COMMENTS IN OPPOSITION FROM FORSYTH MEMORIAL HOSPITAL INC. AND NOVANT HEALTH INC.

Regarding Competing Applications for Home Health Agencies in Forsyth County:

Well Care Forsyth

Personal Health Care

Aveanna

Forsyth Memorial Hospital Inc. and Novant Health Inc. as joint applicants to develop a new, Medicare-certified home health agency (HHA) in Forsyth County, Novant Health Home Care - Forsyth (NHHC-F), respectfully submit these comments for the Agency's consideration in its conduct of the 2023 Forsyth County Home Health Agency review.[1] In this review, four applicants filed certificate of need (CON) applications seeking CON approval to develop a new HHA in Forsyth County.

In accordance with N.C. Gen. Stat. § 131E-185, NHHC-F offers comments on each application with specific attention to:

1. Facts relating to the service area proposed in the application;
2. Facts relating to the representations made by the applicant in its application, and its ability to perform or fulfill those representations; and
3. Discussion of whether the material in each application and other relevant factual material shows the application complies with relevant review criteria and performance standards.

The Agency must review each application independently against the criteria (without considering the competing applications) and determine whether each "is either consistent with or not in conflict with these criteria" (N.C. Gen. Stat. § 131E–183[a]).

It is worth restating what the 2023 State Medical Facilities Plan (SMFP) actually says about the supply and demand for home health services in Forsyth County. The SMFP compares the projected number of unduplicated residents demanding home health services in 2024 against the number of unduplicated patients who received home health services in 2021. The projected growth exceeds 325 patients. Therefore, the SMFP lets the Agency approve a new HHA in Forsyth County.

While the difference in patients served in 2021 and patients who will be served in 2024 is sometimes called "unmet need," this is not the proper term. The 2023 SMFP made no finding the existing HHAs serving Forsyth County residents are unable or unwilling to serve more patients. There is no physical limit to the number of patients HHAs can serve comparable to the physical limits of bed days in a hospital or nursing home. What the SMFP finds is there will be enough increase in demand for home health services in Forsyth County to make an additional HHA financially feasible without reducing the patient volume at existing HHAs. At some past time, the authors of the HHA performance standard determined this patient volume was 325.

The purpose of the CON program is to improve access and quality and reduce the cost of health services for the benefits of consumers. For home health services, the public policy underlying the CON program is to allow but manage the entry of new providers in a market. New HHAs benefit

[1] Nothing in these Comments is intended to amend the NHHC-F Application, and nothing contained here should be considered an amendment to the NHHC-F Application.

consumers as they expand consumer choice, innovate with new programs and technology, improve quality of care, and keep existing HHAs on their toes. Two metrics of quality improvement of relevance in this review cycle are reduction in unnecessary hospital inpatient days, and reduction in hospital readmissions.

Based on the following, only the NHHC-F application demonstrated conformity with the applicable criteria.

COMMENTS SPECIFIC TO WELL CARE

CRITERION (1)

(1) The proposed project shall be consistent with applicable policies and need determinations in the State Medical Facilities Plan, the need determination of which constitutes a determinative limitation on the provision of any health service, health service facility, health service facility beds, dialysis stations, operating rooms, or home health offices that may be approved.

Policy GEN-3: Basic Principles

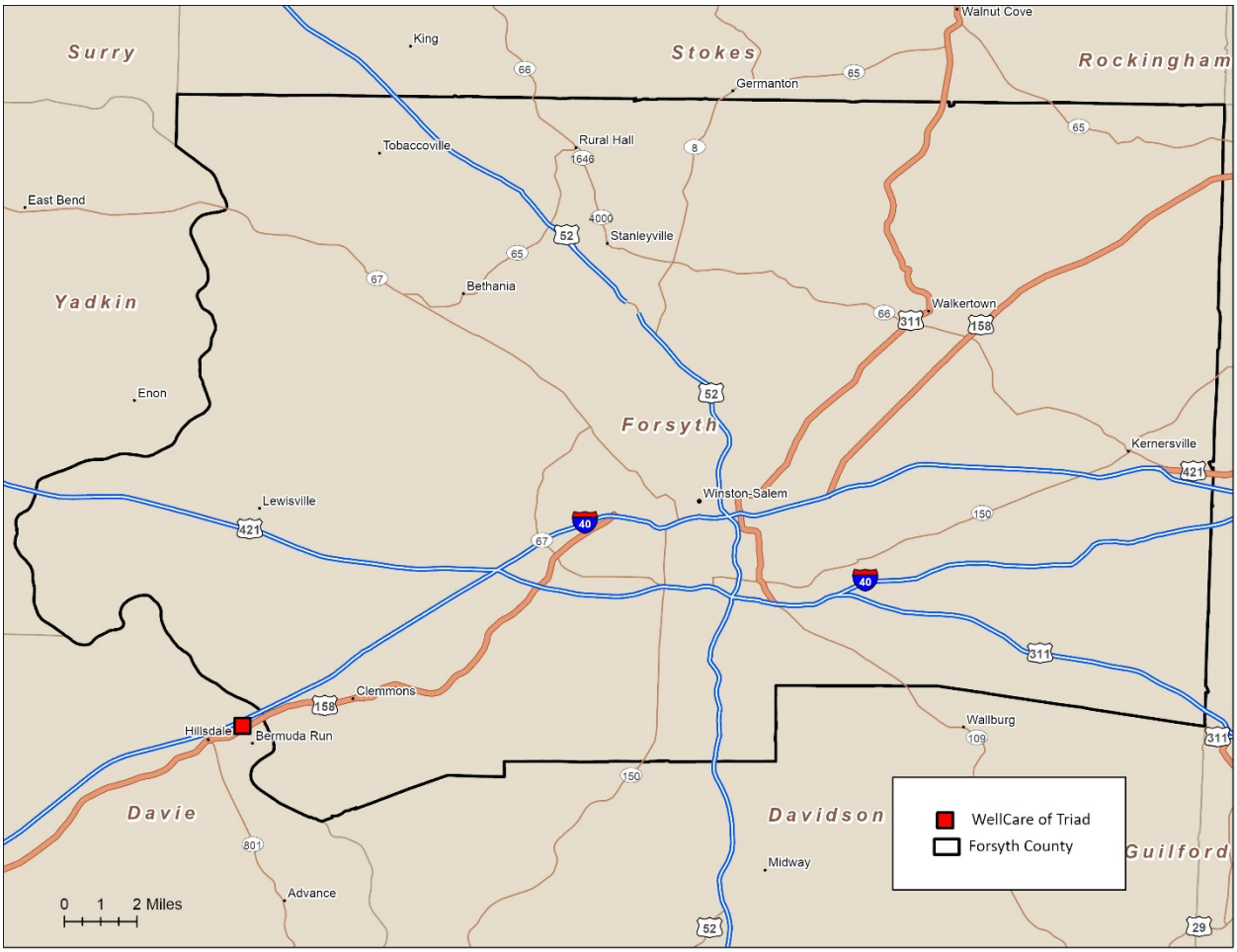
"A certificate of need applicant applying to develop or offer a new institutional health service for which there is a need determination in the North Carolina State Medical Facilities Plan shall demonstrate how the project will promote safety and quality in the delivery of health care services while promoting equitable access and maximizing healthcare value for resources expended. A certificate of need applicant shall document its plans for providing access to services for patients with limited financial resources and demonstrate the availability of capacity to provide these services. A certificate of need applicant shall also document how its projected volumes incorporate these concepts in meeting the need identified in the State Medical Facilities Plan as well as addressing the needs of all residents in the proposed service area."

Common sense says a new home health provider in Forsyth County must be an HHA not currently serving many or any patients in Forsyth County. The benefits to the consumer of a new HHA in Forsyth County only occur if that new HHA is not now serving many or any patients in Forsyth County. North Carolina allows an HHA with an office in one county to serve patients in other counties and to employ direct care staff, marketing staff, clerical staff, and supervisors living and working in other counties. The only thing it cannot do is establish an administrative office in

another county. There is no healthcare value in awarding a CON for an HHA in Forsyth County to an HHA like Well Care that, for many years, has served hundreds of patients annually in Forsyth County.

Well Care of the Triad Inc. is licensed for Davie County (Well Care Davie). The office address is 146 Dornach Way, Advance, NC. As shown in the map below, this is just over the Forsyth County line in Davie County.

WellCare Davie Home Health Office's Proximity to Forsyth County



The table and map from the Well Care application below show the counties it served in 2022. Well Care Forsyth defined its service area as Forsyth, Guilford, and Stokes counties.[2] Clearly, Well Care Davie has no problem obtaining referrals or delivering services to patients in Forsyth and Guilford counties, as these are its top two counties and account for 64 percent of its patients. Stokes County is a small rural county that Well Care Davie includes in the map of its service area. The

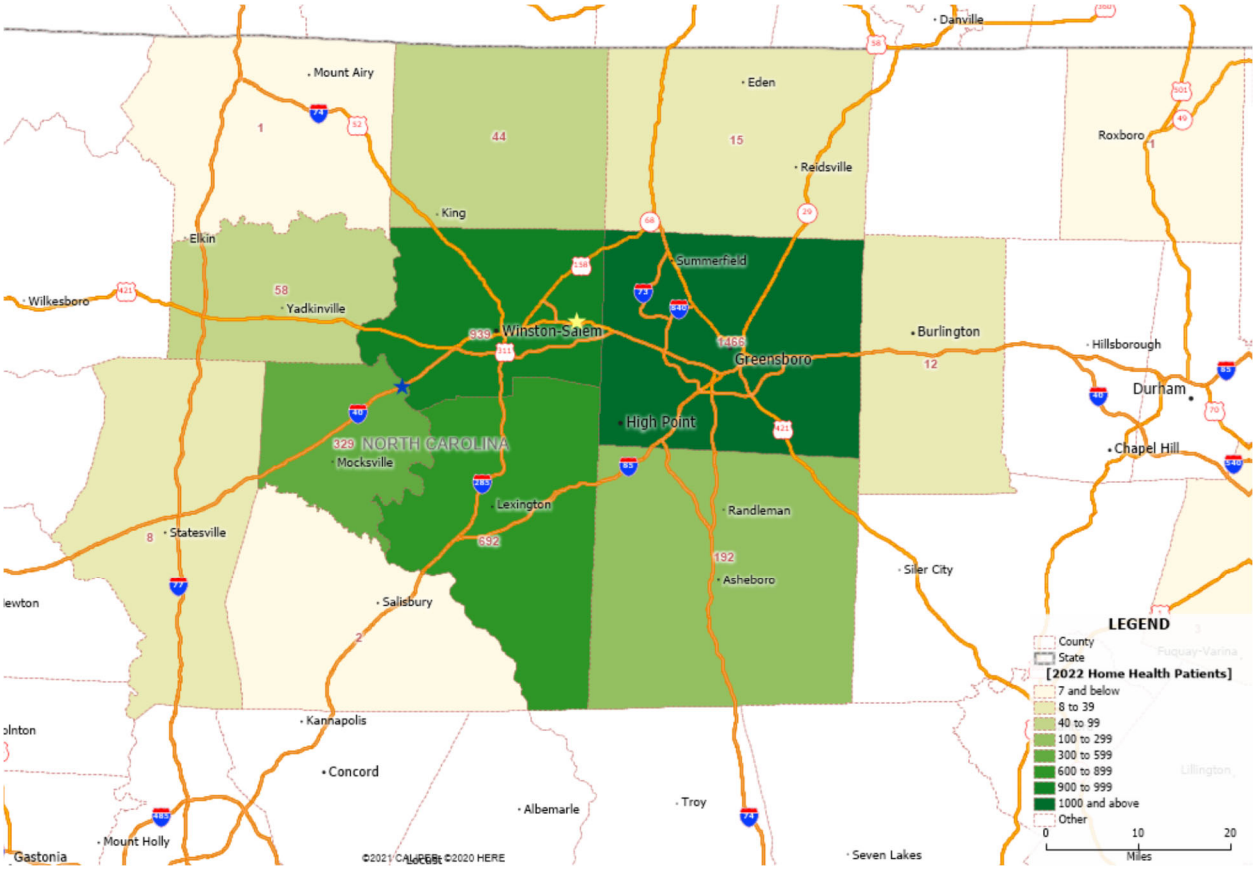
[2] As Well Care's website shows, Forsyth, Guilford and Stokes Counties are all served from Well Care's office at 146 Dornach Way. See https://wellcarehealth.com/contact/?location=stokes2, accessed May 29, 2023.

application never explains why it was included or how its residents can be better served by Well Care establishing an office in Kernersville.

