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COMMENT: Opposition to the Proposed Policy TE-4

DATE: July 17, 2020

Good afternoon. My name is David French. I am a healthcare consultant speaking in opposition to Proposed Policy TE-4. I'd like to share my comments to add to the discussion of the unintended consequences of Policy TE-4.

Using the Standard Methodology, the Proposed State Plan identifies the 2021 MRI Need Determinations and concludes, in Table 17E-3 on page 352, with this statement:

**“It is determined that there is no need anywhere else in the state and no other reviews are scheduled.”**

Yet, Proposed Policy TE-4 would contradict that conclusion by allowing even more MRI CON reviews in 2021.

What you may not realize is that there are **seven** MRI Need Determinations forecasted for the 2021 State Plan throughout the State.

The Standard Methodology shows MRI Need in two of the multi-County service areas including the combined Service Area for Buncombe, Graham, Madison and Yancey Counties as well as the combined Service Area for Pasquotank, Camden, Currituck and Perquimans Counties.

There is also a Need Determination in Stanly County, in central North Carolina east of Charlotte.

And, on top of those, several large urban Counties in North Carolina have a 2021 MRI Need Determination, including:

Mecklenburg;

New Hanover;

Orange; and

Wake Counties.

These seven MRI need determinations are the most that have been included in a Proposed State Medical Facilities Plan in more than ten years.

Contrary to what is suggested by the Agency Report, providers in these Counties are not “unable to apply.” Proposed Policy TE-4 is addressing a problem that does not exist.

In contrast to the standard MRI methodology, the Proposed Policy TE-4 could add an unlimited number of *noncompetitive reviews*.

Noncompetitive CON reviews would give applicants a “free pass” because there will be no comparisons of proposals to ensure equitable access to services for Medicaid, charity care and low-income persons. There has been no discussion of imposing minimum standards for payor percentages for Policy TE-4 applicants.

The Policy would fail to promote quality of care because there are no minimum standards for staff training or MRI safety training nor any time limits on a new MRI provider obtaining accreditation. No information or discussion has been provided regarding MRI interpretation and physician supervision.

The Policy would fail to promote cost effectiveness because the CON Section will be unable to conduct an analysis to compare applicants on costs and charges. There has been no discussion of imposing standards for costs and charges for Policy TE-4 applicants.

Policy TE-4 was presented without the requisite Petition – it was introduced with no discussion of how it will impact access, quality of care and value. Do the Basic Principles of the SMFP even apply to Policy TE-4 applications?

Policy TE-4 sets no limits on the number of additional MRI scanners that could be approved. The Agency Report suggested many “qualified applicants” could potentially apply. These same applicants could enter new contracts and rely on combined volumes to submit multiple TE-4 CON applications over several years. This is unlike Policies TE-1, TE-2 and TE-3 that limited the number of “qualified applicants,” preventing repeated use of the policies by the same applicants year after year.

Furthermore, Policy TE-4 does not restrict “providers” from later becoming “vendors” by later entering into services agreements to provide MRI service to others.

Policy TE-4 fails to consider that physician groups and imaging centers that are potential TE-4 CON applicants can be acquired by other entities because the acquisition of healthcare facilities is not regulated by CON. And, applicants qualify under Policy TE-4 by contracting with an “unrelated person,” which is an undefined term.

Policy TE-4 erroneously assumes that increasing the number of provider-owned MRI scanners in certain Counties would push vendor-owned MRI scanners out to other service areas. There is no data to support this assumption because it has never happened in the past.

The unintended consequence of Policy TE-4 would be an unjustified increase in the number of MRI scanners, far exceeding *bona fide* MRI need determinations. The most likely consequence of Policy TE-4 will be that excess capacity will cause newly approved MRI scanners to fail to achieve their operational and financial projections.

Thank you for your consideration.