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BEFORE THE OFFICE OF ADMINISTRATIVE HEARINGS

<p>In the Matter of:</p> <p>ABC Ambulance LLC</p> <p>Applicant.</p>	<p>Docket No. 2019-EMS-0151-DHS</p> <p>ADDENDUM TO ADD EXHIBIT TO ABC'S MOTION FOR RULINGS OF LAW TO LIMIT OR CLARIFY ISSUES AT HEARING</p> <p>(Assigned: The Hon. Thomas Shedden)</p>
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ABC Ambulance, LLC, (“ABC”) hereby files an addendum to its Motion for Rulings of Law to Limit or Clarify Issues at Hearing filed on June 19, 2019 (“Motion”) to add one exhibit.

ABC wishes to add the attached, newly-discovered exhibit to its Motion as **Exhibit D**. It is the Administrative Law Judge Decision dated October 30, 2017 in the CON amendment application filed by Intervenor AMR CON Holders. That applicant sought to “transfer, amend and terminate services” on its CON. Exhibit D, ¶ 2. The amendments requested were: “expanding CON 136’s service area to cover the current boundaries of CONs 66 and 86 and to cover land near Queen Creek; changing the response times and fractiles; changing the rates and charges; changing the name of the CON holder by adding ‘dbas’ to the CON; and changing the legal address.” Exhibit D, ¶ 9. Public necessity was not the standard imposed on that applicant in determining whether to amend its CON; public

1 necessity was not included as a Conclusion of Law, nor was it discussed in the Findings of
2 Fact. Exhibit D, pp. 11-12.

3
4 RESPECTFULLY SUBMITTED this 12th day of July, 2019.

5 HOFMEYR LAW PLLC

6 By /s/ Adriane J. Hofmeyr _____

7 Adriane J. Hofmeyr

8 *Attorney for ABC Ambulance, LLC*

9
10 **CERTIFICATE OF SERVICE**

11 ORIGINAL filed using the OAH electronic document filing system
12 <https://portal.azoah.com/oedf> this 12th day of July, 2019, with copies provided to all
13 parties on the approved mailing list this 12th day of July, 2019, by posting through the
14 designated OAH website at [https://portal.azoah.com/oedf/documents/2019-EMS-0151-
15 DHS/index.html](https://portal.azoah.com/oedf/documents/2019-EMS-0151-DHS/index.html).

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By: /s/ Adriane Hofmeyr

EXHIBIT D

1 3. The holders of CON 136 (“AMR”²), CON 66 (“SWA of Casa Grande”³), and
2 CON 86 (“SWA”⁴) (collectively, the “Applicants”) filed an application requesting that
3 ownership in CONs 66 and 86 be transferred to AMR and that several amendments be
4 made to CON 136.

5 4. If the application is granted, CONs 66 and 86 will effectively be subsumed
6 into CON 136 and consequently, the Applicants also request that service under CONs
7 66 and 86 be terminated.

8 5. The application was filed on December 5, 2016, with an amendment filed
9 on September 22, 2017.⁵ The amendment was filed to correct an error in the proposed
10 service area for CON 136.

11 6. All three CONs were under the ownership of the old Rural/Metro
12 Corporation until AMR’s parent corporations, Envision Healthcare Corp. and AMR
13 HoldCo., Inc., took ownership of these and other Rural/Metro CONs in January 2016.⁶
14 All three CONs serve all or parts of Maricopa County.

15 7. When Envision/AMR Holdco took over these CONs, the BEMSTS
16 requested, and Envision/AMR Holdco agreed that it would consolidate the CONs with
17 the intention being to simplify reporting requirements and to increase transparency. One
18 purpose of the application at issue is to effectuate this consolidation.

19 8. A second purpose of the application is to make amendments to CON 136
20 that are necessary because there are now CON holders operating in Maricopa County
21 that were not in operation when Envision/AMR Holdco acquired these three CONs.

22 9. The proposed amendments to CON 136 are: expanding CON 136’s
23 service area to cover the current boundaries of CONs 66 and 86 and to cover land near
24 Queen Creek; changing the response times and fractiles; changing the rates and
25 charges; changing the name of the CON holder by adding “dbas” to the CON; and
26 changing the legal address.