2022 Patient Origin for Well Care of the Triad

County	Patients	Percent Total	Cumulative %
Guilford	1,466	38.96%	38.96%
Forsyth	939	24.95%	63.91%
Davidson	692	18.39%	82.30%
Davie	329	8.74%	91.04%
Randolph	192	5.10%	96.15%
Yadkin	58	1.54%	97.69%
Stokes	44	1.17%	98.86%
Rockingham	15	0.40%	99.26%
Alamance	12	0.32%	99.57%
Iredell	8	0.21%	99.79%
Wake	3	0.08%	99.87%
Rowan	2	0.05%	99.92%
Craven	1	0.03%	99.95%
Person	1	0.03%	99.97%
Surry	1	0.03%	100.00%
Total	3,763	100.00%	

Source: Proposed 2024 SMFP, Chapter 12: Home Health Data by County of Patient Origin. Note, the number of historical patients in Forsyth, Guilford, and Stokes counties are also shown in Table Q.8 on page 135 of Well Care Forsyth's CON application.



Source: Well Care CON application, page 58.

The applicant's discussion of Policy GEN-3 appears on pages 26 to 34 of the application. The pages describe what Well Care Davie does now in the three counties and the other counties shown on its service area map. The pages describe nothing new, more, or different it will do for patients in these three counties if granted the Forsyth CON. Stated differently, Well Care's proposal merely maintains the status quo. Giving Well Care a CON for Forsyth has no public benefit and deprives residents of these counties of a new HHA which could offer residents something new, more, or different.

Allowing Well Care Forsyth to establish an administrative office in Kernersville will do nothing to promote safety and quality in any service area county relative to how Well Care will operate without that office. It can continue doing everything it describes on pages 26 to 34. It can hire as many direct care staff, marketing staff, clerical staff, and supervisors living in all parts of Forsyth, Guilford, and Stokes counties without a Forsyth office. The application documented no difficulty in recruiting or retaining staff in Forsyth, Guilford, or Stokes counties, nor did it document any reduction in referrals of residents of these counties due to the lack of a Forsyth administrative office.

For these reasons, and others the Agency may discern, the Agency should find the Well Care Forsyth application non-conforming with Criterion (1) and Policy GEN-3.

CRITERION (3)

> **(3) The applicant shall identify the population to be served by the proposed project, and shall demonstrate the need that this population has for the services proposed, and the extent to which all residents of the area, and, in particular, low income persons, racial and ethnic minorities, women, … persons [with disabilities], the elderly, and other underserved groups are likely to have access to the services proposed.**

The applicant's discussion of Criterion (3) begins on page 35 of the application. The material up to the middle of page 46 is a description of Well Care's history and services. Everything these pages describe is what Well Care Davie and Well Care Corporate do now in the three service area counties. Well Care proposes no new services, programs, or technology. The population to be served is already receiving these services from Well Care, so there is no public benefit in awarding Well Care the Forsyth CON.

The applicant's discussion of why the patients projected to be served by Well Care Forsyth need this proposal begins on page 48 of the application. The applicant lists six factors it says support approval:

- Population growth and aging in the service area;
- Home health use rates and growth of home health patients;
- Home health's role in reducing care spending;
- Benefits of enhanced geographic access in Forsyth County;
- Benefits of improved operational efficiency and staffing; and
- Well Care's reputation as a high-quality market leader of home health services.

The first two factors relate to projected growth in the number of patients who will need home health services. They are not factors unique to Well Care. Nothing prevents Well Care Davie from employing more staff living in the three counties as necessary to generate referrals and to service growth in Well Care's patient volume.

However, on page 51, the applicant presents a specious reason for approval of Well Care Forsyth:

> *A CON-approved Medicare-certified agency in Forsyth County is mission-critical for Well Care to expand to meet the identified patient need in Forsyth County. Well*

> *Care could establish a drop-off site (sometimes called a work station or way station) in Forsyth County.[11] However, per CMS regulations (see CMS Ref: S&C-05-07), a drop-off site must maintain:*
>
> - *No client/patient records;*
> - *No personnel records;*
> - *No business sign identifying the site as a Well Care home health agency location;*
> - *No phone number published or listed;*
> - *No assigned staff;*
> - *No regular staff hours; and*
> - *No set-up for accepting patient referrals.*
>
> *Without the CON sought by this Application, Well Care cannot assign staff to an office in Forsyth County or accept physician referrals for patient care services. Unless Well Care has a CON-approved Medicare-certified agency office in Forsyth County, it cannot advertise a drop-off location to patients, their families, or their caregivers. While Well Care is proud of the service it offers to Forsyth County residents, expanding and enhancing those service offerings will most certainly require the CON approval requested here.*

Several things should strike the reader as odd about these statements. First, the applicant never says whether it now has one or more drop-off locations in Forsyth, Guilford, and Stokes counties. Since Well Care served 1,466 patients in Guilford County and 939 in Forsyth County in 2022, it would have drop-off locations in these counties if they are actually needed. The applicant may be misleading the Agency either by not accurately describing Well Care Davie's current operations in those counties or by saying it needs an administrative office or drop-off locations in Forsyth County when it does not.

Second, Well Care Davie has obviously been receiving referrals for patients in the three counties with no administrative office in Forsyth County. Referrals are made telephonically, by email, and by marketing staff going to hospitals, nursing homes, and physician offices. What would be "dropped off" at a Forsyth office? Patients are not "dropped off." Referrals are likely not "dropped off" at the Well Care Davie administrative office now and yet, in 2022, Well Care Davie had 2,505 patients in Forsyth and Guilford counties.

The applicant continues to manufacture justifications for an administrative office in Kernersville on pages 53 to 55:

1. *The proposed new home health agency's location will enhance access to home health patients and referral sources in Forsyth County, especially in the eastern portion of the county.*

This is yet another specious statement. Home health services are delivered where the patient lives and never in the administrative office. The location of the office does not affect patient access to care. Marketing staff go to where the patients are to evaluate them for admission. Having an office in Kernersville will have no benefit over current arrangements for Well Care staff access or coordination of care for patients discharged from Novant Health-Kernersville. Novant Health makes potential home health patients known electronically to home health agencies, including Well Care Davie. Well Care Davie now has marketing staff accessing the referrals and deciding whether to admit these patients. Novant Health's home health referral system is further described below.

2. *The proposed new home health agency will allow Well Care to deepen its presence and operations in Forsyth County, which are currently limited by regulation. State licensure requirements prohibit agencies from performing certain activities, such as care coordination, outside of the certified office.*

In 2022, Well Care Davie's presence and operations in Forsyth, Guilford and Stokes counties was 2,449 patients deep. Only about 9 percent of Well Care Davie's patients were Davie County residents. The CON law does not limit advertising and marketing; Well Care Davie can advertise and market its services as it wishes to "deepen its presence" in Forsyth County. The applicant did not explain to the Agency how it now manages coordination of care or navigates any other regulatory limitations. This is not a real problem now or in the future.

3. *The location of an agency's office can offer great benefit to the staff that provide care to home health patients. Drive time is a legitimate factor for staff productivity, job satisfaction, recruitment, and retention in home health.*

This is yet another specious statement. The applicant never explained to the Agency how often Well Care Davie staff must come to the administrative office to show how legitimate a factor this is. The applicant provided no data showing any harm to staff productivity, job satisfaction, recruitment, or retention from the lack of an administrative office in Forsyth County.

In 2023, all home health direct care staff can meet easily by telephone or videoconference with supervisors, other members of a care team, clerical staff, patients, and caregivers. In-person staff meetings can be held at convenient locations for the attendees. If Well Care Davie has "drop-off" locations in Forsyth and Guilford counties, meetings can be held there. Further, staff can be assigned to patients closest to where they live, to minimize "windshield time."

Direct care staff need not come to the administrative office routinely for forms or medical supplies. Medical supplies may be shipped directly to the patient or staff residence. Supervisors may bring forms and supplies to meetings with direct care staff.

None of Well Care's asserted reasons why it needs an administrative office in Forsyth County are supported by logic, facts, or data. The applicant did not explain how it secured referrals and delivered home care services in 2022 to 3,763 patients; all but 329, or 91%, located outside Davie County, without administrative offices in any other county.

On pages 55 to 57 the applicant asserts a Forsyth CON is needed "*to expand Well Care's provision of high-quality, market-leading home health services in Forsyth County*." The applicant then describes its accreditation and quality ratings. It points to Well Care Davie's high quality of care and service scores. It chose not to note that over 90 percent of its patients are outside Davie County and that fact did not prevent it from delivering quality services. The applicant describes its existing strategic partnerships and technology, which it says contribute to quality services. There is no showing how a Forsyth CON would improve quality.

Well Care concludes this section with a discussion of the trust and reputation Well Care Davie has earned in the counties in the Davie service area.

> *Part of Well Care's success in building these relationships comes from having Account Executives and Liaisons embedded across its service area in a variety of care settings including hospitals, physician practices, skilled nursing facilities, assisted living facilities, wound care centers, and more. This allows the Well Care team to be experts in the care settings in which they work in order to understand the needs of the referral partners and their patients.*
>
> *Well Care prides itself on being an actively engaged partner with referral sources by having dedicated resources and being available for seamless communication, data sharing, and goal alignment. By being transparent with clinical outcomes data, Well Care collaborates with providers to improve and optimize patient care. Well Care has been selected as a post-acute preferred provider for several of North Carolina's healthcare systems, further demonstrating the quality outcomes the organization provides to patients.*
>
> *Well Care's existing market share in Forsyth County speaks to the trust and reputation the organization has earned. Therefore, Well Care has the ability to build additional relationships in the community through a new home health agency located in Forsyth County.*

According to its website and other publicly available information, Well Care has operated an HHA in Davie County since December 2015, through its acquisition of Davie County Home Health.[3,4] Davie County Home Health has been a Medicare-certified HHA since May 1973.[5] Well Care renamed the agency Well Care Home Health of the Triad, reflecting its regional reach. At the time of the acquisition, Well Care proudly announced: "[a]cquiring Davie County Home Health will allow Well Care to provide services in the Greater Triad area to include Davie, Forsyth, Guilford, Davidson, Yadkin, Randolph, and surrounding counties, where over 145,000 patients receive care in their home annually."[6] As its patient volumes demonstrate, Well Care and its predecessor have built trust and reputation in Forsyth County and several other counties without an administrative office in Forsyth County. The application describes nothing it has been unable to do to build its reputation because it did not have an administrative office in Forsyth County and nothing it would do differently if it had an office. Trust and reputation are built by the direct service staff and marketing staff who go to the patients and the care settings; not by staff sitting in an administrative office.

