



**HARSHA**  
BEHAVIORAL CENTER

December 10, 2014

**Amended: March 26, 2015**

**VIA ELECTRONIC MAIL**

Secretary Sylvia Mathews Burwell  
Centers for Medicare and Medicaid Services  
7500 Security Boulevard  
Mailstop C4-25-02  
Attn: Physician-Owned Hospital Exceptions  
Baltimore, MD 21244-1850  
[POH-ExceptionRequests@cms.hhs.gov](mailto:POH-ExceptionRequests@cms.hhs.gov)

**RE:** Harsha Behavioral Center, Inc. (NPI Number [REDACTED]), a physician-owned hospital, requests the Secretary's consent to expand as a high Medicaid facility under 42 U.S.C. § 1395nn(i)(3)(F)

Dear Secretary Burwell:

Harsha Behavioral Center, Inc.<sup>1</sup> ("**Harsha Behavioral Center**"), a physician-owned psychiatric hospital located at 1420 East Crossing Boulevard, Terre Haute, Indiana 47802 in Vigo County, is a forty-four (44) bed hospital, qualifying as a high Medicaid facility as defined at 42 U.S.C. § 1395nn(i)(3)(F). Although the Affordable Care Act ("**ACA**") implemented a prohibition on the expansion of physician-owned hospitals, the ACA included limited exceptions. One of these exceptions allows for a physician-owned hospital qualifying as a high Medicaid facility to request that the Secretary of Health and Human Services grant an exception to the prohibition on expansion. As the enclosed data will illustrate, Harsha Behavioral Center meets the requirements necessary to be considered a high Medicaid facility as defined in 42 U.S.C. § 1395nn(i)(3)(F). As such, Harsha Behavioral Center has adequate standing to request the Secretary grant Harsha Behavioral Center an exception to the prohibition on expansion.

As a high Medicaid facility, Harsha Behavioral Center would like to request the Secretary's permission to add forty-four (44) beds to the existing forty-four (44) beds (Harsha Behavioral Center does not have operating rooms or procedure rooms).<sup>2</sup> Harsha Behavioral Center's requested expansion represents the maximum two hundred percent (200%) expansion of Harsha Behavioral Center's baseline number of beds, operating rooms and procedure rooms allowable under 42 C.F.R. § 411.362(c)(6)(i). Consistent with the national shortage of psychiatric beds, the State of Indiana and the community that Harsha Behavioral Center serves continues to have an unmet need for psychiatric inpatient beds and services. There has been a continued decrease in the number of public psychiatric beds available to patients across the country, particularly in Indiana.<sup>3</sup> Due to the community need in the area served by Harsha Behavioral Center, if granted,

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<sup>1</sup> Please see Harsha Behavioral Center, Inc.'s Private Mental Health Institution License, attached hereto as **Exhibit A**.

<sup>2</sup> Harsha Behavioral Center's public website, <http://www.harshacenter.com/about-us/hospital-expansion>, has been updated to publicly disclose Harsha Behavioral Center's request to the Secretary to add an additional forty-four (44) beds, as required at 42 C.F.R. § 411.362(c)(5).

<sup>3</sup> E. Fuller Torrey, M. D. et al., No Room at the Inn: Trends and Consequences of Closing Public Psychiatric Hospitals (Treatment Advocacy Ctr. 2012) at 22 (The number of public psychiatric beds available in Indiana decreased twenty-four percent (24%) from 2005 to 2010).



**HARSHA**  
BEHAVIORAL CENTER

the requested expansion will facilitate increased access to psychiatric care for lower income patients in need of quality behavioral health services. In addition to fulfilling a critical community need for behavioral health services, Harsha Behavioral Center is a certified woman-owned and minority-owned business that is committing to the betterment of its community.<sup>4</sup>

For each of the last three (3) most recent years for which data is available, Harsha Behavioral Center has treated a higher percentage of Medicaid beneficiaries than any of the other three (3) hospitals in Vigo County, Indiana. As such, Harsha Behavioral Center is a high Medicaid facility and respectfully requests the Secretary to grant Harsha Behavioral Center permission to expand Harsha Behavioral Center’s operations by forty-four (44) beds.

