH
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Governor

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SHEREEF M. ELNAHAL, MD, MBA
Commissioner

October 5, 2018

VIA ELECTRONIC AND FIRST-CLASS MAIL

Michael McGovern
Kessler Hudson County Rehabilitation, LLC
300 Market Street
Saddle Brook, NJ 07763

Re: Kessler Hudson County Rehabilitation,
LLC-Bayonne
CN# ER160507-09-28
Total Project Cost: \$7,438,083
Expiration Date: October 5, 2023

Dear Mr. McGovern:

Please be advised that the Department of Health (Department) is approving Kessler Hudson County Rehabilitation, LLC's (KHCR) expedited review certificate of need (CN) application submitted on May 16, 2016, pursuant to N.J.A.C. 8:33-5.1 (b) 2, for the establishment of a comprehensive rehabilitation hospital at CarePoint Health-Bayonne Medical Center (Bayonne). KHCR is a joint venture between Kessler Institute for Rehabilitation, Inc. and CarePoint Health. KHCR was formed for the purpose of owning and operating the inpatient comprehensive rehabilitation unit at Bayonne. The Department has determined that this application will have only a minimal impact on the health care system as a whole, since the applicant has simultaneously submitted a separate CN application (ER160508-09-28) to acquire all of Meadowlands Hospital Medical Center's (Meadowlands) 30 comprehensive rehabilitation beds (CRBs).¹ Therefore, the approval of this application through the expedited review CN process will substitute KHCR at Bayonne as a comprehensive rehabilitation provider in lieu of Meadowlands. Thus, approval of these two applications will not increase either the number of CRBs providers in Hudson County, or the number of CRBs. This application is being offered at the total project cost noted above.

As to the specifics of this application, the Department notes that in identifying those services that are subject to expedited review, the Department chose services that would have a minimal impact on the health care system as a whole and, therefore, for which a statistical bed need methodology would not be necessary. Since the

¹ This application, designated as "CN# ER160508-09-08" has been approved by the Department in conjunction with this approval.

Department has determined that approval of this application would simply substitute KHCR at Bayonne as a comprehensive rehabilitation provider in Hudson County in lieu of Meadowlands, the Department has also determined that this project will have minimal impact on the health system as a whole, and it is therefore appropriate to consider this application on an expedited basis pursuant to N.J.S.A. 8:33-5.1(b)2.

N.J.S.A. 26:2H-8 provides for the issuance of a CN only where the action proposed in the application for such certificate is necessary to provide required health care in the area to be served, can be economically accomplished and maintained, will not have an adverse economic or financial impact on the delivery of health services in the region or statewide, and will contribute to the orderly development of adequate and effective health care services. In making such determinations, the Department must take into consideration: a) the availability of facilities or services which may serve as alternatives or substitutes; b) the need for special equipment and services in the area; c) the possible economies and improvement in services to be anticipated from the operation of joint central services; d) the adequacy of financial resources and sources of present and future revenues; e) the availability of sufficient manpower in the several professional disciplines, and f) such other factors as may be established by regulation.

The Department has reviewed the application under the standards set forth at N.J.S.A. 26:2H-8 and has made the following determinations: the Department believes that the criterion regarding the availability of facilities or services which may serve as alternatives or substitutes is resolved by the Department's determination that this approval constitutes a substitution of KHCR at Bayonne as a comprehensive rehabilitation provider in Hudson County in lieu of Meadowlands. Therefore, the need for these beds has already been determined. Since these beds were already approved, the substitution will have a minimal impact on the health care system as a whole (N.J.S.A. 26:2H-8(a)). The need for sufficient special equipment and services in the area is met since, again, the need for these beds has already been determined by the prior approval to Meadowlands (N.J.S.A. 26:2H-8(b)). KHCR will realize economies of scale from the operation and sharing of joint central services, as KHCR will be one of several healthcare facilities in New Jersey with common ownership (N.J.S.A. 26:2H-8(c)). The Department believes this project can be economically accomplished and maintained, as the applicant projects a positive net income by the end of the second year of operation (N.J.S.A. 26:2H-8(d)). It is also noted that, while additional professional staff will be required to accommodate the implementation of this comprehensive rehabilitation hospital, the Department is confident that there is sufficient professional staff available in the area to meet those staffing needs (N.J.S.A. 26:2H-8(e)).