Pages 57 through 65 provide a discussion of demographic and health factors in Forsyth, Guilford, and Stokes counties that offers no support for approval of Well Care's application beyond showing there is a growing need for home health services. There is no showing that residents of the three counties will be better off if Well Care is awarded an administrative office in Forsyth County than if it is not.

The applicant's utilization projections are found in Section Q of the application beginning on page 129. On pages 132 to 134, the applicant unreasonably and with no support assumes if it is awarded the Forsyth CON it will have substantial market share gains in the three counties as shown in the table below.

[3] https://wellcarehealth.com/2021/06/05/well-care-home-health-of-the-triad-names-new-regional-sales-manager/, accessed 5/21/23; https://www.wilmingtonbiz.com/health-care/2016/01/14/well-care-continues-statewide-expansion/14273, describing Well Care's December 2015 acquisition of Davie County Home Health, accessed May 21, 2023.
[4] See Well Care's press release at https://wellcarehealth.com/2021/06/03/well-care-home-health-announces-acquisition-in-triad-area/, accessed 5/2/1/23. The press release states "[t]his acquisition is strategic as we continue to expand our footprint to 23 additional counties in NC."
[5] https://www.medicare.gov/care-compare/details/home-health/347051?city=Advance&state=NC&zipcode=#ProviderDetailsDetailsContainer, accessed May 21, 2023.
[6] https://wellcarehealth.com/2021/06/03/well-care-home-health-announces-acquisition-in-triad-area/, accessed May 21, 2023.

Table Q.6
Well Care Proposed New Medicare-Certified Home Health Agency
Incremental Home Health Patient Market Share

	SFY2025	SFY2026		SFY2027	
	Year 1 Market Share	***Year 2 Gain***	**YR 2 Market Share**	***Year 3 Gain***	**YR 3 Market Share**
Forsyth County	3.3%	*1.0%*	4.3%	*1.0%*	5.3%
Guilford County	1.6%	*1.0%*	2.6%	*1.0%*	3.6%
Stokes County	1.2%	*1.0%*	2.2%	*1.0%*	3.2%

Source: Well Care Forsyth application, page 134.

The two differences on the ground if Well Care receives the Forsyth CON will be: (1) an administrative office (instead of a possible drop-off location) in Kernersville and (2) no new competitor in Forsyth County. If there is no new competitor, patients and referral sources will see no difference. There will be no new services, new programs, or new technology not offered now by Well Care Davie or the other existing HHAs. There is no reason to expect an increase in referrals to Well Care from the three counties because it receives the Forsyth CON. Therefore, there is no reason to expect any increase in Well Care's market share in the three counties.

On pages 135 and 136, the applicant makes further arbitrary assumptions about shifts in projected Well Care Davie patients in the three counties to Well Care Forsyth. This is something of a shell game. If the Agency gives Well Care the Forsyth CON, it can assign referrals in the three counties to either entity it chooses. There is no benefit to the public from the shift. Well Care Davie would have served the shifted patients without the Forsyth CON.

Pages 69 through 71 discuss the access to home health services Well Care Forsyth would offer to medically underserved groups. The section cites the corporate non-discrimination policy as Exhibit C.6. This is a three-page document from the Well Care Home Health Policy Manual. Its stated purpose is:

> *To prevent Well Care Health employees from discriminating against other employees, patients, referral partners, vendors, or any other individual on the basis of age, race, national origin, color, ethnicity, sex, gender identity, gender expression, genetic information, status as a parent, mental or physical disability, marital status, religion, sexual orientation, or veteran status.*

The text following details the federal laws with which it is intended to comply and the procedures for implementation. As a corporate policy, it presumably applies to Well Care Davie so approval of Well Care Forsyth will not change or improve access for medically underserved groups.

As for services to low-income people, the application says, "Patients will receive the appropriate home health care, regardless of ability to pay." While not referenced in this paragraph, Exhibit L.4 Patient Financial Policies is a two-page document from the Well Care Home Health Policy Manual that has the following indigent care policy which contradicts the statement in the application:

> ***I Policy***
> *Patients that do not have insurance to pay for home health services and do not have the financial means for private pay services will be considered on a case by case basis for approval of care by the Director of Operations or the Vice President of Home Health Operations.*
>
> ***II Purpose***
> *To establish a method for approval of charity care cases.*
>
> ***III Policy Detail***
> *A. If patient is found to not have a payer source that will cover home health services and is not able to afford private pay services the case will be submitted to the Director of Operations for review. The Regional Director of Operations or the VP of Home Health Operations will be back up if the Director of Operations is not available to review patient's case.*
>
> *B. The Director of Operations will decide if patient can be accepted on to service and will authorize disciplines allowed to see patient and number of visits that are authorized for the episode of care.*
>
> *C. Intake will enter Charity Care authorization note detailing the number of visits and disciplines authorized to see the patient during this episode.*

This policy has no criteria for deciding which patients receive charity care. It has the Director of Operations deciding who receives charity care, what services, and how many visits. This amounts to no real commitment by Well Care Forsyth and no more commitment than service area residents have now from Well Care Davie.

Novant Health hospitals in Forsyth County keep statistics on Well Care Davie's acceptance of referrals of hospital patients for home health. When helping patients choose a home health agency, Novant Health sends referrals to home health agencies based on patient choice. If a patient does not have a preference, Novant Health assists the patient by simultaneously sending the referral to multiple home health agencies, including Well Care Davie. The patient is then able to choose a home health agency based on which agencies accept the referral.

From April 2022 through March 2023, Well Care Davie received over 3,800 referrals from Novant Health hospitals in Forsyth County and accepted less than 1,550 referrals. It therefore only accepted about 40 percent of the referrals it was offered. The reasons Well Care gave for declining the referrals fell into these categories:

Reasons Well Care Davie Declined Home Health Referrals from Novant Health Forsyth Hospitals

Decline Reason	Percent
Payor related - Other	37%
Unable to meet patient needs	26%
Payor related - Out of network	24%
Out of service area	10%
Other	3%
Total	**100%**

Source: Novant Health internal data.

As the table shows, 37 percent of referrals were declined for payor-related reasons. These are reasons other than Well Care was not an in-network provider for an insured patient. Either the patient was uninsured or Well Care did not consider the payment from a health plan adequate. In either event, the statement in the application, **"**Patients will receive the appropriate home health care, regardless of ability to pay,**"** seems false. The Director of Operations does not accept all patients without a payor source. There is no evidence this pattern will change if Well Care is given the Forsyth CON. Since Well Care is already present in the market and unable to accept all available referrals, a different home health agency is needed to increase access for patients.

Well Care's refusal to accept more than half of the referrals sent to it by Novant Health hospitals in Forsyth County underscores NHHC-F's need for its own HHA. When patients require home health post discharge, the lack of an HHA willing to accept these patients means the patients remain in the hospital longer than is necessary. This increases costs for patients and their payor sources, decreases patient satisfaction, and creates a bottleneck to admitting new patients to inpatient beds.

For these reasons, and others the Agency may discern, the Agency should find the Well Care Forsyth application non-conforming with Criterion (3).

CRITERION (4)

(4) Where alternative methods of meeting the needs for the proposed project exist, the applicant shall demonstrate that the least costly or most effective alternative has been proposed.

On page 79, the applicant lists three alternatives it considered:

1. Maintain status quo;
2. Locate the office in another county location;
3. Utilize Well Care's drop-off site in Forsyth County.

As one would expect, the applicant dismisses the status quo as inconsistent with its reasons for wanting the Forsyth CON. As discussed above, Well Care can do everything in the three counties with Well Care Davie it could do with the Forsyth CON. It can deploy all the marketing and direct care staff it chooses in the three counties to get referrals and serve patients. Establishing an administrative office in Kernersville does nothing to increase access to home health services for patients and referral sources. Marketing staff go to referral sources; referral sources do not physically come to the Well Care office. Direct care staff go to the patients; patients do not come to the Well Care office. Well Care has provided no data to support the claim of operational efficiencies or better staff recruitment and retention. The status quo in 2022 produced 2,449 patients for Well Care Davie in the proposed service area, and there is no apparent reason patient volume cannot continue to grow without the Forsyth CON.

The biggest concern for Well Care with the status quo is it means an additional home health competitor in Forsyth County, which could result in less growth or a possible loss in patient volume. While a new competitor is bad for Well Care, it is good for residents and hospitals. It is not the purpose of the North Carolina CON program to protect existing providers from competition. The best alternative for the public is Well Care's status quo.

Locating the Forsyth administrative office elsewhere in the county is a meaningless alternative. The precise location of the office within the county is irrelevant to patient access to services, the quality of the services, or the cost of the services, as Well Care well knows.

If Well Care Davie thought one or more drop-off locations in Forsyth, Guilford, or Stokes County was operationally useful, it could create as many locations as it wished now. We do not know from the application if it already has drop-off locations. Establishing drop-off locations is really part of the status quo.

From a public policy perspective, the best alternative is for Well Care to maintain the status quo and use Well Care Davie, just as it does now, to serve the three counties. This lets the Agency introduce a new competitor to the market and give the public the benefits of competition.

For these reasons, and others the Agency may discern, the Agency should find the Well Care Forsyth application non-conforming with Criterion (4).

CRITERION (5)

(5)	**Financial and operational projections for the project shall demonstrate the availability of funds for capital and operating needs as well as the immediate and long-term financial feasibility of the proposal, based upon reasonable projections of the costs of and charges for providing health services by the person proposing the service.**

The revenue projections for Well Care Forsyth assume the Forsyth CON will cause Well Care's overall market share in the three-county area to increase, thereby generating new revenues. The arbitrary shift of patients from Well Care Davie generates no new revenues for Well Care. It is only bookkeeping entries. As discussed under Criterion (3), the applicant presented no reasons to expect simply establishing an administrative office in Kernersville will increase market share when Well Care and its predecessor have been marketing in the three counties for 50 years.[7] It is unreasonable to expect the Forsyth CON will increase Well Care's revenues from the three counties over what they would be with the Well Care Davie status quo.

We assume the cost for the marketing and direct care staff for the projected volume would be the same whether incurred by Well Care Davie or Well Care Forsyth, since the Well Care business model is used for both. However, there are overhead costs to establish the separate Forsyth administrative office.

There are capital costs of $100,000 for the unnecessary additional office as shown on page 146.

[This space intentionally left blank]

[7] According to medicare.gov, Davie County Home Health was certified by Medicare on May 23, 1973. See https://www.medicare.gov/care-compare/details/home-health/347051?city=Advance&state=NC&zipcode=#ProviderDetailsDetailsContainer, accessed May 21, 2023.

Well Care Forsyth Capital Costs

Non-Medical Equipment	$20,000
Furniture	$15,000
Consultant Fees (CON preparation & filing)	$50,000
Financing Costs	
Interest During Construction	
Other (contingency)	$15,000
Total Capital Cost	**$100,000**

There are additional staffing costs for at least an additional Director of Operations and clerical staff. It is possible one less Clinical Manager would be needed without the separate Forsyth HHA. There are also facility and organizational expenses for the separately licensed HHA. As shown on the table below, there are additional annual costs of about $305,560 for a separate Well Care Forsyth HHA.

Increased Annual Costs for a Separate Forsyth HHA

Director of Operations	1.0	$117,433	$117,433
Clerical/Medical Records	2.0	$38,873	$77,747
Subtotal Salaries			$195,180
Taxes and Benefits (20.3%)			$39,622
Rent			$41,328
Utilities			$3,480
Maintenance			$1,750
Insurance			$4,200
Other (advertising, Medicare certification, & TJC accreditation fees)			$20,000
Total Annual Cost (without inflation)			**$305,560**

The separate Well Care Forsyth HHA will generate no revenues that would not be generated by Well Care Davie. However, establishing and operating a separate Well Care Forsyth HHA will require additional capital expenses of $100,000 and additional annual operating expenses of $305,560 in the first year of operations. This annual expense will increase with inflation in Year 2 and Year 3. With no additional revenue, the additional expense results in negative net income for Well Care. Therefore, the project is financially infeasible in the long term.

