



UNC Hospitals' Comments in Opposition to Atrium Petition for Adjusted Need Determination to Add One Linear Accelerator for Service Area 7 to 2021 State Medical Facilities Plan

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In response to a special needs petition filed by Atrium Health ("Atrium") to include an adjusted need determination in the 2021 State Medical Facilities Plan (SMFP) for an additional linear accelerator in Service Area 7, UNC Hospitals submits the comments below and requests that the SHCC deny Atrium's request. In the alternative, and in the event the SHCC approves the petition, UNC Hospitals requests that a linear accelerator also be added to the 2021 SMFP for Service Area 14.

UNC Hospitals understands that Atrium desires additional linear accelerator capacity, and it can relate to the frustration of being just shy of triggering a need for an additional linear accelerator based on the standard methodology outlined in the SMFP. Just as Atrium describes, UNC Hospitals faces a similar challenge to maintain sufficient linear accelerator capacity to provide treatment to all of our patients in need of care, and to provide sufficient access to allow patients to be treated close to home.

However, the rules outlined in the SMFP and the standard methodology for linear accelerators exists for a reason – to provide uniformity and predictability in health planning, and to assure an equal playing field and a single set of rules for all radiation oncology providers in the state. There is great benefit in retaining uniformity in application of the methodology across the state, which also controls healthcare costs by avoiding unnecessary duplication. Adherence to the standard methodology in the SMFP is supported by the primary tenets of the CON law as set forth in N.C. Gen. Stat. § 131E-175.

Simply put, Atrium has not demonstrated or sufficiently explained why these rules should not apply in Service Area 7. However, if Atrium's petition is approved, UNC Hospitals would request that the same adjustment be made in Service Area 14, because the same rationale outlined in Atrium's petition supports an additional linear accelerator there as well.

Criteria for Linear Accelerators in SMFP

As provided in the SMFP, to prove community need for an additional linear accelerator, a service area must meet two of three principal criteria. Those three criteria can be summarized by asking the following questions:

1. Using 6,750 procedures (ESTVs) per linear accelerator per year as the benchmark, is there a deficit of 0.25 or more linear accelerators in the service area?
2. Is the population of the service area greater than 120,000 per accelerator?
3. Does the patient origin data show that more than 45% of the patients come from outside the service area?

Simply put, Atrium does not meet any of the three need criteria. If Atrium met two of these three criteria, there would be a need determination in Service Area 7. If Atrium met one of the three criteria, it would need to seek a special needs adjustment. In this case, and based on the information provided by Atrium itself, it meets none of the three criteria in the standard need methodology.

The first aspect of the methodology calculates the number of linear accelerators needed in a service area by dividing the total ESTVs by 6,750, and then subtracting the number linear accelerators in the service area. The result of the calculation must be greater than or equal to 0.25 to generate a need determination. The calculation Atrium provides in its petition for Service Area 7 demonstrates that it does not meet the first criterion.

$$75,342 \text{ ESTVs} / 6,750 = 11.16 - 11 = 0.16$$

Even if this were the correct calculation, the 0.16 falls below the 0.25 threshold and thus the linear accelerators in Service Area 7 are not quite well utilized enough to meet this criterion.

However, based on the data in the Proposed 2021 SMFP (which is based on 2020 LRA data), the numbers Atrium uses for the calculation are not correct. Based on the Proposed 2021 SMFP, there are 75,340 ESTVs and a total of 12 linear accelerators in the service area. Thus, the relevant calculation for utilization under the first prong of the methodology is actually:

$$75,340 \text{ ESTVs} / 6,750 = 11.16 - \mathbf{12} = \mathbf{-0.84}$$

Instead of showing a slight deficit of linear accelerators in the service area as Atrium suggests, there is actually a surplus. Quite simply, Atrium cannot meet the first criterion in the need methodology which requires sufficient utilization of existing linear accelerators in the area.

As to the second criterion, the population of Service Area 7 is not greater than 120,000 per accelerator. Atrium points out that the population of Service Area 7 has shown growth over the past five years with a 1.7% CAGR. However, the need methodology does not use population growth as a factor and instead looks at actual population to determine when an additional linear accelerator will be needed. Using the data that enters the need methodology, the population per accelerator of Service Area 7 is 116,607, which again falls short of the population threshold in the methodology.

Finally, to meet the third criterion, the patient origin data must show that more than 45% of the patients come from outside the service area. In Service Area 7, only 20.38% of patients come from outside the service area. Again, Atrium does not meet the third criterion in the need methodology.

As a result of these simple calculations, based on the well-constructed and consistently applied methodology for linear accelerators in the SMFP, Service Area 7 simply does not meet any of the three required criteria necessary to trigger the need for another linear accelerator. If Atrium met two out of these three criteria, there would be an additional linear accelerator in the 2021 SMFP for Service Area 7 and it could apply to meet that need. But, because Atrium does not meet the criteria, and because the rules should not be bent just because a provider is “close” to meeting the criteria, there should not be an additional linear accelerator added to the 2021 SMFP for Service Area 7.

The long-term consequences of approving Atrium’s petition go beyond simply the addition of a single linear accelerator to a single service area. Instead, an approval would serve as an example that the rules and standard methodologies contained in the SMFP do not have to be followed and do not apply equally to all; instead the message would be that you just have to be “close” to meeting the thresholds instead of actually meeting them. As an example, Service Areas 12, 14, 17 are all close to meeting certain thresholds in the methodology. Providers in these service areas, including UNC Hospitals, would all have similar arguments that linear accelerators should be added to the SMFP, even though the need hasn’t been triggered by the standard methodology. If the petition is approved, and it is enough to be “close” to the thresholds in the SMFP, the rules and methodologies in the SMFP will become meaningless.