Finally, as set forth at N.J.S.A. 826:2h-8(f), the Department has taken into consideration the applicable regulations for the services subject to expedited review (i.e., N.J.A.C. 8:33-5.3). The Department finds that KHCR has provided an appropriate project description, which includes information as to the total project cost, operating costs and revenues, services affected, equipment involved, source of funds, utilization statistics, and justification for the proposed project (N.J.A.C. 8:33-5.3(a)1); and documentation that it will meet appropriate licensing and construction standards

(N.J.A.C. 8:33-5.3(a)3i). In addition, KHCR ownership has demonstrated a track record of substantial compliance with the Department's licensing standards (8:33-5.3(a)3ii).

Pursuant to the criteria set forth at N.J.A.C. 8:33-5.3(a)2, Department staff has determined that there will not be an adverse impact on the ability of either the general population currently being served or the medically underserved in accessing inpatient comprehensive rehabilitation beds as a result of the relocation of previously approved 30 comprehensive rehabilitation beds from Meadowlands to KHCR beds in Hudson County.

An additional review by the Department may be necessary if there is any change in scope, as defined at N.J.A.C. 8:33-3.9. However, a change in cost of an approved Certificate of Need is exempt from further review subject to the following:

1. The applicant shall file a signed certification as to the final total project cost expended for the project at the time of the application for licensure for the beds/services with the Certificate of Need and Healthcare Facility Licensure Program.
2. Where the actual total project cost exceeds the Certificate of Need approved total project cost and is greater than \$1,000,000, the applicant shall remit the additional Certificate of Need application fee due to the Certificate of Need and Healthcare Facility Licensure Program. The required additional fee shall be 0.25 percent of the total project cost in excess of the Certificate of Need approved total project cost.
3. The Department will not issue a license for beds/services until the additional fee is remitted in full.

As you are aware, N.J.A.C. 8:43G-5.2(c) states "The hospital shall not deny admission to patients on the basis of their inability to pay." CRBs have been on the general hospital license of Meadowlands and had been subject to the aforementioned regulation. In order to continue the same access to care for the uninsured and underserved population, KHCR is required to continue uninterrupted compliance with N.J.A.C. 8:43G-5.2(c), following the establishment of KHCR at Bayonne and the implementation of CRBs from Meadowlands to Bayonne. This condition shall apply to all licensed comprehensive rehabilitation beds acquired by KHCR and located at Bayonne. Please send your written acceptance of this condition within 10 days of your receipt of this approval letter.

Please be advised that this approval is limited to the proposal as presented and reviewed. The application, related correspondence, and any completeness questions and responses are incorporated and made a part of this approval. Any approval granted by this Department relates to CN and/or Licensing requirements only and does not imply acceptance by a reimbursing entity.

The Department, in approving this application, has relied solely on the facts and information presented to us. The Department offers no opinion as to whether the facility's ownership or business organization is in compliance with the Codey Act, Board of Medical Examiners administrative rules, or federal anti-referral (Stark) and anti-kickback laws. We have not undertaken an independent investigation of such information. If material facts with respect to this application have not been disclosed or have been misrepresented, the Department may take appropriate administrative regulatory action to rescind the approval or refer the matter to the Office of the New Jersey Attorney General.

Finally, regardless of any management agreement addressing the operation of the facility between the licensee and any other entity, the licensee is responsible for financial, operational and management control. All health services provided by the facility and the revenue generated by a facility from providing these health services are the responsibility of the licensee.

This approval is not intended to preempt in any way any municipality's authority to regulate land use within its borders and shall not be used by you to represent that the Department has made any findings or determination relative to the use of any specific property. Finally, please be advised that services may not commence until such time as the Certificate of Need and Healthcare Facility Licensure Program has issued a license.

Please be advised that CRBs and services may not be operated until a functional review of the preferred physical plant area where bed/services are to be located has occurred, a licensing application has been submitted and approved and a license to operate has been issued by the Certificate of Need and Healthcare Facility Licensure Program. A survey by Department staff will be required prior to the commencing any of the bed services approved herein. You will need to contact a representative from the Division of Health Facility Survey and Field Operations at (609) 292-9900 to discuss this matter.

We look forward to working with you and helping you to provide a high quality of care to your residents. If you have any questions concerning this Certificate of Need or licensure of the additional beds, please do not hesitate to contact Mr. John A. Calabria, Director, Certificate of Need and Healthcare Facility Licensure, at (609) 292-8773.

Sincerely,



Marcela Ospina Maziarz, MPA
Deputy Commissioner
Health Systems

c: John A. Calabria (Electronic Copy)