The only way the project is financially advantageous for Well Care is if it prevents the Agency approving a new competitor in Forsyth County and surrounding areas that could reduce Well Care Davie's future patient volume. The Agency should not recognize preventing competition as a basis for conforming to Criterion (5).

For these reasons, and others the Agency may discern, the Agency should find the Well Care Forsyth application non-conforming with Criterion (5).

CRITERION (6)

(6)	**The applicant shall demonstrate that the proposed project will not result in unnecessary duplication of existing or approved health service capabilities or facilities.**

The proposed project is an unnecessary duplication of the existing home health service capabilities of Well Care Davie. There is nothing Well Care Forsyth could do that Well Care Davie cannot do now. The unnecessary duplication of Well Care's HHA would prevent the Agency from approving a provider not currently delivering home health services in Forsyth County, which will benefit residents and hospitals.

For these reasons, and others the Agency may discern, the Agency should find the Well Care Forsyth application non-conforming with Criterion (6).

[This space intentionally left blank]

CRITERION (13)

(13) The applicant shall demonstrate the contribution of the proposed service in meeting the health related needs of the elderly and of members of medically underserved groups, such as medically indigent or low income persons, Medicaid and Medicare recipients, racial and ethnic minorities, women, and … persons [with disabilities], which have traditionally experienced difficulties in obtaining equal access to the proposed services, particularly those needs identified in the State Health Plan as deserving of priority. For the purpose of determining the extent to which the proposed service will be accessible, the applicant shall show:

(a) The extent to which medically underserved populations currently use the applicant's existing services in comparison to the percentage of the population in the applicant's service area which is medically underserved.

(c) That the elderly and the medically underserved groups identified in this subdivision will be served by the applicant's proposed services and the extent to which each of these groups is expected to utilize the proposed services;

The proposed Well Care Forsyth will make no contribution to meeting the health-related needs of "the elderly and of members of medically underserved groups, such as medically indigent or low-income persons, Medicaid and Medicare recipients, racial and ethnic minorities, women, and … persons [with disabilities]" because any services Well Care Forsyth might provide to these groups would be provided by Well Care Davie if the Agency denies the proposed project. Well Care has made no enforceable commitment to provide more services to underserved groups if awarded the CON.

Award of the CON to Well Care would prevent the Agency from awarding the CON to other applicants with more generous charity care policies, including NHHC-F.

For these reasons, and others the Agency may discern, the Agency should find the Well Care Forsyth application non-conforming with Criterion (13).

CRITERION (14)

(14) The applicant shall demonstrate that the proposed health services accommodate the clinical needs of health professional training programs in the area, as applicable.

Well Care has been in operation in North Carolina for many years. The only documentation it offers on any clinical training programs is a general letter from the University of North Carolina Wilmington (UNCW) that contains only a general reference to "our existing clinical training program with Well Care." There is no description of this training program, no signed agreement, and no indication if or how UNCW interfaces with Well Care Davie or how that interface would change if Well Care had an administrative office in Forsyth County.

The letter from Dr. Reed is best described as a courtesy letter. It does not demonstrate that Well Care accommodates the clinical needs of health professional training programs today or that it would do anything more or different if granted the Forsyth CON.

For these reasons, and others the Agency may discern, the Agency should find the Well Care Forsyth application non-conforming with Criterion (14).

CRITERION (18a)

(18a) The applicant shall demonstrate the expected effects of the proposed services on competition in the proposed service area, including how any enhanced competition will have a positive impact upon the cost effectiveness, quality, and access to the services proposed; and in the case of applications for services where competition between providers will not have a favorable impact on cost-effectiveness, quality, and access to the services proposed, the applicant shall demonstrate that its application is for a service on which competition will not have a favorable impact.

Approving an applicant not currently delivering home health services in Forsyth and surrounding counties will have a positive impact upon the cost effectiveness, quality, and access to home health services. The SMFP formula recognizes the positive impacts of competition by allowing more competitors to enter the market when there is enough projected growth in demand to support a new competitor without reducing patient volume for existing HHAs.

Approving Well Care Forsyth would have an adverse impact on competition for home health services in Forsyth and surrounding counties by preventing the Agency from approving an

applicant not currently delivering home health services in Forsyth and surrounding counties. Well Care Forsyth will not compete with Well Care Davie while any other applicant would.

For these reasons, and others the Agency may discern, the Agency should find the Well Care Forsyth application non-conforming with Criterion (18a).

PERFORMANCE STANDARDS: 10A NCAC 14C .2003

An Applicant proposing to develop a new Medicare-certified home health agency pursuant to a need determination in the annual State Medical Facilities Plan in effect as of the first day of the review period shall:

(1) provide projected utilization for each of the first three full fiscal years of operation following completion of the project;

(2) project to serve at least 325 residents of the proposed service area during the third fiscal year of operation following completion of the project; and residents of Forsyth County during its third year of operations.

(3) provide the assumptions and methodology used to provide the projected utilization required in Item (1) of this Rule.

This performance standard requires interpretation in this unusual situation where an applicant has been delivering these services in Forsyth County for many years. Obviously, if awarded the CON, Well Care Davie could assign 325 of its patients to Well Care Forsyth and appear to satisfy the letter of the performance standard. That would nullify the performance standard.

An interpretation that better reflects the intent of the performance standard is to require that Well Care Davie and Well Care Forsyth together serve at least 325 more residents of Forsyth, Guilford, and Stokes counties (the proposed service area) during the third fiscal year of operation following completion of the project than the number of patients Well Care Davie would have served had the CON not been awarded.

Since Well Care Davie can do substantively everything without the Forsyth CON as it could do with the Forsyth CON, the applicant has presented no evidence that awarding it the Forsyth CON would result in a single additional referral or patient served. Well Care Davie can deploy the additional marketing staff shown in the application to the three counties to generate referrals and as many direct care staff to deliver services.

For these reasons, and others the Agency may discern, the Agency should find Well Care Forsyth non-conforming with the performance standard.

COMMENTS SPECIFIC TO PERSONAL HOME CARE OF NORTH CAROLINA, LLC

In evaluating the proposal by Personal Home Care of North Carolina, LLC (PHC), to develop a Medicare-certified home health agency (HHA) in Forsyth County, the Agency should consider PHC's past patient volume and its organizational capacity. When the Agency considers both factors, it should conclude there is no reasonable probability PHC can deliver what it proposes if awarded the Forsyth County CON.

Unreasonable Patient Volume Projections

PHC defines its service area as Forsyth County and assumes all its patients will be Forsyth County residents. On pages 126–129 of the application, it bases its projected unduplicated patients on serving 75% of the unmet need in its first full year of operation and 95% of the unmet need by the third full year of operation. The table below shows these numbers.

PHC Projected Patients and Market Share in Forsyth County

	2024	2025	2026	2027
Total Forsyth HH patients	10,421	10,421	10,421	10,421
SMFP unmet Need	828	1,109	1,377	1,661
PHC Market Share of Unmet Need	55%	75%	85%	95%
PHC unduplicated patients	455	832	1,170	1,578
Total HH Patients PHC	10,876	11,253	11,591	11,999
PHC projected market share	8%	10%	12%	14%

Source: PHC application, pages 126–129.

PHC has been a fully licensed HHA in Mecklenburg County since 2010. It was previously licensed as a demonstration project beginning in 2006. Its highest patient volume from Mecklenburg County was 698 in 2014, and its average patient volume from 2015 to 2022 was 531. PHC Mecklenburg's total patient volume for residents of all counties has been higher; peaking at 1,213 in 2014 and averaging 962 from 2015 to 2022. After 2014, PHC has never had a pattern of consistent growth in patient volume. It has never come close to the patient volume from a single county it projects in this application.[8]

[8] It is unrealistic to assume any Forsyth-based HHA would limit itself to Forsyth County residents. None do now. PHC Mecklenburg does not limit itself to residents of Mecklenburg County. PHC Wake does not limit itself to

The numbers in the PHC application assume no growth in patient volume in Forsyth County for the existing HHAs serving Forsyth County. This would mean PHC achieved an 8% market share in its first partial year of operation, with the PHC market share rising to 14% by the third full year of operation. This projection should be compared to the market share PHC has achieved in Mecklenburg County after 17 years in operation. In its peak year, 2014, PHC had a market share of 4%. After 2014, its market share never grew but stayed between 3% and 4%. PHC's market shares in other counties are generally less than 3%. PHC has never achieved market shares close to those it projected in Forsyth County.

In 2022, thirteen HHAs reported patients from Forsyth County. Six HHAs accounted for 77% of the market.[9] The other seven split the remaining 23%, with 1% to 6% market share each.[10] It is not reasonably probable PHC can achieve the market shares it projects. These unreasonable projections make the PHC application non-conforming with several criteria, including Criteria (1), (3), (4), (5), (6), and (18a), as well as the performance standard.

Organizational Capacity to Start an HHA

PHC was granted a CON for an HHA in Wake County in 2019. It was Medicare certified in November 2021. This is PHC's only start-up HHA since PHC Mecklenburg in 2006. In 2022 it reported a total patient volume of 45 patients. PHC has not yet brought PHC Wake to long-term financial feasibility and it likely has negative net income and negative cash flow.

In its Forsyth application, PHC did not address the financial condition of PHC Wake or PHC Mecklenburg. PHC's Medicare cost reports show it had negative net income on services to patients of -$889,118 in 2020 with 942 patients and -$359,200 in 2021 with 914 patients. In 2020 and 2021, the losses on services to patients were offset by COVID-19 PHE funding. PHC received $1,442,470 in 2020 and $1,652,683 in 2021. This source of funds has ended, however.[11]

PHC Mecklenburg's patient volume dropped to 692 in 2022, suggesting losses on services to patients may have increased. Since PHC is a private company, its financial data are not publicly available, and it included no financial statements for the company or the owner in its application. The courtesy letter from its banker says on a given day it had access to $350,000. This letter is inadequate documentation PHC will have the resources necessary for its Wake County start-up and a start-up in Forsyth County. Some organizations have capital reserves to let them undertake new ventures even with current losses, but not all do. PHC has not documented whether the

residents of Wake County. The Department frequently uses the percentage of patients from the service area as a comparative review factor. Perhaps assuming all patients would be Forsyth County residents is a gambit to gain an improper advantage in the comparative review.

[9] The HHAs with the top six market shares are CenterWell Home Health, Adoration Home Health, BAYADA Home Health Care Inc., Wake Forest Baptist (all licenses), MediHome Health & Hospice, and Well Care Total.

[10] The remaining HHAs are Amedisys Home Health (all licenses), Enhabit Home Health, Interim HealthCare (all licenses), Yadkin Valley Home Health, Liberty Home Care (all licenses), SunCrest Home Health, and PruittHealth (all licenses).

[11] Healthcare Cost Report Information System (HCRIS), Medicare Cost Report IDs 511664 and 527946.

operating losses are continuing at PHC Mecklenburg in 2022 and 2023 and whether PHC Wake has reached positive net income, or at least positive cash flow, before allowing PHC to embark on a new start-up that is more likely than not, in its first years, to have negative cash flow and negative net income.

PHC has not documented it has the managerial capacity to start an HHA in the highly competitive Forsyth County market before PHC Wake is a stable operation. The PHC application has little information on the identity or qualifications of PHC corporate staff or on the capacity of the corporate organization and staff to support two start-up HHAs simultaneously.

