

COMMENT ON A NEED DETERMINATION

**Comment on the Need Determination for a Mobile Dedicated PET Scanner in the
*2018 State Medical Facilities Plan***

COMMENTER

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COMMENT

InSight Health Corp (InSight) would like to affirm the need for a mobile dedicated PET scanner in the *2018 SMFP*. In addition, InSight would like to suggest that the SHCC consider additional language that might improve the effectiveness of the need determination.

As background, InSight, now part of the Center for Diagnostic Imaging (CDI), operates fixed and mobile PET scanners across the U.S. and Canada. Mobile imaging services are provided in 26 states, with mobile PET services available in 16 states. InSight has provided diagnostic imaging services in North Carolina for more than 20 years, where InSight has served hospitals, physicians, and military facilities.

We believe our collaborative approach to providing mobile imaging services is unique compared to others in the industry. Our goal is to partner with the host site providers, with a focus on educating physicians and patients. We provide Original Equipment Manufacturer (OEM) service for the equipment and are Joint Commission accredited. We offer flexible service schedules, competitive pricing and high quality service. We believe residents of North Carolina would benefit from our approach to mobile PET services, and we hope to work with providers in need of mobile PET services if the need determination remains in the final *2018 SMFP*.

The basis for InSight's support of the need determination and the suggested additional language is detailed below.

Need for Additional Capacity

InSight agrees with the SHCC in its decision to include an additional mobile dedicated PET scanner based on the need for additional mobile PET capacity. The two existing mobile PET scanners have been the only two mobile PET scanners in the entire state since the original need determinations in the *2002 SMFP*. In the 15 years since those scanners were allocated, PET volume has grown significantly across the state, including on the two mobile units, but no additional mobile capacity has been allocated. While most of the areas of the state that can support a fixed PET scanner already have a unit, the more rural areas of the state, or those with

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maturing oncology programs, may not yet be able to support a fixed scanner, but would benefit from additional access to a mobile scanner.

As shown in the 2017 and *Proposed 2018 SMFP*, the utilization of the two mobile scanners has increased significantly over the past five years.

	<i>FY 2012</i>	<i>FY 2013</i>	<i>FY 2014</i>	<i>FY 2015</i>	<i>FY 2016</i>
Total Procedures	5,571	5,791	5,870	6,505	7,159
Compound Annual Growth Rate					6.5%

In the past, the existing provider has argued that the capacity of 2,600 for mobile PET scanners shown in the SMFP is too low and that 3,000 is a more reasonable number. InSight agrees with the SHCC that the capacity of a mobile scanner is less than a fixed scanner; however, it is clear using either capacity definition that the existing mobile PET scanners have exceeded capacity and an additional unit is needed to meet the growing need.

We have also heard from prospective host sites that they would like to initiate service or increase or change the service they have from the existing provider, but have been told that no additional time is available. With some sites apparently having limited service at inconvenient times, such as one half-day every other week, service on Sunday mornings or Saturday evenings, or service days/times that change often, the need for more capacity is evident even beyond the utilization data.

Need for an Alternative Provider

InSight believes that the proposed need determination provides the opportunity for the approval of another provider of mobile PET services in the state. While it could be argued that the approval of a single provider for the first two mobile PET scanners in the state helped ensure the viability of the service in its early days, given the maturity of the service today, that is no longer the case. InSight believes that a competing provider would enhance the quality and lower the cost of the service, while also expanding access to sites that need more capacity.

While the Healthcare Planning and Certificate of Need Section may consider the need for an alternative provider as part of its review, InSight believes that this need might be strengthened if the SHCC were to include such language in the need determination. An alternative provider would offer the opportunity to enhance competition, improve quality and lower the cost of the service, as well as to provide another perspective on the service. Over the past several years, the existing provider has repeatedly opposed the need for more mobile PET capacity, even when multiple host sites have agreed that more is needed. The table below shows the existing provider’s history of opposing the development of more capacity in the state.

