

Southwestern Regional Emergency Medical Services Council

Serving Allegany, Cattaraugus and Chautauqua Counties

Policy Statement

Title: Expansion of Primary Operating Territory – Administrative / Uncontested

Purpose: This policy shall address the procedures required for Regional EMS Council approval of an expansion of primary operating territory to an existing provider when the expansion is requested to correct an administrative omission and it is uncontested. Requests to amend or expand primary operating territory must be approved by the regional council.

Definitions

Administrative omission: An omission of geography or accurate geo-political description of the territory in the listing of primary operating territory on the applicant's existing ambulance certificate AND when they have been providing documentable primary ambulance or ALSFR response continuously and prior to April 1st 1975 in that omitted territory.

Public Need: The Demonstrated Absence, reduced availability or an inadequate level of care in ambulance or emergency medical service available to a geographical area which is not readily correctable through the reallocation or improvement of existing resources.

Substantive objection: means an expressed protestation to the application, either in writing or verbally to the council, by a party with a legitimate interest which is based upon one or more grounds of: false application; territorial infringement that cannot be supported by the application; or proven incompetency. The Regional Council Chairman, the EMS Service Committee Chairman or the full council may make a determination of substantive objection.

Uncontested: No comments are received by the regional Council of substantive objection after statutorily required notice has been sent and after calling for comments at the scheduled meeting where this matter was duly publicized to be addressed.

The Application

The applicant shall submit to the Southwestern REMSCO at least two (2) original versions of all documentation

- 1) Completed and notarized application, (DOH-3777). It must clearly define the proposed expansion territory in geo-political boundaries.
- 2) Completed, notarized and sworn Affirmation of Competency and Fitness (DOH-3778) and;

a) Current resume for each proposed owner and/or officer of the corporation (Waived for entities falling under the category of municipality)

b) A list and/or copy of orders or deficiency notices, if any, issued within the past 10 years from any NYS Department or equivalent out of state agency listed that have deficiencies identified (singular or repetitive) that did or could have caused patient harm or were repetitive and uncorrected.

c) A list of any malpractice actions by the agency or any officers, if any, within the past 10 years that relate to patient care or harm and the outcome of each.

3) Detailed narrative to support the demonstration of need, or statement of purpose and intent for expansion.

a) Rationale for requesting the expansion; the level of service provided; and any financial impact anticipated on existing services.

b) Documentation must also include proof that the service existed within or responded within the 'omitted territory' continuously and prior to April 1st 1975. Proof may be in the form of political subdivision contracts, run records, PSAP dispatch records, etc. Mutual aid responses alone shall not be considered proof of primary territory.

4) A map outlining the current primary operating territory and the proposed expansion geography and a written description of the desired territory within geopolitical boundaries

5) A copy of the current operating certificate

Two original copies of the application and all attachments shall be submitted to the Southwestern Regional EMS Council; P.O. Box 544, Olean New York 14760.

6) The processing fee is to be established by the Council from time to time with the unexpended balance returned to the applicant. (As of the time of this policy approval the fee is \$500.00)

Regional Council Responsibility

Within seven business days of receipt, the application shall be reviewed for completeness by the EMS Service Committee Chairman. The application shall be accepted if it is deemed to be complete in accordance with this policy. When determined to be complete, the time frame for processing established by Article 30, 3008 begins.

If found to be incomplete, it shall be returned by certified mail or personal service to the applicant within ten (10) business days with a written explanation of the grounds for the rejection.

The Regional Council shall begin action immediately upon receipt and acceptance of a complete application. This action shall include the following:

- a) Scheduling this matter as an agenda item at a Regional Council meeting which shall be greater than twenty-one days hence and not more than sixty days hence. All council members will receive a copy of the DOH-3377 and prior notice that the matter will be discussed and voted on at that meeting.

- b) Within two business days of deeming the application complete the DOH BEMS shall be requested to conduct a fitness and competency review of the applicant, to be completed prior to the scheduled council meeting.
- c) Letters of notice shall be sent in accordance with PHL 3008, greater than fourteen days prior to the Regional Council meeting by certified mail to: the chief executive officers of all general hospitals, ambulance services, and municipalities operating within the same county or counties where the service seeks to operate. The letter of notice shall include the date, time and location of the council meeting, the definition of public need, a solicitation of response to the application by a specific date and provide a mechanism for any interested party to obtain and/or review the application. The council shall specifically request comment from the appropriate county EMS or Emergency Services Coordinator.
- d) If the Regional Council Chairman or the EMS Service Committee chairman, in their determination, receives a response to a letter of solicitation which indicates a *substantive objection* to the proposed expansion, the current process will be halted. The applicant will be notified by certified mail that an objection exists and they will be directed to follow the Regional Council adopted policy on CON applications (NYS DOH BEMS 06-06). If a response has been received that cites an objection that is not deemed substantive by either Chairman, the process shall continue and the applicant shall be notified that an objection has been received. (The objection must be reviewed at the meeting of the subcommittee if one is held and at the full regional council where a determination vote must be taken on the objection – prior to a vote on the expansion.) If the full council determines by vote that the objection is substantive, the process is halted and the applicant is referred to policy as above.
- e) If no *substantive objections* are received, the matter may be discussed at an EMS Service Committee meeting. The applicant may make a presentation at that time. Deliberations during that meeting may result in a seconded motion to be brought before the full council.
- f) At the publicized Regional Council meeting: details of the application documents will be read into the record; any letters received regarding the application shall be reviewed; the fitness and competency review shall be announced; the applicant shall be allowed to address the council; and anyone present wishing to speak on the matter shall be allowed to do so. Speakers addressing the application shall be limited to five minutes each.
- g) After the presentations, and absent any *substantive objections* to the application, an affirmative motion on the matter shall be called for (Or the seconded motion from sub-committee if one exists shall be read). Following discussion a roll call vote shall be taken with sixteen affirmative votes required to approve the expansion application. The motion must contain a statement that the Regional Council finds that this application meets the administrative omission definition. If approved the council shall notify the DOH BEMS area and central offices.
- h) The applicant; an objecting party whose objection was not deemed substantive; or any concerned party may appeal the determination of the regional council to the state council within thirty days after the regional council makes its determination. If no objections are received within 30 days of an affirmative regional council determination, the state DOH shall process the amended certificate.

Approved October 1, 2008

Amended