CRITERION (1)

(1) The proposed project shall be consistent with applicable policies and need determinations in the State Medical Facilities Plan, the need determination of which constitutes a determinative limitation on the provision of any health service, health service facility, health service facility beds, dialysis stations, operating rooms, or home health offices that may be approved.

Policy GEN-3: Basic Principles

"A certificate of need applicant applying to develop or offer a new institutional health service for which there is a need determination in the North Carolina State Medical Facilities Plan shall demonstrate how the project will promote safety and quality in the delivery of health care services while promoting equitable access and maximizing healthcare value for resources expended. A certificate of need applicant shall document its plans for providing access to services for patients with limited financial resources and demonstrate the availability of capacity to provide these services. A certificate of need applicant shall also document how its projected volumes incorporate these concepts in meeting the need identified in the State Medical Facilities Plan as well as addressing the needs of all residents in the proposed service area."

On pages 24 and 25 of its application, PHC states it "accomplished a 2.5 overall Quality Rating even while caring for COVID patients and patients with multiple chronic diseases." On page 27, PHC says its "ratios reflect current PHC practices that produce CMS Star above average ratings (2 to 3 stars and perfect scores on some measures)." To be clear, an average star rating is 3 out of 5 stars. A 2.5 rating shows below-average performance.

More recent CMS quality ratings show the reason for PHC's below-average ratings was not COVID-19. PHC's scores remained at 2.5 for the rating periods in July and October 2022 and in

January and April 2023.[12] The Agency's concern should be that PHC shows no improvement in mediocre quality scores over time. This suggests a lack of management capability or commitment to improve quality in the face of an obvious need to do so. While PHC says it has a Quality Assessment Performance Improvement Plan (QAPI) in place, the program has not improved quality scores.

PHC discusses access on page 25 of its application but provides little data. It has provided no documentation of the contracts it has with Medicare, Medicaid, or commercial health plans to provide access for the 18–64 age group. The Agency should also ask about the age distribution of PHC's Medicaid and Medicaid HMO clients, as the projected 20% of clients is much higher than the average percentage of 4.5% Medicaid for all Forsyth County HHAs.[13] An Aveanna HHA specializes in private-duty nursing for children with special needs, many of whom are covered by Medicaid.[14] PHC's program descriptions mention pediatric care on page 365 but do not indicate an emphasis on pediatric programs or give patient counts. Some people enrolled in Medicare are also enrolled in Medicaid and are called "dual eligibles." However, HHAs usually bill Medicare for these clients, and they should be counted as Medicare patients.

PHC's discussion of maximizing healthcare value centers on its existing Forsyth County home care agency, Touched by Angels (TBA). However, it provided no information on TBA that would let the Agency determine TBA's value for a start-up HHA. Here are a few questions PHC left unanswered:

- How many Forsyth County patients did TBA serve in 2021 and 2022?
- What provider contracts does TBA have with public and private health plans?
- What TBA referral sources would be referral sources for PHC?
- Why does the PHC website call TBA a home health company if it is not an HHA?[15]

For these reasons, and others the Agency may discern, the Agency should find the PHC application non-conforming with Criterion (1) and Policy GEN-3.

[12] CMS scores for PHC's Mecklenburg County HHA are currently available at https://www.medicare.gov/care-compare/details/home-health/347244?state=NC. PHC's Wake County HHA does not have sufficient volume for a CMS quality rating at this time, as shown at https://www.medicare.gov/care-compare/details/home-health/347337?state=NC.

[13] According to licensure data, 4.5% of all home health patients statewide were covered by Medicaid or a Medicaid HMO in 2022.

[14] According to licensure data, 49% of Aveanna Home Care's Patients (HC0828) were covered by Medicaid in 2022.

[15] See https://www.phcnc.com/locations/winston-salem.

CRITERION (3)

> **(3) The applicant shall identify the population to be served by the proposed project, and shall demonstrate the need that this population has for the services proposed, and the extent to which all residents of the area, and, in particular, low income persons, racial and ethnic minorities, women, … persons [with disabilities], the elderly, and other underserved groups are likely to have access to the services proposed.**

Pages 28–44 of the PHC application describe PHC's history and programs. The list of programs is extensive for an HHA of this size but is not supported with any data on how many patients, if any, use each program in the average year. There is no documentation PHC staff have the qualifications to implement the programs.

PHC discusses its origin in providing services to non-English speakers. On page 51 it states, "Clearly, a home health agency serving the county should have capacity to adapt to a range of cultures and ethnicities, have competency in Spanish, and have accommodations to non-English speakers." PHC does not say how many patients use these language services in PHC Mecklenburg. Nowhere in the application does PHC present any data showing this is an unmet need in Forsyth County or identify for what languages home health staff are needed. Today, all hospitals and many practitioners have interpreting services or technology to address this issue.

The historical patient origin chart on page 46 of the application shows significantly more patients than the data reported to the Agency. Page 46 shows PHC served 1,520 patients in 2022. The draft 2024 SMFP shows it served 692 patients total, with fewer patients in each county than shown on page 46. Although the reporting periods are different (page 46 shows calendar year data, while the 2024 SMFP is based on fiscal year data ending in September 2022), the difference in the number of patients is significant enough that it may not be explained by differences in the reporting periods. The Agency should ask about the discrepancy. These comments assume the draft 2024 SMFP data are correct.

As shown on page 47 of its application, PHC projects 100% of its patients will be Forsyth County residents. This is not reasonable or adequately supported. For PHC Mecklenburg, only 471 of 692 patients were from Mecklenburg County. PHC's referral sources do not support an assumption that all patients will come from Forsyth County. PHC offers a "Summary of Physician Referral Letters" Exhibit to its application (Exhibit I.2). Only one of the providers who submitted a letter of support for PHC is located in Forsyth County. This provider only accounted for 15 referrals per month, or a little over 6% of the expected referrals submitted by all physicians in Exhibit I.2. Moreover, Dr. Radiontchenko is a Novant Health physician.

The vast majority of providers from whom PHC obtained letters of support practice *outside of Forsyth County*. While these providers may treat some Forsyth County residents, it is unreasonable to expect 100% of these referrals to be Forsyth County residents. It is also unreasonable to assume a Forsyth County HHA will serve patients in Mecklenburg and Union Counties. Unreasonable projections of patient origin is one of many reasons PHC's projected patient volume is unreasonable and inadequately supported.

Provider Last Name	City	County	Referrals per Month
Dellinger	*not stated*		9
Thomas	Gastonia	Gaston	10
Fomunung	Charlotte	Mecklenburg	10
Matheney	Gastonia	Gaston	10
Evans	Monroe	Union	10
Boone	Yadkinville	Yadkin	100
Radiontchenko (Alexi)	Kernersville	Forsyth	15
Sokolsky	*not stated*		12
Gray	*not stated*		7
Gilbert	Morganton	Burke	10
Wooten	Mt Holly	Gaston	10
A. (Julie)	Charlotte	Mecklenburg	25
Radiontchenko (Julia)	High Point	Guilford	15
Baruch	Greensboro	Guilford	2

Pages 50–58 generally discuss demographic and health-related conditions and trends in Forsyth County and how home health services can reduce costs. PHC presents a table on page 56 and concludes, "*Patient counts for Medicaid beneficiaries, charity patients, Selfpay, Military (TriCare), and Workers' Compensation are very low*." However, PHC does not relate these counts to the demand for services by patients in these payor categories or say whether any existing agencies have declined referrals from these payor groups.

We explained why PHC's utilization projections are unreasonable and unsupported in the general comments and incorporate that discussion by reference here.

PHC does not accept all patient referrals regardless of ability to pay. Novant Health hospitals in Mecklenburg County keep statistics on PHC's acceptance of referrals of hospital patients for home health. When helping patients choose a home health agency, Novant Health first sends referrals to home health agencies based on patient choice. If a patient does not have a preference, Novant Health assists the patient by sending the referral to multiple home health agencies, including PHC. The patient can then choose a home health agency based on which agencies have accepted the referral.

The experience of Novant Health hospitals in Mecklenburg County with PHC accepting referrals of hospital patients for home health services has been unsatisfactory. From April 2022 to March 2023, Novant Health offered PHC 1,883 possible referrals. PHC accepted only 134 of these referrals, or 7.12%. One might expect the acceptance rate would have increased over the months as we moved further from COVID-19 conditions, but PHC's acceptance rate declined from 14.7% in April 2022 to 4.32% in March 2023. PHC declined 1,099 referrals and did not respond on 650. The table below shows the reasons for declining the referrals, as recorded by Novant Health.

Reasons PHC Declined Home Health Referrals from Novant Health Mecklenburg Hospitals

Decline Reason	% of total
Inadequate staffing	31%
Payor Related-Out of network	27%
Out of service area	25%
Payor Related- Other	12%
Unable to meet patient needs	4%
Total	**100%**

Source: Novant Health internal data, April 2022–March 2023.

PHC's reasons for declining referrals suggest it cannot recruit and retain adequate staff. The reasons further suggest it lacks provider contracts with several health plans and does not accept many patients with no insurance or with insurance that pays at low rates.

For these reasons and others the Agency may discern, the Agency should find the PHC application non-conforming with Criterion (3).

CRITERION (4)

(4) Where alternative methods of meeting the needs for the proposed project exist, the applicant shall demonstrate that the least costly or most effective alternative has been proposed.

PHC has not presented reasonable or adequately supported patient volume projections. It therefore has not established its proposed project is financially feasible in the long term. It therefore has not demonstrated its proposal is a feasible alternative or is the least costly or most effective alternative.

For these reasons and others the Agency may discern, the Agency should find the PHC application non-conforming with Criterion (4).

CRITERION (5)

(5) Financial and operational projections for the project shall demonstrate the availability of funds for capital and operating needs as well as the immediate and long-term financial feasibility of the proposal, based upon reasonable projections of the costs of and charges for providing health services by the person proposing the service.

PHC was granted a CON for an HHA in Wake County in 2019. It was Medicare certified in November 2021. This is PHC's only start-up HHA since PHC Mecklenburg in 2006. In 2022 it reported a total patient volume of 45 patients. PHC has not yet brought PHC Wake to long-term financial feasibility, and it likely has negative net income and negative cash flow. It appears PHC Wake is still absorbing PHC's cash and management attention.

PHC's Medicare cost reports show it had negative net income on services to patients of -$889,118 in 2020 with 942 patients and -$359,200 in 2021 with 914 patients. In 2020 and 2021, the losses on services to patients were offset by COVID-19 PHE funding. PHC received $1,442,470 in 2020 and $1,652,683 in 2021. This source of funds has ended, however.[16]

PHC Mecklenburg's patient volume dropped to 692 in 2022, suggesting losses on services to patients may have increased. Since PHC is a private company, its financial data are not publicly available, and it included no financial statements for the company or the owner in its application. The courtesy letter from its banker says on a given day it had access to $350,000. This letter is

[16] Healthcare Cost Report Information System (HCRIS), Medicare Cost Report IDs 511664 and 527946. Cost report data is available for download at https://www.cms.gov/Research-Statistics-Data-and-Systems/Downloadable-Public-Use-Files/Cost-Reports/Cost-Reports-by-Fiscal-Year.

inadequate documentation PHC will have the resources necessary for its Wake County start-up and a start-up in Forsyth County. Some organizations have capital reserves to let them undertake new ventures even with current losses, but not all do. PHC has not documented whether the operating losses are continuing at PHC Mecklenburg in 2022 and 2023 and whether PHC Wake has reached positive net income, or at least positive cash flow, before allowing PHC to embark on a new start-up that is more likely than not, in its first years, to have negative cash flow and negative net income.