**1. HOSPITAL INFORMATION.<sup>5</sup>**

1.1. NAME: Harsha Behavioral Center, Inc.

1.2. ADDRESS: 1420 East Crossing Boulevard  
Terre Haute, Indiana 47802

1.3. COUNTY:<sup>6</sup> Vigo County, Indiana

1.4. NATIONAL PROVIDER IDENTIFICATION NUMBER (NPI): [REDACTED]

1.5. TAX IDENTIFICATION NUMBER (TIN): [REDACTED]

1.6. CMS CERTIFICATION NUMBER (CCN): [REDACTED]

**2. CONTACT PERSON.<sup>7</sup>**

2.1. NAME: Andrea L. Impicciche, Esq.

2.2. TITLE: Outside Counsel for Harsha Behavioral Center, Inc.

2.3. COMPANY: Hall, Render, Killian, Heath & Lyman, P.C.

2.4. CONTACT INFORMATION: 1 American Square  
Suite 2000, Box 82064  
Indianapolis, Indiana 46282  
317.977.1578 (office)  
[andrei@hallrender.com](mailto:andrei@hallrender.com)

<sup>4</sup> A copy of the Minority and Women’s Business Enterprise certification is attached hereto as **Exhibit B**.

<sup>5</sup> 42 C.F.R. § 411.362(c)(4)(ii)(A).

<sup>6</sup> 42 C.F.R. § 411.362(c)(4)(ii)(B).

<sup>7</sup> 42 C.F.R. § 411.362(c)(4)(ii)(C).



**3. INFORMATION OF APPLICANT.**

**3.1. STATEMENT IDENTIFYING HOSPITAL AS AN APPLICABLE HOSPITAL OR HIGH MEDICAID FACILITY:<sup>8</sup>**

Pursuant to 42 U.S.C. § 1395nn(i)(3), Harsha Behavioral Center is requesting the Secretary grant Harsha Behavioral Center an exception to the prohibition on expansion on the basis that Harsha Behavioral Center qualifies as a high Medicaid facility, as defined in 42 U.S.C. § 1395nn(i)(3)(F), and is therefore eligible to pursue such request. Harsha Behavioral Center satisfies the criteria for a high Medicaid facility as described in 42 U.S.C. § 1395nn(i)(3)(F).

**3.2. IN ORDER FOR A HOSPITAL TO UTILIZE THE HIGH MEDICAID FACILITY EXPANSION EXCEPTION, IT CANNOT BE THE SOLE HOSPITAL IN ITS COUNTY.<sup>9</sup>**

Harsha Behavioral Center is one (1) of four (4) hospitals located in Vigo County, Indiana. The other three (3) hospitals in Vigo County, Indiana include: 1) Union Hospital, Inc.; 2) Terre Haute Regional Hospital Inc.; and 3) Hamilton Center Inc.<sup>10</sup>

**3.3. IN ORDER FOR A HOSPITAL TO UTILIZE THE HIGH MEDICAID FACILITY EXPANSION EXCEPTION, IT MUST HAVE AN ANNUAL PERCENT OF TOTAL INPATIENT ADMISSIONS THAT REPRESENTS INPATIENT ADMISSIONS UNDER SUBCHAPTER XIX THAT IS ESTIMATED TO BE GREATER THAN SUCH PERCENT WITH RESPECT TO SUCH ADMISSIONS FOR ANY OTHER HOSPITAL LOCATED IN THE COUNTY IN WHICH THE HOSPITAL IS LOCATED.<sup>11</sup>**

Harsha Behavioral Center has the highest annual percent of total inpatient admissions representing inpatient admissions under subchapter XIX (Medicaid) than any other hospital located in Vigo County, Indiana for the three (3) most recent years for which data is available. The most recent year for which data is available from CMS is 2012.<sup>12</sup> As such, Harsha Behavioral Center has provided data for the following three (3) most recent years: 2012, 2011 and 2010.<sup>13</sup>

<sup>8</sup> 42 C.F.R. § 411.362(c)(4)(ii)(D).

<sup>9</sup> 42 U.S.C. § 1395nn(i)(3)(F)(i).

<sup>10</sup> ApplicableHospitalData\_FY2011\_FY2013Q4.xls; see also Indiana State Department of Health Hospital (general) Licensing and Certification Program Directory of Hospitals.

