



STATE OF TENNESSEE
DEPARTMENT OF HEALTH
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RALPH ALVARADO, MD, FACP
COMMISSIONER

January 27, 2023

Mr. Alan Levine
Chairman, President, and Chief Executive Officer
Ballad Health
303 Med Tech Parkway, Suite 300
Johnson City, TN 37604

RE: Ballad Health's ("Ballad") Fiscal Year 2021 ("FY21") Monetary Commitment

Mr. Levine,

This letter addresses the FY21 spending requirements of Ballad under Article III of the Third Amended and Restated Terms of Certification, dated July 1, 2022 ("TOC").

During Ballad's FY21 many spending obligations under Article III of the TOC were suspended by the March 31, 2020 letter Suspension of TOC Provisions in Response to Notice of Force Majeure Event issued at Ballad's request due to the COVID-19 Pandemic ("March 2020 Suspension Letter"). Because of the suspension, we will not be issuing any new or additional shortfall determinations for FY21, but we will summarize herein as of June 30, 2021 the creditable spending Ballad continued notwithstanding the suspension; the amounts that will carry forward to subsequent fiscal years; and the balances that must be retained in board-designated funds required by findings for previous fiscal years.

Further, FY21 is the first year of the TOC that Ballad has not met its Baseline Spending as required by TOC Section 3.01(b). Consistent with the example in Section 3.01(b) Ballad's Monetary Obligations are composed of the Baseline Spending and the incremental Aggregate Spending Commitment of Section 3.01(a). The Baseline Spending component is a calculated level of historical spend which assures that the Aggregate Spending Commitment is met through incremental expenditures and not satisfied by the reduction of previously existing spending levels. We do not interpret the failure to meet Baseline Spending as independent Noncompliance under the TOC but the shortfall in Baseline Spending will reduce the amount of spend creditable towards the Monetary Obligations in any year in which the Baseline Spending is not met.

The Tennessee COPA Monitor ("Monitor") has advised us that he asked the Ballad internal audit department to audit both Baseline Spending and incremental spending attributed to each of the six (6) approved Spending Plans required under Article III. The Monitor then reviewed with Ballad the work performed by the Ballad internal audit department and made requests for additional documentation. Based upon his efforts, the Monitor reports:

Baseline Spending

Baseline Spending was satisfied in FY21 for three (3) of the Spending Plans. However, for the other Spending Plans, Baseline Spending was deficient in the amounts shown on the chart below:

	Annual Baseline Spending Levels	Actual Baseline Spend	Baseline Deficit
Rural Health Services	\$74,374,082	\$66,494,549	(\$7,879,533)
Population Health Improvement	\$ 2,994,045	\$ 2,791,083	(\$ 202,962)
Region-Wide Health Information Exchange (“HIE”)	\$ 452,359	\$ 398,282	(\$ 54,077)

We understand that Ballard has argued that the deficit in Baseline Spending in FY21 was due in part to the COVID-19 pandemic. The Monitor has solicited information from Ballard to support that position and reports that the impact of COVID-19 was difficult to quantify but he has recommended that we reduce the Rural Health Services deficit by \$500,000 to \$7,379,690, which recommendation we are accepting.

Therefore, in order to calculate the creditable expenditures under the Spending Plans, we will reduce the otherwise qualified and creditable expenditures for FY21 by the deficit listed above.

Spending Plans

Based upon the work of the Ballard internal audit department and validation by the Monitor, the chart below sets forth the amounts of excess or shortfall spending for FY21:

	Total Spending Commitment	Commitment through FY21 (per Exhibit B of TOC)	Actual Plan Spend through FY21	Baseline Spending deficit for FY21	Creditable Spend through FY21	Excess/(Shortfall) carried to FY22
Behavioral Health Services	\$ 85,000,000	\$ 3,667,000	\$ 5,626,850	-	\$5,626,850	\$1,959,850
Children’s Services	\$ 27,000,000	\$ 2,333,000	\$ 4,153,059	-	\$4,153,059	\$1,820,059
Rural Health Services	\$ 28,000,000	\$ 3,000,000	\$ 7,918,482	(\$7,379,533)	\$ 538,949	(\$2,461,051)
Health Research & Graduate Medical Education (“HR/GME”)	\$ 85,000,000	\$ 4,000,000	\$10,311,994	-	\$10,311,994	\$6,311,994

Population Health Improvement	\$ 75,000,000	\$ 2,333,000	\$ 9,470,697	(\$ 202,962)	\$9,267,735	\$6,934,735
HIE Plan	\$ 8,000,000	\$ 667,000	\$ 379,077	(\$ 54,077)	\$ 325,000	(\$ 342,000)

Therefore, for four (4) of the Spending Plans, namely Behavioral Health, Children’s Services, HR/GME and Population Health, the excess spend shall be credited against the annual spending commitments for FY22 for those Spending Plans under the provisions of Section 3.01(a) of the TOC.

Prior Shortfalls

Under the August 26, 2021 letter Ballad Health’s Fiscal year 2020 Monetary Commitment (“FY2020 Shortfall Letter”) Ballad is required to deposit into board-designated funds specified amounts for four (4) Spending Plans. Based upon the excess calculation above, all funds for Behavioral Health and for Children’s Services are accordingly released.

Further, Ballad could be required to increase its deposit for Rural Health to the calculated \$2,461,051 shortfall amount shown in this calculation, but we are declining to so direct due to the Spending Plan suspension for this period under the March 2020 Suspension Letter. However, we will not authorize the release of any existing funds designated to the Rural Health Plan by the FY2020 Shortfall Letter, and we note that the entire shortfall for Rural Health will carry forward to FY22 as shortfall in the Rural Health Spending Plan.

Finally, because the FY21 calculated shortfall for the HIE Plan is \$342,000, which amount is less than the \$641,237 HIE Plan designed funds amount required in the FY20 Shortfall Letter, we authorize the release of HIE Plan designated funds in excess of the \$342,000 shortfall amount for FY21.

We commend Ballad for its commitment to the community as shown by its continuing spend during the COVID 19 pandemic even under the March 2020 Suspension Letter.

Thank you for your continuing efforts to serve the needs of your patients. While TDH takes our supervision role under the COPA very seriously, we also see ourselves as partners with Ballad in working through the various issues that will invariably arise in this unprecedented process. Ballad’s success is imperative to the residents of Northeast Tennessee and Southwest Virginia, and we want to do our part to help make that success possible.

Please let my staff know if you have any additional questions or need further clarification.

Sincerely,



Ralph Alvarado, MD, FACP
Commissioner



Jonathan Skrmetti
Attorney General and Reporter

cc: The Honorable Colin M. Greene, MD, MPH
State Health Commissioner
Virginia Department of Health

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