

Comments by Alliance Healthcare Services Related to the Petition Regarding Existing and Approved Specialized Breast MRI Scanners: Novant Health and MedQuest

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The State Health Coordinating Council (SHCC) should deny the Novant/Medquest petition because there are conditions in the CON certificate that preclude replacing the equipment with a standard MRI. There is also specific language in the 2021 SMFP that establishes, **“The inventory shall exclude: MRI scanners used for research only, non-clinical MRI scanners, and MRI scanners awarded based on need determinations for a dedicated purpose or demonstration project (Table 17E-2)”**

In addition, the Novant and Medquest petition request should be denied because it is also contrary to the definitions in **10A NCAC 14C .0303 REPLACEMENT EQUIPMENT:**

(a) This Rule defines the terms used in the definition of “replacement equipment” set forth in G.S. 131E-176(22a).

(b) “Currently in use” means that the equipment to be replaced has been used by the person requesting the exemption at least 10 times to provide a health service during the 12 months prior to the date the written notice required by G.S. 131E-184(a) is submitted to the CON Section.

(c) Replacement equipment is not “comparable” if: (1) the replacement equipment to be acquired is capable of providing a health service that the equipment to be replaced cannot provide;

There has been a trend of developing specialized imaging equipment that later becomes incorporated into the newer “standard models” for that imaging modality. This seems to be the case with the specialized breast MRI that was implemented over a decade ago. The petitioner argues that their incorrect and overstated projections for Breast MRI demand that was accepted many years ago should grant them most favored status to replace their outdated technology with the most advanced equipment having the broadest applications. Early adopters of new technology should bear the risks of poor utilization just as they may earn the benefit of outstanding results. The fact that a CON was issued for specialized equipment that has become less accepted and utilized years later is not an issue that the SHCC should attempt to remedy.

The SHCC should consider that the Novant/Medquest petition request could set a precedent regarding current and future types of hybrid multi-modality imaging and therapeutic devices that are unproven in terms of their acceptance and utilization. The petitioner’s request for new technology and broader capabilities is not for implementation in a specialty physician practice to support patient convenience that would have minimal impact on other imaging providers. Instead, the petition involves expanding the scope of services for an imaging center to gain a competitive advantage and capture market share.

The requested change would have an adverse impact of delaying a future MRI need determination for which anyone could submit an application. This limits the opportunity for new MRI entrants to markets where the owners of the current breast MRI scanners also have ownership of conventional MRI scanners. If this petition request is granted it encourages others to exploit the petition process with the hope of later converting their specialized imaging equipment to a more advanced and broadly utilized version.