<sup>11</sup> 42 U.S.C. § 1395nn(i)(3)(F)(ii).

<sup>12</sup> IME\_GME2012.CSV.

<sup>13</sup> Note that data for Harsha Behavioral Center, Inc. is not available in the IME\_GME2010.CSV database. However, the 2010 Cost Report filed on behalf of Harsha Behavioral Center, Inc. has been utilized to obtain the facility's Medicaid admissions data for this year. A copy of the Electronically Filed 2010 Cost Report is attached hereto as Exhibit C. The 2011 and 2012 Cost Reports filed on behalf of Harsha Behavioral Center, Inc. have also been evaluated when determining Harsha Behavioral Center's Medicaid admissions data for 2011 and 2012, respectively. A copy of the Electronically Filed 2011 Cost Report is attached hereto as Exhibit D. A copy of the Electronically Filed 2012 Cost Report is attached hereto as Exhibit E.



**HARSHA**  
BEHAVIORAL CENTER

3.4. CALCULATIONS: THE CALCULATIONS FOR ANNUAL PERCENT OF MEDICAID INPATIENT ADMISSIONS FOR HOSPITALS IN VIGO COUNTY, INDIANA USING THE CMS RECOMMENDED DATA AND METHOD OF CALCULATION ARE AS FOLLOWS:<sup>14</sup>

a. 2012 CMS Data

i. *Harsha Behavioral Center:*

Total Medicaid Discharges <sup>15</sup>	=	905
Total Patient Discharges <sup>16</sup>	=	1356
2012 Percent of Medicaid Discharges	905/1356 =	<u>66.740%</u>

ii. *Union Hospital, Inc.:*

Total Medicaid Discharges <sup>17</sup>	=	1184
Total Patient Discharges <sup>18</sup>	=	15016
2012 Percent of Medicaid Discharges	1184/15016 =	<u>7.885%</u>

iii. *Terre Haute Regional Hospital Inc.:*

Total Medicaid Discharges <sup>19</sup>	=	1346
Total Patient Discharges <sup>20</sup>	=	5098
2012 Percent of Medicaid Discharges	1346/5098 =	<u>26.403%</u>

iv. *Hamilton Center Inc.:*

Total Medicaid Discharges <sup>21</sup>	=	139
Total Patient Discharges <sup>22</sup>	=	578
2012 Percent of Medicaid Discharges	139/578 =	<u>24.048%</u>

<sup>14</sup> 42 C.F.R. § 411.362(c)(2)(ii); 42 C.F.R. § 411.362(c)(4)(ii)(D).

<sup>15</sup> IME\_GME2012.CSV at AD:1804 (for all IME\_GME2012.CSV data, see **Exhibit F**); Harsha Behavioral Center Electronically Filed Cost Report 2012 (see **Exhibit E**).

<sup>16</sup> IME\_GME2012.CSV at AE:1804; Harsha Behavioral Center Electronically Filed Cost Report 2012.

<sup>17</sup> IME\_GME2012.CSV at AD:1655.

<sup>18</sup> IME\_GME2012.CSV at AE:1655.

<sup>19</sup> IME\_GME2012.CSV at AD:1666.

<sup>20</sup> IME\_GME2012.CSV at AE:1666.

<sup>21</sup> IME\_GME2012.CSV at AD:1788.

<sup>22</sup> IME\_GME2012.CSV at AE:1788.



**Harsha Behavioral Center's 2012 Percent of Medicaid Discharges was 66.740% of Harsha Behavioral Center's Total Discharges for 2012, which is greater than the percent of Medicaid Discharges for each of the other three (3) facilities in Vigo County, Indiana. Therefore, Harsha Behavioral Center had the highest percentage of 2012 Medicaid Discharges amongst facilities in Vigo County, Indiana.**

b. 2011 CMS Data:

i. *Harsha Behavioral Center:*

Total Medicaid Discharges <sup>23</sup>	=	772
Total Patient Discharges <sup>24</sup>	=	1073
2011 Percent of Medicaid Discharges	772/1073	= <u>71.948%</u>

ii. *Union Hospital, Inc.:*

Total Medicaid Discharges <sup>25</sup>	=	1310
Total Patient Discharges <sup>26</sup>	=	16022
2011 Percent of Medicaid Discharges	1310/1602	= <u>8.176%</u>

iii. *Terre Haute Regional Hospital Inc.:*

Total Medicaid Discharges <sup>27</sup>	=	1398
Total Patient Discharges <sup>28</sup>	=	4836
2011 Percent of Medicaid Discharges	1398/4836	= <u>28.908%</u>

iv. *Hamilton Center Inc.:*

Total Medicaid Discharges <sup>29</sup>	=	176
Total Patient Discharges <sup>30</sup>	=	787