27 ² American Medical Response of Maricopa

28 ³ Southwest Ambulance of Casa Grande, Inc. dba Southwest Ambulance and Rescue of Arizona dba
American Medical Response dba AMR

29 ⁴ SW General, Inc. dba Southwest Ambulance dba American Medical Response dba AMR

30 ⁵ In this Decision, unless the context dictates otherwise, the application and the amendment are referred
to collectively as the “application.”

⁶ See <https://portal.azoah.com/oedf/documents/2016A-EMS-0145-DHS/2016A-EMS-0145-DHS-0020.pdf>

1 17. A similar situation has occurred in the northwest part of the county near
2 Surprise and most likely will occur near Peoria.

3 18. Additional changes to the existing system are expected to occur once
4 existing contracts that the Applicants have entered expire, in for example, Sun City and
5 Surprise, and if any additional CONs covering the Applicants' service areas are issued.

6 Change in Ownership/Changes to Name

7 19. If the application is approved, AMR, will own 100% interest in SWA of
8 Casa Grande, and SWA.

9 20. The Applicants request that CON 136 be amended by removing the
10 following: "American Medical Response of Maricopa, LLC" and replacing it with:
11 "American Medical Response of Maricopa, LLC, dba American Medical Response, dba
12 AMR, dba SW General Inc., dba Southwest Ambulance, dba Southwest Ambulance of
13 Casa Grande, Inc., dba Southwest Ambulance and Rescue of Arizona"

14 21. Adding these "dbas" to CON 136 will allow AMR to continue operating
15 under NPI numbers already issued to SWA and SWA of Casa Grande.

16 Expanding the Service Area

17 22. If the application is granted, CON 136's service area will be expanded to
18 encompass CONs 66's and 86's service areas, which is necessary so those CONs can
19 be terminated.

20 23. In addition, CON 136's service area will be expanded to cover an area in
21 the San Tan Valley around Queen Creek, which is land in Queen Creek's annexation
22 plan. This area is now part of CON 85 served by Southwest Ambulance of Casa
23 Grande.

24 24. Through mutual aid however, calls in the San Tan Valley area are actually
25 covered by the Applicants because they have units stationed closer to that area than
26 does Southwest Ambulance of Casa Grande. Consequently, amending the CON to
27 include this area conforms the CON to the current practice in the area.

28 25. If the application is granted, the following language on C.O.N. No.136 will
29 be removed:
30

- 1 a. "The political subdivision of Maricopa County, not limited
2 to a specific date, with the exception of those geographic areas
3 covered by the following C.O.N.s:
- 4 i. Buckeye Valley Rural Volunteer Fire District dba Buckeye Valley
5 Volunteer Unit (C.O.N. No. 8);
 - 6 ii. The Fire District of Sun City West dba Fire District of Sun City
7 West Ambulance Service (C. O.N. No. 114); other than the
8 campus of Banner Del E. Webb Medical Center at 14502 W.
9 Meeker Boulevard, Sun City West 85375, which is specifically
10 included in the service area;
 - 11 iii. Daisy Mountain Fire District (C.O.N. No. 105); exclusion is
12 limited to the geographic service area included in C.O.N. No. 105
13 issued on May 22, 2014;
 - 14 iv. Sun Lakes Fire District (C.O.N. No. 12);
 - 15 v. Life Line Ambulance Service, Inc. (C.O.N. No. 62);
- 16 b. The service area specified in paragraph 1.a. overlaps the C.O.N.
17 service area covered by the Phoenix Fire Department (C.O.N. No.
18 76); overlaps all C.O.N. service areas covered by the Rural/Metro
19 and its subsidiaries: Canyon State Ambulance (C.O. N. No. 58),
20 Southwest Ambulance and Rescue of Arizona (C.O.N. No. 66),
21 Southwest Ambulance — Maricopa (C.O.N. No. 86), Rural/Metro
22 Corp — Maricopa (C.O.N. No. 109), Com Trans Ambulance
23 Service, Inc. (C.O.N. No. 46), Professional Medical Transport,
24 Inc. (C.O.N. No. 71), American Ambulance (C.O.N. No. 75); and
25 includes the campus of Banner Del E. Webb Medical Center at
26 14502 W Meeker Boulevard, Sun City West 85375 located within
27 the C.O.N. service area of Fire District of Sun City West
28 Ambulance Service (C.O.N. No. 114)."
- 29 • And will be replaced with:
 - 30 1) Beginning at the southwest corner of Maricopa County (32° 30'
17.80"N, 113° 20' 2.00"W). Proceed north and east along the