The capital costs for the proposed project are unreasonable. The capital cost includes no furniture or equipment for the 29 additional staff. While the HHA will share office space with TBA, the applicant did not show there was surplus furniture, computer equipment, or other office equipment for the HHA administrative staff. While marketing and direct care staff may not work from the administrative office, they need telephones and computer equipment to function.

In its Forsyth application, PHC does not address the financial condition of PHC Wake or PHC Mecklenburg. On page 76, PHC says it will fund project costs, including start-up costs and negative cash flow from accumulated reserves and from the owner's personal resources. However, PHC provided no financial statements showing these resources will exist when needed or are adequate to fund the project. A courtesy letter from a banker and a one-day bank balance should not be taken as sufficient evidence it will have the financial resources to fund project costs, start-up costs, and initial negative cash flow for a Forsyth HHA while continuing to fund losses at PHC Wake and possibly at PHC Mecklenburg. PHC has not provided evidence it has the financial resources required for the short-term financial feasibility of its proposal.

In the Forsyth application, PHC based its financial projections on unreasonable and unsupported volume projections. It has not shown the proposed project would be financially feasible in the long term with reasonable patient volume projections.

For these reasons and others the Agency may discern, the Agency should find the PHC application non-conforming with Criterion (5).

CRITERION (6)

(6)	**The applicant shall demonstrate that the proposed project will not result in unnecessary duplication of existing or approved health service capabilities or facilities.**

Novant Health incorporates by reference the comments for Criteria (1), (3), (4), and (5).

For these reasons and others the Agency may discern, the Agency should find the PHC application non-conforming with Criterion (6).

CRITERION (7)

(7) The applicant shall show evidence of the availability of resources, including health manpower and management personnel, for the provision of the services proposed to be provided.

PHC has not shown the availability of manpower, management personnel, or financial resources necessary to provide the proposed services. PHC was granted a CON for an HHA in Wake County in 2019. It was licensed Medicare certified in November 2021. This is PHC's only start-up HHA since PHC Mecklenburg in 2006. In 2022 it reported a total patient volume of 45 patients.

PHC has not shown it can recruit and retain staff for an HHA. It could not adequately staff its Mecklenburg HHA, as shown by its denial in the past twelve months of 342 referrals from Novant Health hospitals for patients being discharged to home health due to lack of staff.

PHC has not shown it has the managerial personnel to start an HHA in the highly competitive Forsyth County market before PHC Wake is a stable operation. PHC has not yet brought PHC Wake to long-term financial feasibility, and it likely has negative net income and negative cash flow. The PHC application has very little information on the capacity of the corporate organization and staff to support two start-up HHAs simultaneously.

In its Forsyth application, PHC did not address the financial condition of PHC Wake or PHC Mecklenburg. PHC's Medicare cost reports show it had negative net income on services to patients of -$889,118 in 2020 with 942 patients and -$359,200 in 2021 with 914 patients In 2020 and 2021, the losses on services to patients were offset by COVID-19 PHE funding. PHC received $1,442,470 in 2020 and $1,652,683 in 2021. This source of funds has ended, however.[17]

PHC Mecklenburg's patient volume dropped to 692 in 2022, suggesting losses on services to patients may have increased. Since PHC is a private company, its financial data are not publicly available and it included no financial statements for the company or the owner in its application. The courtesy letter from its banker says on a given day it had access to $350,000. This letter is inadequate documentation PHC will have the resources necessary for its Wake County start-up and a start-up in Forsyth County. Some organizations have capital reserves to let them undertake new ventures even with current losses, but not all do. PHC has not documented whether the operating losses are continuing at PHC Mecklenburg in 2022 and 2023 and whether PHC Wake has reached positive net income, or at least positive cash flow, before allowing PHC to embark on

[17] Healthcare Cost Report Information System (HCRIS), Medicare Cost Report IDs 511664 and 527946.

a new start-up that is more likely than not, in its first years, to have negative cash flow and negative net income.

On page 76, PHC says it will fund project costs, including startup costs and negative cash flow from accumulated reserves and from the owner's personal resources. However, PHC provided no financial statements showing these resources will exist when needed or are adequate to fund the project. A courtesy letter from a banker and a one-day bank balance should not be taken as sufficient evidence it will have the financial resources to fund project costs, start-up costs, and initial negative cash flow for a Forsyth HHA while continuing to fund losses at PHC Wake and possibly at PHC Mecklenburg. PHC has not provided evidence it has the financial resources required for the short-term financial feasibility of its proposal.

For these reasons and others the Agency may discern, the Agency should find the PHC application non-conforming with Criterion (7).

CRITERION (13)

(13) The applicant shall demonstrate the contribution of the proposed service in meeting the health related needs of the elderly and of members of medically underserved groups, such as medically indigent or low income persons, Medicaid and Medicare recipients, racial and ethnic minorities, women, and … persons [with disabilities], which have traditionally experienced difficulties in obtaining equal access to the proposed services, particularly those needs identified in the State Health Plan as deserving of priority. For the purpose of determining the extent to which the proposed service will be accessible, the applicant shall show:

(b) The extent to which medically underserved populations currently use the applicant's existing services in comparison to the percentage of the population in the applicant's service area which is medically underserved.

(d) That the elderly and the medically underserved groups identified in this subdivision will be served by the applicant's proposed services and the extent to which each of these groups is expected to utilize the proposed services;

PHC does not accept all patient referrals regardless of ability to pay. Novant Health hospitals in Mecklenburg County keep statistics on PHC's acceptance of referrals of hospital patients for home health. When helping patients choose a home health agency, Novant Health first sends referrals to home health agencies based on patient choice. If a patient does not have a preference, Novant

Health assists the patient by sending the referral to multiple home health agencies, including PHC. The patient can then choose a home health agency based on which agencies have accepted the referral.

The experience of Novant Health hospitals in Mecklenburg County with PHC accepting referrals of hospital patients for home health services has been unsatisfactory. From April 2022 to March 2023, Novant Health offered PHC 1,883 possible referrals. PHC accepted only 134 of these referrals, or 7.12%. One might expect the acceptance rate would have increased over the months as we moved further from COVID-19 conditions, but PHC's acceptance rate declined from 14.7% in April 2022 to 4.32% in March 2023. PHC declined 1,099 referrals and did not respond on 650. The table below shows the reasons for declining the referrals, as recorded by Novant Health.

Reasons PHC Declined Home Health Referrals from Novant Health Mecklenburg Hospitals

Decline Reason	% of total
Inadequate staffing	31%
Payor Related-Out of network	27%
Out of service area	25%
Payor Related- Other	12%
Unable to meet patient needs	4%
Total	**100%**

Source: Novant Health internal data, April 2022–March 2023.

Questions about PHC's payor mix in the application and in Agency data are raised by PHC's Medicare Cost Reports for 2020 and 2021.[18] The table below shows a very different picture based on percent of patient revenue.

[This space intentionally left blank]

[18] Cost report data is available for download at https://www.cms.gov/Research-Statistics-Data-and-Systems/Downloadable-Public-Use-Files/Cost-Reports/Cost-Reports-by-Fiscal-Year.

Last Full FY Before Submission of Application
1/1/2022 to 12/31/2022

Personal Home Care of NC, LLC	
Payor Source	**Percentage of Total Patients Served**
Self-Pay	Included in other
Charity Care	1.7%
Medicare *	72.7%
Medicaid *	20.0%
Insurance *	2.5%
Workers Compensation	0%
TRICARE	Included in other
Other (**Self-pay/VA/TRICARE**)	3.1%
Total	100%

** Including any managed care plans.*

PHC Medicare Cost Reports				
Payor	2020		2021	
Medicare	$634,123	8%	$213,912	2%
Medicaid	$508,665	6%	$332,882	4%
Other	$7,095,410	86%	$8,380,137	94%
Total	$8,238,198	100%	$8,926,931	100%

PHC should explain the difference. It does not appear counting the Medicare and Medicaid HMO revenues as "other" would explain the differences.

For these reasons and others the Agency may discern, the Agency should find the PHC application non-conforming with Criterion (13).

CRITERION 14

(14) The applicant shall demonstrate that the proposed health services accommodate the clinical needs of health professional training programs in the area, as applicable.

PHC has been in operation in North Carolina for many years. The only documentation in Exhibit M1 of participation in any existing clinical training programs is an agreement with the University of North Carolina Charlotte Career Center for internships. There is no agreement with any academic department, no description of internships, and no indication whether any students have had internships.

Nine of the "Training Sites Letters of Support" are form letters from Mr. Belov, with no acknowledgements from the academic institutions. PHC provided no signed agreements, no descriptions of the training programs, and no indication how many students have participated with PHC. The letter from Dr. Battle with Winston-Salem State University is best described as a courtesy letter.

For these reasons and others the Agency may discern, the Agency should find the PHC application non-conforming with Criterion (14).

CRITERION (18a)

(18a) The applicant shall demonstrate the expected effects of the proposed services on competition in the proposed service area, including how any enhanced competition will have a positive impact upon the cost effectiveness, quality, and access to the services proposed; and in the case of applications for services where competition between providers will not have a favorable impact on cost-effectiveness, quality, and access to the services proposed, the applicant shall demonstrate that its application is for a service on which competition will not have a favorable impact.

PHC has not shown it will positively affect the cost effectiveness, quality, or access to home health services in Forsyth County. It has not budgeted enough capital costs for the furniture and equipment to set up and run the HHA. It has not shown the long-term financial feasibility of the project. As Novant Health's experience with PHC in Mecklenburg County shows, PHC has faced staffing challenges and has declined hundreds of referrals from Novant Health because it did not have sufficient staff. Its CMS quality scores are below average and have not shown improvement. Without adequate equipment for its staff and without showing long-term financial feasibility, it cannot be an effective long-term competitor.

For these reasons and others the Agency may discern, the Agency should find the PHC application non-conforming with Criterion (18a).

PERFORMANCE STANDARDS: 10A NCAC 14C .2003

An Applicant proposing to develop a new Medicare-certified home health agency pursuant to a need determination in the annual State Medical Facilities Plan in effect as of the first day of the review period shall:

(1) provide projected utilization for each of the first three full fiscal years of operation following completion of the project;

(2) project to serve at least 325 residents of the proposed service area during the third fiscal year of operation following completion of the project; and residents of Forsyth County during its third year of operations.

(3) provide the assumptions and methodology used to provide the projected utilization required in Item (1) of this Rule.

PHC has not provided reasonable and adequately supported projected utilization for each of the first three full fiscal years of operation after completion of the project. PHC defines its service area as Forsyth County and assumes all its patients will be Forsyth County residents. On pages 126–129 of the application, it bases its projected unduplicated patients on serving 75% of the unmet need in its first full year of operation and 95% of the unmet need by the third full year of operation. The table below shows these numbers.

[This space intentionally left blank]

PHC Projected Patients and Market Share in Forsyth County

	2024	2025	2026	2027
Total Forsyth HH patients	10,421	10,421	10,421	10,421
SMFP unmet Need	828	1,109	1,377	1,661
PHC Market Share of Unmet Need	55%	75%	85%	95%
PHC unduplicated patients	455	832	1,170	1,578
Total HH Patients PHC	10,876	11,253	11,591	11,999
PHC projected market share	8%	10%	12%	14%

Source: PHC application, pages 126–129.

PHC has been a fully licensed HHA in Mecklenburg County since 2010. It was previously licensed as a demonstration project beginning in 2006. Its highest patient volume from Mecklenburg County was 698 in 2014, and its average patient volume from 2015 to 2022 was 531. PHC Mecklenburg's total patient volume for residents of all counties has been higher; peaking at 1,213 in 2014 and averaging 962 from 2015 to 2022. After 2014, PHC has never had a pattern of consistent growth in patient volume. It has never come close to the patient volume from a single county it projects in this application.

