

Agency Report

Single Specialty Ambulatory Surgery Center Demonstration Project Adjusted Need Determination Petitions

OR Petitioners:

1. Atlantic Orthopedics, PA
3787 Shipyard Boulevard
Wilmington, NC 28403
Richard Truax, Executive Director
(910) 763-2361
2. Blue Ridge Bone & Joint Clinic
Paul Saenger, MD, President
Stefan Magura, CEO
129 McDowell Street
Asheville, NC 28801
(828) 281-7129
smagura@brbj.com
3. Ancillary Care Solutions
Cary Edgar
6900 East Camelback Road, Suite 850
Scottsdale, AZ 85251
Telephone: 480-824-1561
cedgar@ancillarycaresolutions.com
4. Southern Surgical Center, LLC
Paul L. Burroughs III, MD
3410 Executive Drive
Raleigh, NC 27609
919-872-5296
5. North Carolina Orthopaedic Association
P.O. Box 27167
Raleigh, NC 27611

Carroll Jones, MD
OrthoCarolina
1001 Blythe Blvd Suite 200
Charlotte NC 28203

Greensboro Orthopaedics
1401 Benjamin Parkway
Greensboro, NC 27408

Orthopedic and Hand Specialists
2718 Henry St
Greensboro, NC 27405

Stephan Magura
Chief Executive Officer
Blue Ridge Bone & Joint
129 McDowell Street
Asheville, NC 28801
6. Affordable Health Care Facilities, LLC
944 19th Avenue NW
Hickory, North Carolina 28601
(828) 310-9333
bob@medcapllc.com

Requests:

1. *Atlantic Orthopedics, P.A.:* include the New Hanover and Brunswick County service area in the Single Specialty Ambulatory Surgery Demonstration Project in the 2010 State Medical Facilities Plan (SMFP).
2. *Blue Ridge Bone & Joint Clinic:* include in the 2010 North Carolina State Medical Facilities Plan support of a demonstration project for a single specialty, two operating room, orthopedic ambulatory surgical facility in Buncombe County.
3. *Ancillary Care Solutions:* include in the 2010 SMFP support of a demonstration project for a single specialty ambulatory surgical facility located in and to serve the residents of Catawba and Burke counties.

4. *Southern Surgical Center, LLC*: amend the Single Specialty Ambulatory Surgery demonstration project criteria to include the following:
 - Sites must bill as a freestanding Ambulatory Surgery Center, which is not licensed as part of a hospital or other Medicare Part A provider.
 - This lower cost solution should be a permanent feature of the facility.
 - While the current criteria gives “priority” to physician owned enterprises, we still think hospitals should be excluded as applicants.
 - The CON application should include letters of support from surgeons with an existing case volume, and not rely on projections. At least 2,000 cases and letters of support from surgeons who have completed these cases should be included.
 - Physicians should be required to “offer” Emergency Room coverage.
5. *North Carolina Orthopaedic Association, et al*: make the following changes to the Single Specialty Ambulatory Surgery demonstration project:
 - Add the following language to the need determination, “Each single specialty ambulatory surgery demonstration project facility shall include two surgical operating rooms and no more than two non-gastrointestinal procedure rooms.”
 - Change the criteria “Demonstration projects are encouraged to provide open access to physicians.” Replace this with “Applicants are required to provide the proposed medical staff bylaws and the written criteria for extending medical staff privileges at the facility.”
 - Add the following criteria, “Applications for the demonstration projects shall provide a calculation of projected savings based on the difference between the Medicare reimbursement ASC (ambulatory surgical center) rates and the HOPD (Hospital Outpatient Department) rates using the specific procedure codes and projected volumes for the proposed project. Projects with the higher projected per case savings are more cost-effective than projects with less cost savings.”
 - Include the following: “Facilities will provide annual reports to the Agency showing the facility’s compliance with the demonstration project criteria in the State Medical Facilities Plan. The Agency may specify the reporting requirements and reporting format. The Agency will perform an evaluation of each facility...”
 - Add the following statement, “The annual report form for the demonstration project single specialty ASCs will either be included in the 2010 State Medical Facilities Plan or contained in the administrative rules that will be promulgated prior to 2010 CON reviews for the demonstration projects.”
6. *Affordable Health Care Facilities, LLC*: revise the Single Specialty Ambulatory Surgery Demonstration Project in the following manner:
 - Permit organizations located in geographic areas in North Carolina, other than the “Charlotte Area,” “Triad,” and “Triangle” to submit pilot demonstration CON applications.
 - Do not limit the number or type of pilot demonstrations so that a true assessment of improvements in quality, access, and value can be determined in a variety of communities, not limited to the most populous ones in the State of North Carolina.
 - In order to address the concern of rural hospitals and the continued fragility of our nation’s health care system in rural areas, the pilot demonstration counties should be limited to:
 - Counties with a population of at least 85,000 and one (1) hospital; or

