



**STATE OF CONNECTICUT**  
OFFICE OF HEALTH CARE ACCESS

M. JODI RELL  
GOVERNOR

CRISTINE A. VOGEL  
COMMISSIONER

July 3, 2008

Ms. Loraine Shea  
Executive Director  
Heart Center of Greater Waterbury  
P.O. Box 2153  
Waterbury, CT 06722

RE: Docket Number 08-30167-MDF; A Request to modify a Certificate of Need issued as a Three Year Demonstration Project under Docket Number 03-30167-CON Primary and elective angioplasty and open-heart surgery program at St. Mary's Hospital and at The Waterbury Hospital (*Heart Center of Greater Waterbury*)

Dear Ms. Shea:

On June 25, 2008, the Office of Health Care Access ("OHCA") received a request for modification of the Certificate of Need ("CON") demonstration project referenced above. In its June 25, 2008 modification request, The Waterbury Hospital, Saint Mary's Hospital, and the University of Connecticut Health Center/John Dempsey Hospital (all "Applicants") request an extension of the "CON expiration date" from July 18, 2008 to January 18, 2009, a six month extension. The Applicants indicate that "*This extension will be followed in the coming weeks by a Letter of Intent and subsequent CON which will allow OHCA to consider fully the cardiac services provided to date and in the future.*" Such referenced Letter of Intent is not currently pending before this agency.

Modification requests for time extensions are typically received and reviewed by OHCA for an extension of the initial implementation of a project<sup>1</sup>. As noted by the Applicants on page 7 of the modification request, "*the Program began providing elective and primary angioplasty as well as open heart surgery at both Waterbury locations*" on July 18, 2005. This program has been fully implemented and operational for almost three years and the time extension request as filed by the Applicant cannot be viewed therefore as a request to extend the project implementation date.

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<sup>1</sup> OHCA typically includes in a CON authorization, a CON expiration date, which is the date by which an Applicant must fully implement a project.

Pursuant to Stipulations #3 and 4 of the Agreed Settlement, the CON authorization for these services were “*granted for and in effect for an initial period of three (3) years*”. Further pursuant to agreed upon Stipulation #4, St. Mary’s Hospital and Waterbury Hospital were both to achieve “*open-heart surgical procedures of 125, 150 and 200 at each site for the first three years, respectively.*” By the Applicants’ own admission on page 5 of the June 25, 2008 request, the program has not met the agreed upon volume levels for the Open Heart Surgery component of the program (see modification request page 5). The Applicants also state on page 7 of the modification request that “*The program has met every condition of the stated OHCA orders except the annual open heart surgery target volumes.*” In a filing made to this agency by the Applicants on June 3, 2008 (see attached), the Applicants demonstrate that each hospital fell short of the agreed upon demonstration project volume levels for both Years One and Year Two and were well short of volume levels for Year Three (year to date). In light of the actual volume figures provided to this agency since programmatic implementation in 2005, the Applicants cannot satisfy the volume requirements agreed upon under Docket Number 03-30167-CON for the open heart surgery component of the project. Consequently, the Applicants can not qualify for “*Continuation of the elective and primary angioplasty and open-heart surgery program with permanent CON authorization status*” as specified in Stipulation #5 of the Agreed Settlement.

Section 4-181a (b) of the Connecticut General Statutes allows OHCA to modify its decisions upon showing of changed conditions. The Applicants June 25, 2008 submission, fails to provide any evidence or documentation which would warrant review of a six month extension of the end date for the initial three year demonstration project time period or lead OHCA to specifically conclude that a change of conditions has occurred.

As such, the Final Decision and Conditions set forth in the CON issued under Docket Number 03-30167-CON, as modified by Docket Number 06-30167-MDF and Docket Number 06-30167-MD2, stand as previously ordered by OHCA.

As the record currently stands in this matter, the initial three year demonstration project is concluded on **July 19, 2008** (the day following the end of the three year timeframe). As the programmatic timeframe for continuation of this project concludes in approximately one month, OHCA requires the following material be filed specific to the expiration of this program in July:

- A plan for transition of the patients to other providers;
- A communications plan for the upcoming program expiration (patients, referral base, emergency responders, local health authorities, etc.);
- Transfer agreements with providers with advanced cardiac capabilities.

Such documents should be filed with OHCA within 5 business days prior to the expiration of these services in July.

OHCA's determination not to consider modification of the final decision as requested by the Applicants on June 25, 2008 does not preclude or prohibit further filings for modification for good cause up to July 18, 2008.

Sincerely,

*Signed by Commissioner Vogel on July 3, 2008*

Cristine A. Vogel  
Commissioner

Enclosure

Copy: William Casey, Interim President and CEO, Saint Mary's Hospital  
John Tobin, President and CEO, The Waterbury Hospital  
James H. Thornton, Hospital Director, John Dempsey Hospital  
Thomas Ring, Assistant Attorney General  
Dr. Robert Galvin, Commissioner, Department of Public Health  
Marna Borgstrom, President and CEO, Yale-New Haven Hospital, (Intervenor in DN 03-30167-CON)  
Robert Trefry, President and CEO, Bridgeport Hospital (Intervenor in DN 03-30167-CON)  
Susan L. Davis, President and CEO, St. Vincent's Medical Center (Intervenor in DN 03-30167-CON)