The numbers in the PHC application assume no growth in patient volume in Forsyth County for the existing HHAs serving Forsyth County. This would mean PHC achieved an 8% market share in its first partial year of operation, with the PHC market share rising to 14% by the third full year of operation. This projection should be compared to the market share PHC has achieved in Mecklenburg County after 17 years in operation. In its peak year, 2014, PHC had a market share of 4%. After 2014, its market share never grew but stayed between 3% and 4%. PHC's market shares in other counties are generally less than 3%. PHC has never achieved market shares close to those it projected in Forsyth County.

In 2022, thirteen HHAs reported patients from Forsyth County. Six HHAs accounted for 77% of the market.[19] The other seven split the remaining 23%, with 1% to 6% market share each.[20] It is not reasonably probable PHC can achieve the market shares it projects. These unreasonable

[19] The HHAs with the top six market shares are CenterWell Home Health, Adoration Home Health, BAYADA Home Health Care Inc., Wake Forest Baptist (all licenses), MediHome Health & Hospice, and Well Care Total.
[20] The remaining HHAs are Amedisys Home Health (all licenses), Enhabit Home Health, Interim HealthCare (all licenses), Yadkin Valley Home Health, Liberty Home Care (all licenses), SunCrest Home Health, and PruittHealth (all licenses).

projections make the PHC application non-conforming with several criteria, including Criteria (1), (3), (4), (5), (6), and (18a), as well as the performance standard.

As discussed under Criterion (3), only 6% of the referrals supported by letters of support from Physicians in PHC Exhibit I.2 came from providers with a practice location in Forsyth County. The other 94% of the volume came from providers outside of Forsyth County or from providers who did not state their location. The discussion under Criterion (3) is incorporated here by reference, and further establishes that PHC's utilization projections are not reasonable or adequately supported.

Without reasonable and adequately supported projected utilization, PHC has not shown it would serve at least 325 residents of Forsyth County during the third fiscal year of operation after completion of the project and residents of Forsyth County during its third year of operations.

For these reasons and others the Agency may discern, the Agency should find the PHC application has not met the performance standard.

[This space intentionally left blank]

COMMENTS SPECIFIC TO AVEANNA

Aveanna is a publicly traded Delaware corporation incorporated on November 30, 2016, that commenced operations in March 2017 with the merger of Epic Health Services Inc. and Pediatric Services of America. Corporate offices are in Atlanta. The majority owners are a few private equity firms. Aveanna has three main service lines: Private-Duty Services, Home Health and Hospice, and Medical Solutions.[21]

- Private-Duty Services provides pediatric nursing and therapy services, with most referrals coming from children's hospitals. Patients enter the service as children with complex and chronic conditions and continue to receive services into adulthood. Aveanna delivers these services in Forsyth County but is not licensed as a home health agency (HHA).
- Home Health and Hospice Services provides home health services primarily to the elderly. Aveanna has two HHAs in North Carolina that it acquired from Five Points in 2020. Five Points Healthcare of NC, LLC, is the applicant for the Forsyth County CON.
- Medical Solutions provides supplies for patients requiring enteral nutrition or respiratory care.

Aveanna is a publicly traded company on the Nasdaq exchange, so its financial results are public information. It is required to file an annual report and quarterly reports with the US Security and Exchange Commission (SEC). The 10-K is the required annual report that Aveanna attached to its CON application of April 17, 2023, starting on page 35. Aveanna did not provide the most recent 10-K report. What was attached is the report for the fiscal year ending January 1, 2022, covering the 2021 results, and not the more recent and available 10-K report for the fiscal year ending December 31, 2022. The 2022 and 2023 filings show a much worse financial picture than the 10-K for 2021. The 2022 10-K report was timely filed with the SEC on March 16, 2023, and was available for inclusion in Aveanna's application.[22] In making the decision to withhold current and highly relevant information, Aveanna has been less than forthcoming with its application. For the Agency's convenience, the Aveanna 2022 10-K and first quarter 2023 10-Q are attached as an exhibit to these comments.[23]

Aveanna's current financial condition should make the Agency question its financial staying power and its ability to establish a new HHA in Forsyth County. It had negative net income each year from 2018, with the largest loss of $662 million in 2022. Short-term debt and the current portion of long-term debt increased from $9 million in 2018 to $169 million in 2022. Long-term debt increased from $943 million in 2018 to $1.327 billion in 2022. Total shareholder's equity fell

[21] Form 10-K, Aveanna Healthcare Holdings Inc. for the fiscal year ending December 31, 2022.
[22] "Aveanna Healthcare Holdings Inc.," EDGAR search results, SEC.gov, https://www.sec.gov/edgar/browse/?CIK=1832332.
[23] Aveanna's 10-Q for the first quarter of 2023 was filed on May 11, 2023 but reflects Aveanna's performance through April 1, 2023. Accordingly, the information in the 10-Q was also known to Aveanna before it filed its application.

from $345 million in 2018 to a negative $6 million in 2022. Several financial ratios have fallen to unfavorable levels. The table below shows the financial data.

Aveanna Healthcare Holdings Inc. Financial Data

All dollar numbers in millions	**2022**	**2021**	**2020**	**2019**	**2018**
Net Income	-$662	-$117	-$57	-$77	-$47
Net Income Growth	-466%	-105%	25%	-62%	-
Net Operating Cash Flow	-$29	$4	$130	$4	$22
ST Debt & Current Portion LT Debt	$169	$148	$25	$22	$9
Long-Term Debt	$1,327	$1,272	$1,205	$1,061	$943
Total Equity	-$6	$636	$265	$270	$345
Current Ratio	0.83	0.81	1.31	1.11	1.08
Quick Ratio	0.83	0.81	1.31	1.11	1.08
Cash Ratio	0.06	0.09	0.53	0.02	0.04

Source: Aveanna SEC filings https://www.wsj.com/market-data/quotes/AVAH/financials.

The Agency should pay close attention to Aveanna's 2022 net operating cash flow, which was negative $29 million. This means more money is going out than is coming in. While negative net operating cash flow is to be expected in a new business just getting started, that is not Aveanna's situation. For an established business like Aveanna, negative net operating cash flow is a negative sign because it means the company may be facing difficulties meeting its obligations. Relative to this application, the major obligations are the time and effort to establish an agency in a new area of the state, Forsyth County, and paying staff, which is the biggest expense in home health care.

Aveanna is a financial outlier in a negative sense when compared to the service sector and the health sector. Although Aveanna's data is more current this would not change the results.

Liquidity and Earnings Ratios	2021		2022
	Service Sector	Health Sector	Aveanna
Debt ratio is a measure of a company's debt as a percentage of its total assets. A higher ratio is less favorable and may make it more difficult to borrow money.	0.62	0.47	1.0024
The interest coverage ratio (ICR) is a measure of a company's ability to meet its interest payments.	0.14	-2.74	-5.96
The current ratio indicates a company's ability to meet short-term debt obligations.	1.47	1.97	0.826
Cash ratio is a refinement of quick ratio and indicates the extent to which readily available funds can pay off current liabilities.	0.66	1.14	0.06
Net profit margin shows the amount of each sales dollar left over after all expenses have been paid.	-0.4%	-2.9%	-37.0%
Gross profit margin (gross margin) is the ratio of gross profit (gross sales less cost of sales) to sales revenue.	52.7%	37.0%	30.9%
Return on sales (ROS) indicates how much profit an entity makes after paying for variable costs of production such as wages, raw materials, etc. (but before interest and tax).	2.7%	-1.7%	-35.9%
Dividend payout ratio compares the dividends paid by a company to its earnings.	0.24	0.09	0.00

Source: Ready Ratios. Available at: https://www.readyratios.com/

Although Aveanna is not a public non-profit entity, the tables below show how weak its financial condition is.

Aveanna Compared to 114 Nonprofit Health Systems Rated by Fitch Rating

	Fiscal Year 2020	Aveanna 2022
Cash on hand	255 days	4.0
Accounts receivable	44.6 days	45.2
Cash to debt	169.90%	1.12%
Operating Margin	1.30%	All negative
EBITDA Margin	8.5%	
Debt to EBITDA	4.4X	
Debt to capitalization	35.2%	

Source: https://www.beckershospitalreview.com/finance/19-key-financial-benchmarks-for-health-systems.html.

Aveanna Compared to 130 Freestanding Non-For-Profit and Public Hospitals Rated by Moody Investor Service

	Fiscal Year 2020	Aveanna 2022
Cash on hand	246.9 days	4.0
Accounts receivable	44.6 days	45.2
Current ratio	1.6x	0.826
Operating Margin	0.50%	-35.9%
Annual debt service coverage	4.7x	Will be negative
Debt to cash flow	3.3x	1.12%
Total debt to capitalization	33.9%	100.2%

Source: https://www.beckershospitalreview.com/lists/83-hospital-benchmarks-in-2022.html.

Also, within the 2022 10-K, management declared:[24]

> *"As of December 31, 2022, we did not maintain effective internal control over financial reporting attributable to an identified material weakness."*
>
> *"We cannot issue you that we will at all times in the future be able to report that our internal controls are effective."*

Whatever the specifics are, the auditors, Ernst & Young, LLP (EY), were aware of the weakness and expressed an adverse opinion on internal controls on page 81. They nonetheless issued an unqualified opinion on the financial results as at March 16, 2023, on page 122.[25] Furthermore, as a Subsequent Event in the audit notes, EY commented on Aveanna borrowing an additional $45 million in March 2023.[26]

Aveanna's 2022 results and Q.1 2023 results were known and available to Aveanna at the time it filed its application on April 17, 2023, yet Aveanna chose not to provide the information. Instead, Aveanna's application painted a much rosier and much less accurate picture of its financial condition. By itself, the applicant's lack of candor raises significant concerns, but now that the Agency knows about the applicant's deteriorating financial condition, it should deny the Aveanna application under Criteria (1), (3), (4), (5), (6), and (18a).

CRITERION (1)

(1)	**The proposed project shall be consistent with applicable policies and need determinations in the State Medical Facilities Plan, the need determination of which constitutes a determinative limitation on the provision of any health service, health service facility, health service facility beds, dialysis stations, operating rooms, or home health offices that may be approved.**

[This space intentionally left blank]

[24] 2022 10-K, page 51.
[25] 2022 10-K, pages 78 and 116.
[26] 2022 10-K, page 113.

Policy GEN-3: Basic Principles

"A certificate of need applicant applying to develop or offer a new institutional health service for which there is a need determination in the North Carolina State Medical Facilities Plan shall demonstrate how the project will promote safety and quality in the delivery of health care services while promoting equitable access and maximizing healthcare value for resources expended. A certificate of need applicant shall document its plans for providing access to services for patients with limited financial resources and demonstrate the availability of capacity to provide these services. A certificate of need applicant shall also document how its projected volumes incorporate these concepts in meeting the need identified in the State Medical Facilities Plan as well as addressing the needs of all residents in the proposed service area."

The applicant did not address how its proposal would promote safety. As to promoting quality, the applicant is Five Points, and its quality scores are what is relevant rather than the averages for the corporation. CMS reports the Wake County HHA had too few observations to report in any of the last four quarters. The Cumberland County HHA had a score of 2 in three of the past four quarters and a score of 2.5 in the April 2023 quarter.[27] These scores are well below state and national averages and do not indicate approval of the applicant would promote the quality of HH services in Forsyth County.