1 Maricopa County Line to a point 0.19 miles east of Hwy 88 where the
2 boundary of the Tonto National Forest turns south (33° 27' 57.24"N,
3 111° 28' 36.54"W). Proceed south and east along the Tonto National
4 Forest to a point south of E. Hewitt Station Rd. where the Tonto
5 National Forest boundary turns east (33° 16' 41.50"N, 111° 16'
6 8.28"W), then proceed due west to a point north of Florence Junction
7 (33° 16' 41.50N, 111° 20' 18.1"W), then proceed south to Florence
8 Junction (33° 15' 22"N, 111° 20' 18.1"W), the proceed southwest
9 approximately 9.75 miles to appoint where Combs Road intersects
10 with the Fannin-McFarland Aqueduct (33° 13' 12.44"N, 111° 30'
11 3.22"W), then follow the Fannin-McFarland Aqueduct Southeast to the
12 extension of N. Quail Run Lane (33° 12' 9.03"N, 111° 29' 34.96"W);
13 proceed South to the intersection of N. Quail Run Lane and E Skyline
14 Dr. (33° 11' 28.09"N, 111° 29' 34.02"W); then West to the intersection
15 of E. Skyline Dr. & N. Gantzel Rd. (33° 11' 27.21"N, 111° 33' 24.14"W);
16 then South to the intersection of N. Gantzel Rd. & E. Bella Vista Rd
17 (33° 9' 42.26"N, 111° 32' 41.58"W); then East to the intersection of E.
18 Bella Vista Rd & N. Ritten House Rd (33° 9' 42.75"N, 111° 31'
19 43.28"W); then proceed Southeast along N. Ritten House Rd. to the
20 point where it intersects with E. Arizona Farms Road (33° 7' 5.70"N,
21 111° 29' 27.68"W), then proceed west following Arizona Farms Road
22 to where it intersects with the Gila River Indian Reservation (33° 7'
23 5.69"N, 111° 30' 58.50"W), then proceed west and north along the
24 boundary of Gila River Indian Reservation to the point where it
25 intersects with the Maricopa County Line (33° 12' 16.37"N, 111° 41'
26 9.07"W), then proceed along the Maricopa County Line west and
27 south to the beginning point at the southwest corner of Maricopa
28 County (32° 30' 17.80"N, 113° 20' 2.00"W). The geographic areas
29 covered by the following C.O.N.s are excluded from the service area
30 for 9-1-1 service:

- 1 a) Buckeye Valley Rural Volunteer Fire District dba Buckeye Valley
2 Volunteer Unit (C.O.N. No. 8), exclusion is limited to the area outside
3 of CON 66 service area as of August 4, 2016, which is described as
4 "West Valley areas of Goodyear, Litchfield Park, Tolleson and
5 Avondale, otherwise Olive Avenue on the North, the Estrella
6 Mountains on the South, 91st Avenue on the East and Wintersburg
7 Road (Palo Verde) on the West." This exclusion is further limited to
8 the geographic service area included on C.O.N. No. 8 issued July 1,
9 2015;
- 10 b) The North County Fire & Medial District (C.O.N. No. 114); Exclusion
11 area is limited to the geographic service area included on C.O.N. No.
12 114 as issued on August 7, 2015;
- 13 c) Daisy Mountain Fire District (C.O.N. No. 105); exclusion is limited to
14 the geographic service area included in C.O.N. No. 105 issued on May
15 22, 2014;
- 16 d) Sun Lakes Fire District (C.O.N. No. 12) – this exclusion is limited to the
17 geographic service area included on C.O.N. No. 12 issued September
18 2, 2015;
- 19 2) All of Maricopa County, and the portion of the service area described
20 in paragraph 1 that is in Pinal County including Queen Creek,
21 Superstition Fire and Medical District, Florence Junction and the San
22 Tan Valley for prescheduled, interfacility and convalescent transports.