<sup>23</sup> IME\_GME2011.CSV at AD:1811 (for all IME\_GME2011.CSV data, see **Exhibit G**); Harsha Behavioral Center Electronically Filed Cost Report 2011 (see **Exhibit D**).

<sup>24</sup> IME\_GME2011.CSV at AE:1811; Harsha Behavioral Center Electronically Filed Cost Report 2011.

<sup>25</sup> IME\_GME2011.CSV at AD:1664.

<sup>26</sup> IME\_GME2011.CSV at AE:1664.

<sup>27</sup> IME\_GME2011.CSV at AD:1677.

<sup>28</sup> IME\_GME2011.CSV at AE:1677.

<sup>29</sup> IME\_GME2011.CSV at AD:1794.

<sup>30</sup> IME\_GME2011.CSV at AE:1794.



2011 Percent of Medicaid Discharges 176/787 = 22.363%

**Harsha Behavioral Center's 2011 Percent of Medicaid Discharges was 71.984% of Harsha Behavioral Center's Total Discharges for 2011, which is greater than the percent of Medicaid Discharges for each of the other three (3) facilities in Vigo County, Indiana. Therefore, Harsha Behavioral Center had the highest percentage of 2011 Medicaid Discharges amongst facilities in Vigo County, Indiana.**

c. 2010 CMS Data and Harsha Behavioral Center Cost Report Data.<sup>31</sup>

i. Harsha Behavioral Center:

Total Medicaid Discharges<sup>32</sup> = 584

Total Patient Discharges<sup>33</sup> = 843

2010 Percent of Medicaid Discharges 584/843 = 69.276%

ii. *Union Hospital, Inc.:*

Total Medicaid Discharges<sup>34</sup> = 1318

Total Patient Discharges<sup>35</sup> = 16685

2010 Percent of Medicaid Discharges 1318/16685 = 7.899%

iii. *Terre Haute Regional Hospital Inc.:*

Total Medicaid Discharges<sup>36</sup> = 1612

Total Patient Discharges<sup>37</sup> = 5267

2010 Percent of Medicaid Discharges 1612/5267 = 30.606%

iv. *Hamilton Center Inc.:*

Total Medicaid Discharges<sup>38</sup> = 166

<sup>31</sup> 42 C.F.R. § 411.362(c)(2)(ii).

<sup>32</sup> Harsha Behavioral Center Electronically Filed Cost Report 2010 (see **Exhibit C**).

<sup>33</sup> Harsha Behavioral Center Electronically Filed Cost Report 2010.

<sup>34</sup> IME\_GME2010.CSV at AD:660 (for all IME\_GME2010.CSV data, see **Exhibit H**).

<sup>35</sup> IME\_GME2010.CSV at AE:660.

<sup>36</sup> IME\_GME2010.CSV at AD:662.

<sup>37</sup> IME\_GME2010.CSV at AE:662.

<sup>38</sup> IME\_GME2010.CSV at AD:694.



Total Patient Discharges<sup>39</sup> = 741  
 2010 Percent of Medicaid Discharges 166/741 = 22.402%

**Harsha Behavioral Center's 2010 Percent of Medicaid Discharges was 69.276% of Harsha Behavioral Center's Total Discharges for 2010, which is greater than the percent of Medicaid Discharges for each of the other three (3) facilities in Vigo County, Indiana. Therefore, Harsha Behavioral Center had the highest percentage of 2010 Medicaid Discharges amongst facilities in Vigo County, Indiana.**

d. Table 1. Medicaid Patient Discharges, Total Patient Discharges and Percentage of Medicaid Patients for Vigo County, Indiana Hospitals by Year.