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<i>Year</i>	<i>Action</i>	<i>Existing Provider's Response</i>
2010	Petition by a new provider for a mobile PET scanner to serve the western part of the state; support from multiple parties	Opposition to the petition
2011	Petition to change the methodology for mobile PET scanners, which would result in a need determination for two additional mobile PET scanners; support from multiple parties	Opposition to the petition
2012	Statement in <i>Proposed 2013 SMFP</i> that no additional mobile PET scanners are needed in the state	Comment in support of the statement
2013	Petition to change the methodology for mobile PET scanners, which would lower the threshold for generating need	Opposition to the petition
	Statement in the <i>Proposed 2014 SMFP</i> that mobile PET services may not be optimally distributed in the state.	Comment in opposition to the statement
	Comment from existing host site regarding the need for more capacity and better days of service	No action
2014	Multiple petitions to change the methodology/service area for mobile PET scanners, including one from existing provider	No action on other petitions
2015	Petition proposing Policy TE-1, which allows the conversion of fixed PET scanners to mobile PET scanners under certain conditions; support from multiple parties	Opposition to the petition
	<i>Proposed 2016 SMFP</i> includes Policy TE-1, which was adopted for the <i>2015 SMFP</i> ; one provider applied under this policy	Petition to prevent further conversions pursuant to Policy TE-1

In addition to its repeated opposition to additional mobile PET capacity, despite the pleas of existing sites without adequate service, the existing provider opposed the CON application filed under Policy TE-1 by writing comments against the application, and InSight understands that it even appealed the approval of that non-competitive CON application. While InSight understands that any party must act in its own interests, it is clear that the existing provider has consistently opposed any effort to disturb the monopoly it currently enjoys, or to ameliorate the capacity constraints experienced by its host sites and other parties. To help ensure that a new provider has a fair opportunity to be approved in a CON review, InSight is suggesting that additional language be added to the need determination, as detailed in the following section.

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Additional Considerations

In light of the current monopoly for mobile PET services in the state, InSight believes that potential new providers of mobile PET services would not be competing on a level playing field with the existing provider in a competitive CON review. In particular, the only existing provider in the state has access to more detailed utilization data, knowledge of requests for additional capacity and has the ability to take punitive actions against existing host sites if they support competing applications. While this concern may seem extreme, InSight has been told by potential host sites that they are concerned about supporting an alternative provider for fear of such reprisals, such as changing days, reducing service or removing service completely. Given the existing provider's previous actions detailed above, including appealing a non-competitive CON decision, these concerns do not appear completely unfounded.

As a result of these issues, InSight is concerned that it may be difficult for new provider applicants to secure letters of support. As the SHCC is likely aware, the CON application process, particularly for mobile services, generally requires applicants to identify the host sites and demonstrate that the host sites are willing to consider using the proposed provider. While InSight knows of no way to avoid this requirement, it would like to suggest that the SHCC consider including language in the need determination that would provide the ability for potential new providers to compete on a level playing field with the existing provider. Specifically, the following language could be added to the need determination:

Applicants for the mobile dedicated PET scanner need determination may include letters of support from potential host sites that support multiple applicants.

InSight recognizes that neither the SMFP nor the Healthcare Planning and CON Section preclude applicants from including letters of support from host sites that are also supporting other applicants. As such, the inclusion of this language may seem unnecessary. However, based on the issues mentioned above, including discussions with potential host sites who have voiced this concern, InSight believes such language will reassure potential host sites—in an official document—that they are not precluded from supporting a new provider, as well as the existing provider, if they so choose. This will also lessen their concern about potential reprisals, as they will know that other host sites have the same understanding.

Finally, as suggested above, InSight believes the need determination could be strengthened if the following language were also added to the need determination:

In choosing among competing applications, priority will be given to applicants that do not currently provide mobile dedicated PET services in the state.

Mobile PET is one of the few, if not the only, regulated healthcare services in the state that is only available from one provider. Therefore, the approval of a new provider will make the service more competitive, which will benefit all areas of the state. Further, this statement is not without precedent. The 2010 SMFP includes language about priority given to applicants for the single specialty ASC projects that include physician owners. That language was included, at least in part, out of a desire to see non-hospital applicants, who do not own as many operating rooms

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as hospitals, have a more equitable opportunity to be approved for the project. Similarly, InSight believes that such language would increase the likelihood that a new provider will be approved, which will enhance the competitiveness of mobile PET services in the state.

Thank you for the opportunity to comment on the need determination for a mobile dedicated PET scanner. If InSight can provide any additional information, please feel free to reach out to us.