



Saint Agnes Medical Center

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VIA EMAIL AND FEDERAL EXPRESS

February 22, 2016

Wendi A. Horwitz
Deputy Attorney General
State of California Department of Justice
300 South Spring Street, Suite 1702
Los Angeles, CA 90013

Dear Ms. Horwitz,

Please allow this to serve as a request by Saint Agnes Medical Center ("**SAMC**"), pursuant to Title 11 of the California Code of Regulations, section 999.5, subdivision (h), to modify certain conditions set forth in the "Conditions to Change in Governance of Saint Agnes Medical Center and Approval of Consolidation Agreement among Trinity Health Corporation, Catholic Health East, and CHE Trinity, Inc." dated April 26, 2013 (the "**Consent Letter**").¹

Pursuant to section 999.5(h)(2), a "request for an amendment shall include a description of each proposed amendment, a description of the change in circumstance requiring each such amendment, a description of how such amendment is consistent with the Attorney General's consent or conditional consent to the transaction, and a description of the efforts of the entity making the request to avoid the need for amendment."

I. **Description of Amendment**

A. **Background**

Condition VII of the Consent Letter requires SAMC to sustain a specified category of cost (charity care cost, as defined by OSHPD) at a specified dollar amount, escalating with the CPI, for six (6) fiscal years starting April 30, 2013 (the "closing date of the Consolidation Agreement") and ending June 30, 2018. This requirement arose from the consolidation of operations between Trinity Health Corporation of Livonia, Michigan and Catholic Health East of Newtown Square, Pennsylvania (Trinity Health Corporation was the corporate member of SAMC). Specifically, Condition VII states that if SAMC does not incur the specified cost in the specified

¹ In this Letter, "Consolidation Agreement" means that certain Consolidation Agreement dated January 11, 2013 by and among Trinity Health Corporation, an Indiana nonprofit corporation, Catholic Health East, a Pennsylvania nonprofit corporation, and CHE Trinity, Inc., an Indiana nonprofit corporation. The "closing date of the Consolidation Agreement" was April 30, 2013. Trinity Health Corporation was the sole member of Saint Agnes Medical Center at the time of the Consent Letter.

amount, then SAMC must pay cash equal to any "deficiency" to some other similarly situated entity.²

For Fiscal Year 2013 (April 30, 2013 - June 30, 2013), the Minimum Charity Care Amount was identified in the Consent Letter as \$6,792,442.00. Your letter of March 3, 2014 stated SAMC's Annual Financial Disclosure Report to OSHPD indicated a Charity Care amount of \$9,627,959.00. You indicated this amount exceeded the pro-rated Minimum Charity Care Amount.

For Fiscal Year 2014, you calculated the Minimum Charity Care Amount as \$6,903,158.80. The SAMC Annual Financial Disclosure Report to OSHPD indicated a Charity Care amount of \$8,357,336.00, which exceeded the Minimum Charity Care Amount.

For Fiscal Year 2015, the Minimum Charity Care Amount is calculated as \$6,979,093.55. On February 1, 2016, SAMC submitted its Annual Financial Disclosure Report to OSHPD which indicates charity care provided in the amount of \$4,891,702.00, which is less than the Minimum Charity Care Amount by \$2,087,391.55.³

B. Request to Modify Minimum Charity Care Amount

Regarding the Minimum Charity Care Amount, and for reasons as hereinafter set forth, SAMC submits that it is not equitable for its level of charity care to be judged by a threshold determined in 2013, given implementation in 2014 of the Affordable Care Act and Covered California. SAMC therefore requests modification of the threshold to a measure that is more reasonable, yet still preserves the State's interest in maintaining a commensurate level of charity care to the central valley community served by SAMC.⁴

C. Proposed Calculation to Modify Minimum Charity Care Amount

Given the unforeseen impact of the Affordable Care Act on charity care costs, SAMC proposes that the Minimum Charity Care Amount in Condition VII be modified for Fiscal Year 2015 and thereafter (the "Request") in the following manner:

² See Consent Letter, Section VII.

³ For obvious reasons, SAMC's stated Cost to Charge ratio and Charity Care amount for FY 15 remain subject to audit by OSHPD.

⁴ On December 16, 2015, following a telephone conversation and email communications between you and I, SAMC submitted a withdrawal of its first request for modification to facilitate your extended leave, and indicated at that time that it would resubmit its request no earlier than the week of January 25, 2016. You indicated any resubmittal of a modification request should include "24 months of data for charity care charges and the charity care cost-to-charge ratio as defined by OSHPD." You further advised that data for the time period regarding the increase in Medi-Cal costs and revenue and third party payors should be included. You also asked for information regarding SAMC's charity care policy, and whether SAMC has made any changes to the policy. SAMC has endeavored to respond to each of these requests.

1. Using Fiscal Year 2013 as a "baseline", determine the number of FY13 Uninsured Inpatient Discharges, and also the number of FY13 Uninsured Outpatient Encounters.
2. Next, calculate the FY13 Charity Cost per Inpatient Discharge, and the FY13 Charity Cost per Outpatient Encounter. (Note that this calculation would be according to the methodology used by the California Office of Statewide Health Planning and Development ("OSHPD") for annual hospital reporting purposes.)
3. Next, perform the following calculation:

$$\begin{array}{r} \text{FY13 Charity Cost per Inpatient Discharge} \\ \times \quad \frac{\text{FY 15 Uninsured Inpatient Discharges}}{\text{Charity Cost Target-Inpatient}} \\ \hline \\ \text{FY13 Charity Cost per Outpatient Encounter} \\ \times \quad \frac{\text{FY15 Uninsured Outpatient Encounters}}{\text{Charity Cost Target-Outpatient}} \\ \hline \end{array}$$
5. Last, add "Inpatient Charity Cost Target" and "Outpatient Charity Cost Target" to determine a "Minimum Charity Cost Target".

