



STATE OF WASHINGTON
DEPARTMENT OF HEALTH
Olympia, Washington 98504

March 24, 2015

David Glazer, Senior Counsel
Group Health Cooperative
320 Westlake Avenue North, #100
Seattle, Washington 98109

RE: DOR #15-32

Dear Mr. Glazer:

Thank you for your February 6, 2015, letter requesting a determination from the Department of Health (department) Certificate of Need Program regarding the planned status change of Group Health's Central Hospital located at 201 – 16th Avenue East in Seattle [98112], within King County. As I understand your letter, by end of year 2016, all hospital inpatient services will be transition to Swedish Medical Center. Group Health intends to continue to provide outpatient services at the site by converting its current hospital outpatient surgery center to a licensed ambulatory surgery center/ambulatory surgical facility (ASC/ASF). The outpatient surgery center currently has eleven operating rooms, eight post-operative bays, and support areas. Group Health asserts that the change in licensure would allow it to provide outpatient services in a licensed, accredited, and Medicare certified ambulatory surgery center. Below is an analysis of the project.

ANALYSIS

The construction, development, or other establishment of a “new health care facility” is subject to Certificate of Need review. Revised Code of Washington (RCW) 70.38.105(4)(a). A health care facility includes an ambulatory surgery facility. RCW 70.38.025(6). An ambulatory surgery facility is a “free-standing” entity where surgery is performed without requiring hospitalization. Washington Administrative Code (WAC) 246-310-010(5).

Group Health has operated eleven outpatient operating rooms at its Central Hospital in Seattle. Because these operating rooms are inside a hospital, they are not free-standing, and therefore did not require prior Certificate of Need approval before establishment.

Group Health plans to no longer operate the facility as a hospital. Group Health requests a determination that it may continue to use the operating rooms without Certificate of Need

approval. For reasons explained below, the department finds that Certificate of Need approval is required.

Group Health is a health maintenance organization (HMO). The requirement for Certificate of Need approval for new health care facilities in RCW 70.38.105(4)(a) does not exempt HMO facilities. Hence, a free-standing ambulatory surgery facility established by Group Health is subject to Certificate of Need approval.

Group Health argues that the department may exempt Group Health under RCW 70.38.111(4) from needing Certificate of Need approval. This provision allows the department to apply (or not apply) Certificate of Need requirements to “inpatient tertiary care services” offered by an HMO. This provision is inapplicable here because Group Health’s outpatient operating rooms are not “inpatient tertiary care services” subject to the provisions of RCW 70.38.111(4).¹

To further support its non-reviewability argument, Group Health argues that using the operating rooms would meet the RCW 70.38.115(3) criteria for approval of a HMO Certificate of Need application. If Group Health applied for a free-standing ambulatory surgery facility, the RCW 70.38.115(3) criteria would apply to the department’s review of the application. However, RCW 70.38.115(3) does not allow the department to exempt the HMO from Certificate of Need review based on a summary determination that the approval criteria are met.

APPEAL OPTIONS

This decision may be appealed. The appeal option is below.

Appeal Option

You may request an adjudicative proceeding to contest this decision within 28 calendar days from the date of this letter. The notice of appeal must be filed according to the provisions of Revised Code of Washington 34.05 and Washington Administrative Code 246-310-610. A request for an adjudicative proceeding must be received within the 28 days at one of the addresses listed below.

Mailing Address:

Department of Health
Adjudicative Service Unit
Mail Stop 47879
Olympia, WA 98504-7879

Physical Address

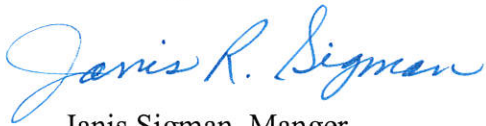
Department of Health
Adjudicative Service Unit
111 Israel Road SE
Tumwater, WA 98501

¹ In a 2006 determination, the department allowed Group Health, without Certificate of Need review, to establish outpatient operating rooms in Bellevue following close of its Eastside Hospital. This determination was in error and will not be followed by the department.

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If you have any questions or would like to arrange for a meeting to discuss this decision, please call the Certificate of Need Program at (360) 236-2955.

Sincerely,



Janis Sigman, Manger
Certificate of Need Program
Community Health Systems

cc: Richard McCartan, Assistant Attorney General