



STATE OF WASHINGTON
DEPARTMENT OF HEALTH

November 22, 2011

Elaine Couture, Chief Executive
Providence Sacred Heart Medical Center
and Children's Hospital
101 West Eighth Avenue
Post Office Box 2555
Spokane, Washington 99220-2555

Dear Ms. Couture:

This letter is in response to your March 22 and October 27, 2011 letters to the Department of Health (Department) contending that Providence Sacred Heart Medical Center (Sacred Heart) is not required to obtain a Certificate of Need (CN) under RCW 70.38 in order to perform pediatric kidney transplants. For reasons explained below, the Department respectfully disagrees.

In 1981, Sacred Heart received a CN to perform kidney transplants. The issued CN arguably made no differentiation between adult and pediatric transplants. However, in 1989, the legislature amended RCW 70.38.105(4)(f) to require CN approval for:

“Any new tertiary services... which were not offered by [the] health care facility... within the twelve-month period prior to the time such services would be offered.”¹
(Emphasis added)

Pursuant to this legislation, the Department adopted a list of tertiary services, including “*specialized inpatient pediatric services.*” WAC 246-310-020(1)(d)(i)(G). Like pediatric open heart surgery, pediatric kidney transplant surgery meets the definition of a “specialized inpatient pediatric service.” See Children Hospital v. Dep’t of Health, 95 Wn.App. 858, 975 P.2d 567 (1999).

According to information from Sacred Heart, the hospital between 1989 and 2008 performed 12 pediatric kidney transplants. The hospital apparently has not performed any such transplants since 2008. Nor, during that period, has Sacred Heart maintained a “wait list” of children needing kidney transplants, or otherwise offered the service.²

¹ Laws of 1989, 1st Ex. Sess., ch. 9, §601.

² It appears that between 1989 and 2011, there were multiple other periods in which Sacred Heart went 12 months or more without offering a pediatric kidney transplant. Information reviewed includes data obtained from UNOS and OPTN.



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Hence, under the definition in RCW 70.38.105(4)(f), the 12-month lapse in providing the service would require Sacred Heart to obtain a "specialized inpatient pediatric service" CN under WAC 246-310-020(1)(d)(i)(G) in order to offer pediatric kidney transplant.

This decision may be appealed. The two appeal options are listed below.

Appeal Option 1:

You may request the department reconsider this decision. A reconsideration request must be received within 28 calendar days from the date of the decision at one of the following addresses:

Mailing Address:

Department of Health
Certificate of Need Program
Mail Stop 47852
Olympia, WA 98504-7852

Other Than By Mail

Department of Health
Certificate of Need Program
310 Israel Road SE
Tumwater, WA 98501

Appeal Option 2:

You may request an adjudicative proceeding to contest this decision within 28 calendar days from the date of this letter. A request for an adjudicative proceeding must be received within the 28 days at one of the following addresses:

Mailing Address:


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

Other Than By Mail

Adjudicative Clerk Office
310 Israel Road SE, Building 6
Tumwater, WA 98501

If you have any questions, or would like to arrange for a meeting to discuss our decision, please contact me at (360) 236-2955.

Sincerely,



Janis Sigman, Manager
Certificate of Need Program
Office of Certification and Technical Support

cc: Department of Health, Office of Customer Service
Department of Health, Construction Review Services