The Minimum Charity Cost Target would be applicable for SAMC's Fiscal Year 2015 and subsequent Fiscal Years pursuant to the Consent Letter, and the Consumer Price Index escalator identified in the Consent Letter could be applied for the years following FY15. Exhibit A to this letter illustrates the foregoing and results in a Minimum Charity Cost Target of \$3,853,796.

II. Description of Changed Circumstances Requiring Amendment & Efforts to Avoid the Need for Amendment: The Impact of the Affordable Care Act was Unforeseeable.

The shifting of costs from charity care to Medi-Cal is being ascribed to an increase in the number of patients who were previously uninsured but now qualify for Medi-Cal coverage arising from implementation of the Affordable Care Act in 2014. The information in Schedule 1 on the following page is taken from OSHPD quarterly reports submitted by SAMC during the 2013, 2014 and 2015 calendar years, and is reflective of this shift in costs of service from the uninsured to patients with Medi-Cal coverage. Note the commercial allowances remain relatively stable during the period following ACA passage:

SCHEDULE 1

	CY2013	CY2014	CY 2015
Uninsured IP Discharges	554	170	85
Uninsured OP Encounters	15,500	12,144	10,605
Total Charity Adjustments	\$52,901,690	\$25,783,788	\$12,256,828
Medi-Cal IP Discharges	5,868	6,101	6,728
Medi-Cal OP Encounters	60,770	64,027	68,897
Total Medi-Cal Charges	\$330,847,717	\$395,744,586	\$478,933,876*
Total Third Party Charges	\$407,594,031	\$402,307,911	\$396,189,520*
			* = 9 months annualized

This Letter is consistent with regulations at Title 11, chapter 15, Section 999.5(h)(1), which states an entity may request approval of any amendment of the terms and conditions of any agreement or transaction for which the Attorney General has given consent or conditional consent, based solely on "a change in circumstances that could not have reasonably been foreseen at the time of the Attorney General's action."

The impact of the Affordable Care Act on charity care and Medi-Cal service costs is, most certainly, a "change in circumstances that could not have reasonably been foreseen at the time of the Attorney General's action." The MDS Report did not and could not foresee or discuss the impact that the Affordable Care Act would have on SAMC, i.e. decreasing its charity care service costs and increasing its Medi-Cal service costs. SAMC has no control over the Affordable Care Act and its impact on SAMC's charity care and Medi-Cal service costs.

III. Community Benefit Services (Condition VIII)

Condition VIII of the Consent Letter requires SAMC to sustain a level of costs identified as "Community Benefit Services" at a specified amount, escalating with the CPI, for six fiscal years ("Minimum Community Benefit Services Amount"). If the actual amount of community benefit services for any fiscal year is less than the applicable Minimum Community Benefit Services Amount, SAMC must pay cash equal to any "deficiency" to one or more tax-exempt entities that provide community benefit services for residents in SAMC's service area.

Regarding the Minimum Community Benefit Amount, SAMC is not requesting an amendment to the Consent Letter. Rather, SAMC has revised its projected amount of Community Benefit to include pastoral care expenses incurred by SAMC in the amount of \$491,159, resulting in a total Community Benefit amount of \$3,309,010 for fiscal year 2015.

V. General Issues

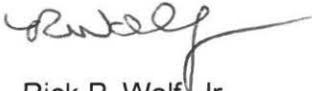
As set forth above, on February 1, 2016, SAMC submitted its Annual Financial Disclosure Report to OSHPD for Fiscal Year 2015. The report has not yet been audited by OSHPD.

Wendi Horwitz, Deputy Attorney General, CA DoJ
February 22, 2016
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Thank you for your consideration of this Request. Please know Saint Agnes Medical Center has demonstrated and remains committed to providing a robust level of charity care and Medical services to patients at levels consistent with the principles embodied in the Consent Letter.

If you need additional information, please contact me at (559) 450-3020, or at rick.wolf@trinity-health.org.

Sincerely,

A handwritten signature in black ink, appearing to read "Rick Wolf", with a long horizontal flourish extending to the right.

Rick P. Wolf, Jr.
Secretary and General Counsel
Saint Agnes Medical Center

Attachments: Exhibit A

Exhibit A

	FY13⁵	FY15⁶
Uninsured volumes:		
Inpatient Discharges (A)	528	135 (J)
Outpatient Encounters (B)	7,093	3,707 (K)
Charity expense:		
Inpatient (C)	\$16,100,486	
Outpatient (D)	\$18,834,055	
Cost to charge ratio (E)	27.61%	
Charity Costs (aggregate):		
Inpatient (F = C x E)	\$4,445,344	
Outpatient (G = D x E)	\$5,200,082	
Charity Cost per:		
Inpatient Discharge (H = F/A)	\$8,419	
Outpatient Encounter (I = G/B)	\$733	
Charity Cost Target-Inpatient (L = H x J)		\$ 1,136,565
Charity Cost Target-Outpatient (M = I x K)		\$ 2,717,231
FY15 Minimum Charity Cost Target (L+M)		\$ 3,853,796

⁵ See SAMC FY13 OSHPD Report, Pg. 4.1, col. (20), lines 35, 105; pg. 12 col. (17) & (18), line 430

⁶ See SAMC FY15 OSHPD Report, Pg. 4.1, col. (20), lines 35, 105