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William L. Hyland
Director of Healthcare Planning

DaVita “ he/she that gives life”

October 31, 2013

Mr. Craig R. Smith, Chief
Certificate of Need Section
Division of Health Service Regulation
809 Ruggles Drive
Raleigh, North Carolina 27603

RE: Project #L-10182-13/Bio-Medical Applications of North Carolina, Inc. d/b/a BMA Rocky Mount/Add eleven dialysis stations for a total of forty-one stations/Nash County

Dear Mr. Smith:

BMA indicates that they are offering a Certificate of Need application to add eleven dialysis stations at their BMA Rocky Mount dialysis facility in response to the 19-station deficit of stations in Nash County.

There are a number of issues with the financial assumptions in Section X. of the BMA Rocky Mount County CON application. The applicant does not delete the 20% that Medicare does not reimburse for services. Medicare only pays 80% allowable charge. The other 20% has to be paid by either the patient or a secondary source of insurance. The applicant indicates that 81.4% of the in-center patients and 2.8% of the home-trained patients have Medicare. However, the applicant failed to delete the 20% from the \$234 Medicare reimbursement. The applicant provided no other source for the 20% copay.

The applicant indicates that all treatments provided to in-center patients with the exception of the Medicare patient treatments bring in an average additional reimbursement of well over \$300 per treatment. This includes the Medicaid patients with an applicant stated reimbursement rate of \$137.29, patients with commercial insurance with an applicant stated reimbursement rate of \$1,375, patients funded by the Veterans Administration with an applicant stated reimbursement rate of \$146.79 and patients self-funded with an applicant stated reimbursement rate of \$1,375.00. Those additional reimbursements are suspect.

The applicant fails to provide adequate staffing on the treatment floor to cover the hours that the facility will be open. The applicant indicates on page 59 that they will have seven full time Registered Nurses during operating years one and two. This equals to 280 RN hours a week. The applicant indicates that they will have fifteen full time patient care technicians during operating years one and two. This equals to 600 PCT hours a week.

One page 61 the applicant indicates that there will be a total of fourteen direct care staff for each shift offered in the facility. The applicant indicates that they will have a morning shift that runs from 6 am to noon and an afternoon shift that runs from noon to 5 pm. The applicant indicates that they will operate these shifts six days a week. This means that the facility will be open six days a week for eleven hours a day with fourteen staff available all open hours. The staffing needs indicated by the applicant is a total of 924 hours a week (6 days X 11 hours a day X 14 direct care staff = 924). The total direct care staff available, which includes seven Registered Nurses and fifteen patient care technicians, is a total of 880 hours. The applicant is short 44 hours a week, which equals 1.1 full time equivalent positions.

Fresenius Medical Care touts that they operate 90 dialysis facilities in North Carolina. Fresenius Medical Care through Jim Swann, their Market Development and Certificate of Need Director in North Carolina, agreed to participate in the gathering of the patient data as of December 31, 2012 by county. That patient data was used in the development of the July 2013 Semiannual Dialysis Report. All of the dialysis providers in North Carolina agreed to provide this information. All of the providers were given the same amount of time to collect and submit this information to the Division of Health Service Regulation Planning Section. All of the providers were provided a spread sheet prior to the publication of the July 2013 Semiannual Dialysis Report so that they could review the data that they and all other providers had submitted. This was one last chance to correct any errors that the providers may have made in the collection of the data.

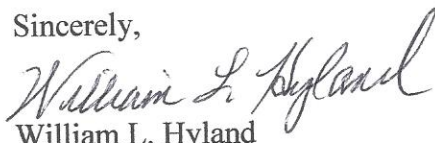
As soon as the July 2013 Semiannual Dialysis Report was published indicating a need determination in Nash and Scotland Counties, Fresenius stated that they had made mistakes in the county of residence in three facilities that caused the need determinations. Fresenius has not provided any indication that they made mistakes in reporting data from any of the other 87 facilities, but only facilities in counties where there was a declared need determination.

The applicant goes to great length at several places in the application to explain that the two counties in July 2013 Semiannual Dialysis Report that resulted in a need determination for new dialysis stations by county were a result of errors made by either a Clinical Manager or an Area Manager. In Nash County, the BMA East Rocky Mount in Edgecombe County patient data was prepared by the Clinical Manager. The BMA Rocky Mount patient data was prepared by the Clinical Manager of that facility. This indicates that two professional staff gathered and certified the data.

The CON application submitted by BMA Rocky Mount contains several errors and inconsistencies. The application is fatally flawed and should be denied.

DaVita HealthCare Partners Inc. and Total Renal Care Inc. reserve the right to provide additional comments about the FMC Scotland County application at the public hearing.

Sincerely,



William L. Hyland
Director of Healthcare Planning