

# COMMENTS OPPOSING DMS HEALTH TECHNOLOGIES PETITION FOR SPECIAL NEED FOR MOBILE PET SCANNER

## Commenter

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## Introduction

The petition submitted by DMS Health Technologies (DMS) omits compulsory information that is defined in Chapter 2 of the 2020 State Medical Facilities Plan.<sup>1</sup> DMS fails to demonstrate that a special need exists requiring an adjusted need determination or that granting the Petition could remedy an unmet need for the population of North Carolina. Alliance Healthcare Services encourages the State Health Coordinating Council (“SHCC”) to deny the Petition.

## Comments

The DMS petition for an adjusted need determination for one or more additional mobile PET scanners should be denied because it has no merit. DMS fails to respond to multiple petition requirements that include:

- Unnecessary duplication;
- Alternatives considered; and
- Consistency with the Basic Principles of the SMFP.

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<sup>1</sup> In the past, Petitions have been denied for failure to conform to applicable requirements. See, for example, [https://info.ncdhhs.gov/dhsr/mfp/pdf/2016/lbhb/0902\\_ach\\_harnett\\_agencyrep.pdf](https://info.ncdhhs.gov/dhsr/mfp/pdf/2016/lbhb/0902_ach_harnett_agencyrep.pdf) (“the petition does not technically follow the standards of the petition process as outlined in the SMFP”).

According to Table 17F-1 of the Proposed 2021 State Medical Facilities Plan, there are a total 31 existing and approved fixed PET scanners. The PET methodology shows a need for four additional fixed PET scanners, one each in Health Service Areas (HSA), I, IV, V and VI. These four fixed PET need determinations will increase statewide fixed PET capacity by 12.9 percent. Table 17F-2 identifies the three existing mobile PET scanners and one CON-approved mobile PET that is currently pending appeal. Thus, statewide mobile PET capacity is already projected to increase by 25 percent due to the pending mobile PET project.

Ignoring the additional fixed and mobile PET capacity that is documented in the Proposed 2021 SMFP, the DMS petition requests an adjusted need determination for one or more additional mobile PET scanners. This adjusted need is unnecessary and duplicative of the four need determinations for additional fixed PET scanners because the statewide service area for mobile PET overlaps the four HSAs with fixed PET need determinations. Furthermore, the proposed DMS adjusted need would also be duplicative of the pending 2018 mobile PET scanner included in Table 17F-2.

DMS omits any discussion of the alternatives considered, which could have included maintaining the status quo, or petitioning for an adjusted need for an additional fixed PET in an alternate Health Service Area. This deficiency by DMS should not be overlooked by the SHCC due to the many previous petitions submitted by others that were complete and submitted in accordance with the SMFP instructions, but after careful consideration, were still denied.

DMS ignores the SMFP petition requirement to provide evidence that the request is consistent with the Basic Principles governing the development of the North

Carolina State Medical Facilities Plan: safety and quality, access and value. Instead, the petitioner copies the outdated arguments previously submitted by other petitioners that are no longer relevant. Taking the low road, the DMS petition disparages the Alliance mobile PET/CT scanners as being outdated technology even though both units are less than four years old and are newer than most fixed PET units throughout North Carolina.

DMS Health Technologies, as a Digirad Company, has no track record of service in North Carolina. DMS fails to adequately address its own capabilities to provide safety and quality, access and value in accordance with the Basic Principles of the State Medical Facilities Plan. DMS/Digirad's 2019 Annual Report and its FORM 10Q demonstrate that it has experienced ongoing financial losses, even prior to COVID-19. In its recent Form 10Q, Digirad acknowledges that its future is uncertain; *“The COVID-19 pandemic is a highly fluid situation and it is not currently possible for us to reasonably estimate the impact it may have on our financial and operating results.”*

In summary, the DMS petition fails to demonstrate the requisite special circumstances to justify its proposed adjusted need determination for one or more additional mobile PET scanners.

For the reasons stated above, Alliance Healthcare Services encourages the State Health Coordinating Council to deny the Petition.