



STATE OF CONNECTICUT
DEPARTMENT OF PUBLIC HEALTH
Office of Health Care Access

April 4, 2011

Adam C. Rose, Esq.
Reid and Riege, P.C.
755 Main Street
21st Floor
Hartford, CT 06103

Re: Certificate of Need Determination; Report Number: 11-31685-DTR
Orthopedic Associates of Hartford, P.C.
Acquisition of a Magnetic Resonance Imaging Scanner Acquired in 2005

Dear Attorney Rose:

On February 7, 2011 the Office of Health Care Access ("OHCA") received your determination request on behalf of Orthopedic Associates of Hartford, P.C. ("OAH") with respect to whether a certificate of need ("CON") was required for the acquisition of a Magnetic Resonance Imaging ("MRI") scanner in 2005. OAH provided a copy of the purchase agreement dated May 26, 2005, and evidence of a down payment of \$79,400, made on June 9, 2005. The total purchase price for the MRI was \$317,600. Additionally, a copy of a redacted medical record demonstrates that the MRI was in operation as of March 7, 2006.

Prior to 2005, providers were required to obtain CON approval before acquiring imaging equipment that cost more than \$400,000. Public Act 05-93 removed the requirement for CON approval of equipment costing more than \$400,000, and further exempted from CON review, providers who had purchased the equipment for under \$400,000, prior to July 1, 2005. Specifically, Public Act 05-93 § 5 provided as follows:

Each health care facility, institution or provider that proposes to purchase, lease or accept donation of a CT scanner, PET scanner, PET/CT scanner, MRI scanner, cineangiography equipment or a linear accelerator shall be exempt from certificate of need review pursuant to sections 19a-638 and 19a-639, as amended by this act, if such facility, institution or provider (1) **provides to the office satisfactory evidence that it purchased or leased such equipment for under four hundred thousand dollars on or before**

July 1, 2005, or (2) obtained, on or before July 1, 2005, from the office, a certificate of need or a determination that a certificate of need was not required for the purchase, lease or donation acceptance of such equipment. (Emphasis added).

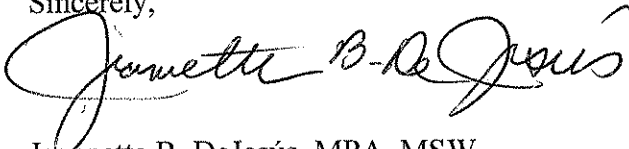
Subsequently, in 2006, the legislature added an additional requirement that providers demonstrate that the equipment was in operation prior to July 1, 2006. Public Act 06-28 § 3 provided as follows:

Each health care facility, institution or provider that proposes to purchase, lease or accept donation of a CT scanner, PET scanner, PET/CT scanner, MRI scanner, cineangiography equipment or a linear accelerator shall be exempt from certificate of need review pursuant to sections 19a-638, as amended by this act, and 19a-639, as amended by this act, if such facility, institution or provider (1) provides to the office satisfactory evidence that it purchased or leased such equipment for under four hundred thousand dollars on or before July 1, 2005, and **such equipment was in operation on or before July 1, 2006**, or (2) obtained, on or before July 1, 2005, from the office, a certificate of need or a determination that a certificate of need was not required for the purchase, lease or donation acceptance of such equipment. (Emphasis added).

Based upon the information provided, OHCA finds that OAH acquired the MRI scanner for less than \$400,000, prior to July 1, 2005, and that the MRI scanner was in operation prior to July 2006. Accordingly, at the time OAH acquired the MRI scanner no CON was required for the acquisition pursuant to Public Acts 05-93 and 06-28.

If you have any questions regarding this letter, please contact Steven W. Lazarus, Associate Health Care Analyst, at (860) 418-7012.

Sincerely,



Jeannette B. DeJesus, MPA, MSW
Deputy Commissioner, OHCA

JBD: swl