23 Response Times

24 26. The Applicants are requesting several changes to the response times set
25 out in section 3 of CON 136.

26 27. If the application is granted, CON 136's service area would be split into
27 two zones for response time purposes: "I. The Cities and Towns in the certificated
28 service area in which CON 136 is the primary provider of [911] ambulance service" and
29 "II. Otherwise."
30

1 28. The change to two zones is necessary based on changes to the
2 Applicants' deployment models resulting from the new CON holders coming on line,
3 particularly the need to "leap frog" CONs to service rural areas.

4 29. As of the hearing date, the Cities and Towns in which CON 136 is the
5 primary provider of 911 ambulance service are: Avondale; Tolleson; Goodyear; El
6 Mirage; Glendale; Sun City; Surprise; Mesa; Gilbert; and Queen Creek.

7 30. The response time fractiles in CON 136 now apply to "all emergency calls."
8 In the application, the Applicants requested that the response time fractiles be for "all
9 emergency ambulance calls." The Bureau requested that this language be modified to
10 "all ambulance calls."

11 31. For compliance purposes, the Bureau considers "all ambulance calls" to
12 mean the calls originating from a 911 system or similar dispatch system and for which
13 the response is code 3, lights and siren. The Applicants agreed to modify the proposed
14 amendment to conform to the Bureau's request.

15 32. If the application is granted, the existing language in CON 136 section 3(a)
16 would be replaced with:

17 **RESPONSE TIMES**

- 18 I. The Cities and Towns in the certificated service area in which CON
19 136 is the primary provider of 9-1-1 ambulance service:
20 A. 10 minutes on 80% of all ambulance calls
21 B. 15 minutes on 90% of all ambulance calls
22 C. 20 minutes on 97% of all ambulance calls
23 II. Otherwise:
24 A. 10 minutes on 50% of all ambulance calls
25 B. 15 minutes on 75% of all ambulance calls
26 C. 20 minutes on 90% of all ambulance calls
27 D. 30 minutes on 97% of all ambulance calls

28 33. The Applicants request that CON 136's section 3(b) "CONTRACTUAL
29 RESPONSE TIMES" be removed. This provision is not necessary because it merely
30 states what is required by statute. If the application is granted, AMR will continue to
honor contracts that SWA and SWA of Casa Grande have entered into.

1 34. The Applicants request modifications to CON 136's section 3(c) "INTER-
2 FACILITY ARRIVAL TIMES" including that the point of compliance be changed from the
3 patient's bedside, to the facility itself. This change reflects the reality that ambulance
4 crews often need to consult with a facilities' medical personnel before going to the
5 patient's bedside and that in cases where the patient is not ready for transport, the crew
6 will wait in an area other than the patient's bedside. Another factor in favor of making
7 this change is the fact that the radios and cell phones often do not work in hospitals
8 making it difficult to accurately track the actual time of arrival at a bedside.

9 35. If the application is granted, the existing language in CON 136 section 3(c)
10 would be replaced with:

11 INTER-FACILITY ARRIVAL TIMES

12 Arrive at the facility within sixty minutes, zero seconds (60:00) of
13 the requested arrival time on ninety (90) percent of all non-urgent
14 transfers from a Arizona Department of Health Services licensed
15 Hospital, Long-Term Care Facility, Behavioral Health In-patient
16 Facility or Freestanding Urgent Care Centers as defined in ARS
17 36-401(19).B.Arrive at the facility within thirty minutes, zero
18 seconds (30:00) of the requested arrival time on ninety (90)
19 percent of all urgent transfers from a Arizona Department of
20 Health Services licensed Hospital, Long-Term Care Facility,
21 Behavioral Health In-patient Facility or Freestanding Urgent
22 Care Centers as defined in ARS 36-401(19).