Data Year	Hospital Entity	Medicaid Patient Discharges	Total Patient Discharges	Percentage of Medicaid Patients
2010	Harsha Behavioral Center	584	843	69.276%
	Union Hospital, Inc.	1318	16685	7.899%
	Terre Haute Regional Hospital Inc.	1612	5267	30.606%
	Hamilton Center Inc.	166	741	22.402%
2011	Harsha Behavioral Center	772	1073	71.948%
	Union Hospital, Inc.	1310	16022	8.176%
	Terre Haute Regional Hospital Inc.	1398	4836	28.908%
	Hamilton Center Inc.	176	787	22.363%
2012	Harsha Behavioral Center	905	1356	66.740%
	Union Hospital, Inc.	1184	15016	7.885%
	Terre Haute Regional Hospital Inc.	1346	5098	26.403%
	Hamilton Center Inc.	139	578	24.048%

The above calculations satisfy the statutory requirements to show that Harsha Behavioral Center qualifies as a high Medicaid facility.

3.5. IN ORDER FOR A HOSPITAL TO UTILIZE THE HIGH MEDICAID FACILITY EXPANSION EXCEPTION, IT MUST MEET THE CONDITIONS DESCRIBED IN 42 U.S.C. § 1395nn(i)(3)(E)(iii).<sup>40</sup>

Harsha Behavioral Center does not discriminate against beneficiaries of Federal health care programs and does not permit physicians practicing at Harsha Behavioral Center to discriminate against such beneficiaries.

<sup>39</sup> IME\_GME2010.CSV at AE:694.

<sup>40</sup> 42 U.S.C. § 1395nn(i)(3)(F)(iii); 42 C.F.R. § 411.362(c)(4)(ii)(D).



**HARSHA**  
BEHAVIORAL CENTER

**4. BASELINE, CURRENT AND DESIRED BEDS INFORMATION.**

4.1. BASELINE:

On March 23, 2010, Harsha Behavioral Center had forty-four (44) licensed beds, operating rooms, and procedure rooms. This baseline was comprised of: 44 beds, 0 operating rooms, and 0 procedure rooms (“**Baseline**”). Pursuant to the definitions set forth in section 1877(i)(3)(C)(iii) of the Social Security Act, please see **Exhibit C** containing labeled documentation of the number of beds, operating rooms, and procedure rooms for which Harsha Behavioral Center was licensed as of March 23, 2010.<sup>41</sup>

4.2. CURRENT:

As of the filing date of this request, December 10, 2014, Harsha Behavioral Center has forty-four (44) licensed beds, operating rooms, and procedure rooms. This current calculation is comprised of: 44 beds, 0 operating rooms, and 0 procedure rooms. Please see **Exhibit I** containing labeled documentation of the number of beds, operating rooms, and procedure rooms for which Harsha Behavioral Center is licensed as of the date of this request, December 10, 2014.<sup>42</sup>

4.3. EXPANSION REQUESTED:

Harsha Behavioral Center requests to increase the total number of Harsha Behavioral Center’s forty-four (44) beds, zero (0) procedure rooms, and zero (0) operating rooms to one hundred thirty-two (132) total beds, zero (0) procedure rooms, and zero (0) operating rooms. Harsha Behavioral Center’s request represents an increase of forty-four (44) beds, or a two hundred percent (200%) expansion from Harsha Behavioral Center’s Baseline. Harsha Behavioral Center’s request represents the maximum allowable increase from the Baseline.

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<sup>41</sup> The State of Indiana does not “license” beds. Therefore, the most official record of Harsha Behavioral Center’s number of beds as of March 23, 2010 is found on the Harsha Behavioral Center Electronically Filed Cost Report 2010.

<sup>42</sup> The State of Indiana does not “license” beds. Therefore, the most official record of Harsha Behavioral Center’s number of beds as of December 10, 2014 is the Hospital Facility Directory for Vigo County located on the Indiana State Department of Health’s website, *available at* <http://www.in.gov/isdh/reports/QAMIS/hosdir/ctyfac83.htm>.



**HARSHA**  
BEHAVIORAL CENTER

5. CERTIFICATION.

With knowledge of the penalties for false statements provided by 18 U.S.C. 1001, I, Roopam Harshawat, President, certify that all of the information provided in the request and all of the documentation provided with the request is true and correct to the best of my knowledge and belief.

By: Roopam Harshawat, President

Date: November 24 2014