Counties with a population of at least 125,000 and two (2) or more hospitals

- Develop an approach that documents cost savings to patients and payers. An integral part of such an approach should be (i) a reimbursement ceiling limit equal to 250% of Medicare allowable reimbursement by CPT code for private payers and (ii) a charge limit to under- and uninsured patients equal to Medicare reimbursement or less by CPT code.
- Only permit pilot demonstration ASCs in counties where it can be documented that the existing health care facilities are high cost versus the proposed 250% of Medicare reimbursement by CPT code ceiling limit. All costs for outpatient surgery at these ASCs should be accessible on the Internet, available to patients upon request, and essentially transparent to patients on all levels.

Background Information:

In the fall of 2008 the State Health Coordinating Council (SHCC) convened a Single Specialty Ambulatory Surgery Work Group, and charged the work group with the following:

“Upon the recommendation of the Acute Care Services Committee and as approved by the vote of the State Health Coordinating Council, a single specialty ambulatory surgery workgroup has been appointed by the Chairman. The workgroup consists of members of the Acute Care Services Committee, the SHCC, and staff. The committee is charged to do the following:

- *Develop a plan to evaluate and test the concept of single specialty ambulatory surgery centers in North Carolina*
- *Formulate recommendations regarding the number of sites and potential geographic locations for pilot projects*
- *Identify measures that can be used to evaluate the success of the pilot projects, to include measures of value, access to the uninsured, and quality and safety of care*
- *Recommend how the test sites will be held accountable and responsible in the event they are unsuccessful in meeting target guidelines*

The workgroup will present its recommendations to the Acute Care Services Committee by April 30, 2009 for consideration and referral to the SHCC for inclusion in the Proposed 2010 State Medical Facilities Plan.”

The work group met three times during late 2008 and early 2009 and drafted an initial set of recommendations outlining the criteria for the demonstration project. In drafting the recommendations, the work group considered suggestions and feedback from those attending the meetings. The work group presented its initial recommendations to the Acute Care Services (ACS) Committee on April 8, 2009. The initial recommendations were then revised, incorporating suggestions made by the ACS Committee members at the April 8 meeting. Revised recommendations were then presented to the ACS Committee on May 6 2009 and to the State Health Coordinating Council (SHCC) on May 27 2009. The recommendations were then included in the Proposed 2010 North Carolina State Medical Facilities Plan (SMFP).

Analysis/Implications:

The petitions can be divided into the two broad groups, shown below:

Group 1: Petitions for additional demonstration project sites in different geographic areas (refer to *Requests* on page 1 for the specific geographic areas):

- Atlantic Orthopedics, P.A.;
- Blue Ridge Bone & Joint Clinic; and
- Ancillary Care Solutions

Group 2: Petitions for changes to the criteria for the demonstration project (refer to *Requests* on pages 2 and 3 for the specific changes):

- Southern Surgical Center, LLC;
- North Carolina Orthopaedic Association, et al; and
- Affordable Health Care Facilities, LLC (criteria change requests include request for additional demonstration project sites in different geographic areas)

Regarding the Group 1 petitions, the Agency agrees with the work group's recommendation to limit the demonstration project to no more than three sites initially and for the SHCC to consider expanding the project later only if the facilities are meeting or exceeding all criteria.

Additionally, whereas the Agency recognizes that arguments can be made for locating the demonstration project facilities in geographic areas other than those recommended by the work group, the Agency supports the selection criteria the work group used to determine the demonstration project facility locations.

The Group 2 petitioners offered a number of suggestions for modifying the Single Specialty Ambulatory Surgery Demonstration Project criteria. The suggestions made in the Southern Surgical Center and Affordable Health Care Facilities petitions were the same as or similar to suggestions made in previously submitted petitions, and therefore were already considered by the work group. The North Carolina Orthopaedic Association, et al petition included suggestions not considered by the work group. After reviewing all the suggestions, the Agency supports the criteria as developed by the work group and does not recommend any changes.

Agency Recommendation:

In consideration of the above, the Agency recommends denial of all petitions. The Agency also recommends development of the Single Specialty Ambulatory Surgery Work Group Demonstration Project, as published in the 2010 Proposed SMFP.