Atrium’s Bases for the Request Support an Additional Linear Accelerator for UNC Hospitals

UNC Hospitals understands Atrium’s position of desiring another linear accelerator, because UNC Hospitals has also been in the position of desiring an additional linear accelerator for years. As explained above, UNC Hospitals believes the petition should be denied and the standard methodology enforced. But if the SHCC approves the Atrium petition and adds a linear accelerator for Service Area 7, then in the alternative UNC Hospitals respectfully requests that a similar adjustment also be made to add a linear accelerator to Service Area 14.

Atrium relies on four criteria to support its argument for another linear accelerator. All factors also support UNC Hospitals’ need for another linear accelerator, as outlined below. This analysis demonstrates that Atrium is not uniquely situated in being “close” to triggering the need for another linear accelerator. Based on Atrium’s own alternative analysis, UNC Hospitals would also request that a linear accelerator be added to Service Area 14. The following four factors mirror Atrium’s analysis:

1. Population growth in in the service area.
2. Growth in the number of linear accelerator treatments.
3. High utilization of the existing UNC Hospitals linear accelerators in the service area.
4. Utilization fell just short of required volume to demonstrate need from the methodology.

1. Population Growth in the Service Area

Atrium relies on population growth in Service Area 7, but Service area 14 is also rapidly growing.

| County | Historical Population | | | | | 2015-2019 |
|------------------------------|-----------------------|----------------|----------------|----------------|----------------|-------------|
| | 2015 | 2016 | 2017 | 2018 | 2019 | CAGR |
| Orange | 141,596 | 143,264 | 143,264 | 143,873 | 145,910 | 0.6% |
| Chatham | 69,853 | 70,981 | 74,538 | 76,383 | 76,264 | 1.8% |
| Total Service Area 14 | 211,449 | 214,245 | 217,802 | 220,256 | 222,174 | 1.0% |

Source: NC OSBM

NC OSBM data shows the service area grew at a compound annual growth rate (CAGR) of 1.0 percent from 2015-2019. The future projections indicate an even higher CAGR of 1.2 percent from 2020 to 2025.

| County | Projected Population | | | | | | 2020- |
|------------------------------|----------------------|----------------|----------------|----------------|----------------|----------------|-------------|
| | 2020 | 2021 | 2022 | 2023 | 2024 | 2025 | 2025 |
| Orange | 148,610 | 150,125 | 151,640 | 153,151 | 154,663 | 156,174 | 0.8% |
| Chatham | 77,713 | 79,436 | 81,156 | 82,877 | 84,596 | 86,317 | 1.8% |
| Total Service Area 14 | 226,323 | 229,561 | 232,796 | 236,028 | 239,259 | 242,491 | 1.2% |

Source: NC OSBM

2. Growth in the number of linear accelerator treatments

UNC Hospitals has also experienced significant growth in linear accelerator treatments.

| Year | FFY17 | FFY18 | FFY19 | FFY20 | FFY21 | 5 Year CAGR |
|-------------------------------|--------|--------|--------|--------|--------|-------------|
| Number of Linear Accelerators | 6 | 6 | 6 | 6 | 6 | |
| ESTV's per accelerator | 5,327 | 6,016 | 6,564 | 6,371 | 6,820 | |
| ESTV's | 31,962 | 36,095 | 39,384 | 38,228 | 40,917 | 5.1% |

The growth in the last five years is the equivalent of one linear accelerator worth of procedures. During this time there have been no additional linear accelerators added in Service Area 14. This level of growth will continue to challenge the ability of the existing linear accelerators at UNC Hospitals to meet the demand and demonstrates the need for additional linear accelerator capacity in the service area.

3. High utilization of existing UNC Hospitals linear accelerators in Service Area 14

Looking at the data for UNC Hospitals linear accelerators, utilization is consistently high and is growing.

| Year | FFY17 | FFY18 | FFY19 | FFY20 | FFY21 | 5 Year CAGR |
|------------------------|--------|--------|--------|--------|--------|-------------|
| ESTV's | 31,962 | 36,095 | 39,384 | 38,228 | 40,917 | |
| ESTV's per accelerator | 5,327 | 6,016 | 6,564 | 6,371 | 6,820 | 5.1% |

There is a 5.1% growth of linear accelerator utilization since 2017 in Service area 14. By 2021, UNC Hospitals is projected to exceed the 6,750 ESTV / linear accelerator standard.

4. Utilization very close to required volume to demonstrate need

Using the final factor analyzed by Atrium, UNC Hospitals is also extremely close to the threshold for needing an additional linear accelerator. Based on the calculation, UNC Hospitals already has a deficit of 0.06 linear accelerators:

$$40,917 \text{ ESTVs} / 6,750 = 6.06 - 6 = 0.06$$

If the total ESTVs for Service Area 14 had been only 1,271 higher, there would be a need determination for another linear accelerator in the 2021 SMFP as shown below.

$$42,188 \text{ ESTVs} / 6,750 = 6.25 - 6 = 0.25$$

This difference of only 1,271 ESTVs is less than 3 percent of all procedures in the service area. If there are any exceptions to be made, it should also be made for UNC Hospitals based on the tiny margin by which UNC Hospitals fell shy of the benchmark in the methodology.

In sum, the same factors that Atrium relies on for a special needs adjustment for Service Area 7 support the adjustment for Service Area 14.

Summary

Based on the evidence and analysis presented above, UNC Hospitals believes that Atrium's petition must be denied. If Atrium's petition is granted, it would create a very slippery slope for the SHCC in evaluating special needs petitions when providers do not meet the stated criteria, but are instead very close. However, if Atrium's petition is granted and the SHCC allows an alternative analysis to supplant the standard need methodology, UNC Hospitals requests that an adjustment to the need determination likewise be made to add a linear accelerator in Service Area 14.