23 Special Provisions:

24 Non-urgent transfer — is scheduled at least one (1) hour in
25 advance and shall mean a stable patient that has a low risk or
26 medium risk of his or her condition deteriorating as determined
27 by the patient's transferring clinician. Examples of patients
28 requiring a Non-Urgent Transfer include patients in a stable
29 condition: with established IV or vascular access; IV medications
30 not requiring constant hemodynamic monitoring including pain
medications; with pulse oximetry; increased need for ALS

1 assessment and interpretation skills; 3 or 12 lead EKG
2 monitoring; basic cardiac medications, e.g. heparin or
3 nitroglycerin; or the need for continued ALS assessment and
4 interpretation skills.

5 Urgent transfers — is immediate and shall mean a patient that
6 has a high risk of his or her condition deteriorating as determined
7 by the patient's transferring clinician. Examples of patients
8 requiring an Urgent Transfer include patients in a stable
9 condition: requiring advanced airway support by secured,
10 intubated, on ventilator; patients on multiple vasoactive
11 medication drips; patients whose condition has been initially
12 stabilized, but has likelihood of deterioration based on
13 assessment or knowledge of provider regarding specific
14 illness/injury. A patient is not stable if he or she is clinically
15 deteriorating and is in need of a time-sensitive intervention not
16 available at the transferring facility. Examples of patients that are
17 not stable include patients; who require invasive monitoring; are
18 post resuscitation; have sustained significant multi-system
19 trauma, acute STEMI or acute stroke; or are hemodynamically
20 unstable.

21 RATE CHANGES

22 36. The Applicants are requesting a change in rates to conform CON 136's
23 rates and charges to those on the Uniform Rate Group of Phoenix. This amendment
24 would apply to calls in CONs 66's and 136's service areas, as CON 86 is currently in
25 the Uniform Rate Group.

26 37. The total projected transports for the Applicants is 138,964. If the
27 requested rate change is granted, 8.10% of transports would have a \$109.45 decrease,
28 and 16.08% would increase by \$17.32.

29 38. While the matter was pending, an automatic 3.3% rate increase was
30 instituted. As a result, the Bureau recommended, and the Applicants agree to the
following proposed rates if the application is granted:

1	A. ALS Base Rate	\$928.21
2	B. BLS Base Rate	\$826.82
3	C. Mileage Charge (Per Loaded Patient Mile)	\$19.24
4	D. Standby/Waiting Charge (Per Hour)	\$206.70
5	E. Subscription Rate	\$86.69
6	F. Disposable Supplies, Medical Supplies,	Charges Allowed
7	Medication, and Oxygen related costs	Per A.R.S. § 36-
8		2239(D) and A.A.C.
9		R9-25-1109
10		
11		
12		

Legal Address

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 14 39. The Applicants request that CON 136 be amended by removing the
 15 following: "1524 West 14th Street, Suite 120, Tempe, AZ 85281" and replacing it with:
 16 "6363 S. Fiddlers Green Circle, 14th Floor, Greenwood Village, CO 80111", which is
 17 AMR's corporate headquarters.

CONCLUSIONS OF LAW

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 19 1. The Applicants bears the burden to show that the application to amend
 20 should be granted. The standard of proof on all issues is that of a preponderance of the
 21 evidence. ARIZ. ADMIN. CODE § R2-19-119.

22 2. A preponderance of the evidence is:

23 The greater weight of the evidence, not necessarily established
 24 by the greater number of witnesses testifying to a fact but by
 25 evidence that has the most convincing force; superior
 26 evidentiary weight that, though not sufficient to free the mind
 wholly from all reasonable doubt, is still sufficient to incline a fair
 and impartial mind to one side of the issue rather than the other.

27 BLACK'S LAW DICTIONARY 1373 (10th ed. 2014).

28 3. ADHS regulates the operation of ambulance services in the State of
 29 Arizona. ARIZ. REV. STAT. Title 36, Chapter 21.1, Article 2.
 30