The applicant discusses its Quality Assurance and Performance Improvement (QAPI) plan and various policies and technology it says should increase the quality of its services. However, the CMS quality scores show these measures have had no substantial effect on the quality of the Cumberland County HHA. It consistently scored 2 and had only a half point increase in the latest quarter.

On page 28, the applicant discusses how it promotes equitable access and refers the reader to Exhibit B.20-2, Aveanna's process and procedures for providing care to the uninsured or underinsured. A review of this document shows it has no criteria for who qualifies for a partial or total discount of charges. Any decision to offer charity care or reduced charges must be made at the corporate level. The practical effect of this policy and procedure is shown by Aveanna's projected charity care of 0.17% of revenue on Form F.2b. It did not disclose the payor mix for either existing HHA. This does not promote equitable access.

The only specific way the applicant pointed to maximizing healthcare value was using excess office space the Aveanna private nursing service has in Forsyth County. Saving a little rent hardly

[27] Current CMS star rating data for Aveanna Home Health is available at https://www.medicare.gov/care-compare/details/home-health/347241?state=NC.

offsets the loss of healthcare value from the applicant's below average quality and minimal charity care.

Given Aveanna's precarious financial condition, it is not reasonably certain Aveanna can provide the needed services

For these reasons, and others the Agency may discern, the Agency should find the Aveanna application non-conforming with Criterion (1) and Policy GEN-3.

CRITERION (3)

(3)	**The applicant shall identify the population to be served by the proposed project, and shall demonstrate the need that this population has for the services proposed, and the extent to which all residents of the area, and, in particular, low income persons, racial and ethnic minorities, women, … persons [with disabilities], the elderly, and other underserved groups are likely to have access to the services proposed.**

The only unmet need it identified was the "unmet need" calculated in the SMFP. This is not a real unmet need but only the difference between the base year volume and the projected 2024 volume. Aveanna makes no argument the existing HHAs serving Forsyth County would not serve the additional patients if its proposal was denied. It shows no specific need for it as an additional HHA. It identifies no need of the Forsyth County population it would meet but existing HHAs would not. This contrasts with the specific need Novant Health identified to reduce unnecessary hospital patient days and unnecessary readmissions.

Aveanna has not adequately supported its patient volume projections. There is no reasonable certainty it can achieve a 4.4% market share in Forsyth County by its third full year of operation. PruittHealth has been in Forsyth County since 2019 and has never had a market share over 1%. Aveanna's reference to the average market share of Forsyth County HHAs is an irrelevant mathematical exercise that does not substantiate its projection.

In Cumberland County, Aveanna's market share fell from the 7.4% market share reported on page 4 of Schedule C to 5% in 2022, as reported to the Agency. The patient volume in Cumberland County fell from 509 to 312, and the total patient volume for Aveanna Cumberland fell from 690 to 451. Notably, Cumberland County has 50% fewer HHAs than Forsyth County. Forsyth County is a more competitive market for home health than Cumberland County, so Aveanna's performance in Cumberland County is not a good predictor of how it might perform in Forsyth County.

Aveanna identifies Forsyth County as its service area but assumes it will obtain almost 20% of its patients from other counties it does not name. Its only basis for projecting the patient volume from other counties is the average percentage of patients from other counties existing Forsyth County HHAs receive. Aveanna's reference to the average percentage of patients from other counties Forsyth County HHAs receive is an irrelevant mathematical exercise that does not substantiate its projection.

Aveanna does not show it will increase access for low-income persons, racial and ethnic minorities, women, persons with disabilities, the elderly, and other underserved groups. It describes no programs or outreach directed at these groups. Its third-year payor mix is only 0.17% charity care. If it achieves the 568 patients it projects, this is 0.97 charity care patients per year. Similarly, it projects Medicaid patients at 1.1%. This is substantially less than the 1.8% Medicaid average for Forsyth County HHAs. Thus, Aveanna proposes to do less than its fair share relative to existing Forsyth County HHAs.

For these reasons and others, the Agency may discern, the Agency should find the Aveanna application non-conforming with Criterion (3).

CRITERION (4)

(4)	**Where alternative methods of meeting the needs for the proposed project exist, the applicant shall demonstrate that the least costly or most effective alternative has been proposed.**

The same facts that result in Aveanna's non-conformity under Criterion (3) also result in its non-conformity under Criterion (4). In addition, Aveanna has a home health agency license in Wake County for its pediatric nursing services and states in the application it now provides services in Forsyth County. It is possible Aveanna could provide home health services in Forsyth and nearby counties without the Forsyth CON. If so, that would be a potentially less costly alternative than establishing a new administrative office to deliver HH services in Forsyth County. This is particularly relevant given Aveanna's deteriorating financial condition.

The Agency should find the Aveanna application non-conforming with Criterion (4).

CRITERION (5)

(5) Financial and operational projections for the project shall demonstrate the availability of funds for capital and operating needs as well as the immediate and long-term financial feasibility of the proposal, based upon reasonable projections of the costs of and charges for providing health services by the person proposing the service.

The same facts that result in Aveanna's non-conformity under Criterion (3) also result in its non-conformity under Criterion (5). The financial analysis of Aveanna at the beginning of these comments is incorporated here by reference.

Given its precarious financial performance, it is not reasonably probable Aveanna can provide the needed services. Aveanna is and has been in poor financial condition. Its financial condition significantly declined in 2022 and has not improved in 2023.

Aveanna acknowledges it has "substantial indebtedness" and a "high degree of leverage."[28] It also states it does "not intend to pay dividends for the foreseeable future."[29]

The balance sheet consists of "soft assets," largely goodwill that can become impaired, and "hard liabilities," largely debt that must be repaid.

The majority of Aveanna's assets consist of goodwill that has been deteriorating over time, to the extent that the company accounts show negative equity at the end of 2022. Aveanna has provided no assurance there will not be further material impairments to the carry value of goodwill.[30]

In simple terms, goodwill is an asset on the balance sheet that represents the excess amount paid for an organization over tangible assets such as building and equipment, with the expectation that super-profits will be generated in the future. Goodwill can become "impaired" when the actual perceived value is less than the carrying value on the balance sheet. Any impairment loss is to be reported as a separate item on the income statement, with a corresponding reduction in the goodwill value.[31] Aveanna took a major charge for impairment to goodwill in 2022.

Goodwill impairment was disproportionately driven by the HHH business segment. In 2022, HHH represented 13% of the revenues but fully 56.6% of the goodwill impairment.[32] This presents a forward-looking projection of the declining profitability of the HHH business segment.

[28] 2022 10-K, page 38.
[29] 2022 10-K, page 49.
[30] 2022 10-K, page 41.
[31] "Goodwill (accounting)," Wikipedia, https://en.wikipedia.org/wiki/Goodwill_(accounting).
[32] 2022 10-K, page 93.

After Aveanna submitted its application in April, it filed a first-quarter 2023 10-Q with the SEC on May 11. This report reflects Aveanna's financial performance through April 1, 2023, and was therefore known to Aveanna at the time it filed the application. The cash balance has increased, only due to the higher level of indebtedness, and the income statement continues to reflect a loss. A healthy balance sheet derives from strong financial performance on the income statement. Aveanna fails to present strong financial performance, as it has presented a loss in all periods. This does not provide the opportunity to replenish a weakening balance sheet and negative equity position.

Based on its financial condition and poor financial performance, Aveanna should not be deemed as having proposed a feasible service.

For these reasons and others, the Agency may discern, the Agency should find the Aveanna application non-conforming with Criterion (5).

CRITERION (6)

(6)	**The applicant shall demonstrate that the proposed project will not result in unnecessary duplication of existing or approved health service capabilities or facilities.**

The same facts that result in Aveanna's non-conformity under Criterion (3) also result in its non-conformity under Criterion (6).

Because Aveanna proposes no HHA service capabilities not already offered by existing Forsyth County HHAs, it unnecessarily duplicates the existing HHAs. While the SMFP shows Forsyth County can support an additional HHA, this does not mean the existing HHAs could not accommodate the existing patients. In fact, they could. Approving an applicant that meets no specific needs and offers no new capabilities results in unnecessary duplication.

For these reasons and others, the Agency may discern, the Agency should find the Aveanna application non-conforming with Criterion (6).

[This space intentionally left blank]

CRITERION (13)

(13) The applicant shall demonstrate the contribution of the proposed service in meeting the health related needs of the elderly and of members of medically underserved groups, such as medically indigent or low income persons, Medicaid and Medicare recipients, racial and ethnic minorities, women, and … persons [with disabilities], which have traditionally experienced difficulties in obtaining equal access to the proposed services, particularly those needs identified in the State Health Plan as deserving of priority. For the purpose of determining the extent to which the proposed service will be accessible, the applicant shall show:

(c) The extent to which medically underserved populations currently use the applicant's existing services in comparison to the percentage of the population in the applicant's service area which is medically underserved.

(e) That the elderly and the medically underserved groups identified in this subdivision will be served by the applicant's proposed services and the extent to which each of these groups is expected to utilize the proposed services;

Aveanna does not show it will increase access for low-income persons, racial and ethnic minorities, women, persons with disabilities, the elderly, and other underserved groups. It describes no programs or outreach directed at these groups. Its third-year payor mix is only 0.17% charity care.

On page 28 of its application, Aveanna discusses how it promotes equitable access and refers the reader to Exhibit B.20-2, Aveanna's process and procedures for providing care to the uninsured or underinsured. The policy says Aveanna's goal is to be reimbursed for the services provided. Aveanna is a publicly traded, for-profit company whose obligation is to its stockholders. A review of this document shows it has no criteria for who qualifies for a partial or total discount of charges. Any decision to offer charity care or reduced charges has to be made at the corporate level. Aveanna's projected charity care of 0.17% of revenue on Form F.2b shows the practical effect of this policy and procedure. If Aveanna achieves the 568 patients it projects, this is one charity care patient per year. This is the same number of charity care patients Aveanna Cumberland served in 2022. This does not promote equitable access.

Similarly, Aveanna projects Medicaid patients at 1.1%, or 6 patients. This is the same percentage Aveanna Cumberland served in 2022. This is substantially less than the 1.8% Medicaid average for Forsyth County HHAs. Thus, Aveanna proposes to do less than its fair share relative to existing Forsyth County HHAs.

For these reasons and others, the Agency may discern, the Agency should find the Aveanna application non-conforming with Criterion (13).

CRITERION (14)

(14) The applicant shall demonstrate that the proposed health services accommodate the clinical needs of health professional training programs in the area, as applicable.

Aveanna Cumberland has been in operation in North Carolina for many years. The application has no documentation of participation in any existing clinical training programs in Cumberland County. There is no evidence Aveanna's existing programs in North Carolina have accommodated the clinical needs of health professional training programs in the area.

Aveanna included a series of five form letters written by Beth Rubio, Chief Clinical Officer of Aveanna Healthcare Holdings in Atlanta, offering "a health professional training and development partnership for interested and qualifying students." There is no documentation Ms. Rubio had any contact with the persons to whom the letters were addressed before or after they were written. There is no documentation she received any response.

For these reasons and others, the Agency may discern, the Agency should find the Aveanna application non-conforming with Criterion (14).

CRITERION (18a)

(18a) The applicant shall demonstrate the expected effects of the proposed services on competition in the proposed service area, including how any enhanced competition will have a positive impact upon the cost effectiveness, quality, and access to the services proposed; and in the case of applications for services where competition between providers will not have a favorable impact on cost-effectiveness, quality, and access to the services proposed, the applicant shall demonstrate that its application is for a service on which competition will not have a favorable impact.

With its weak financial condition, and unsupported utilization projections, there is no reasonable certainty Aveanna can have a positive impact on competition for home health services in Forsyth County or nearby counties. Aveanna has not shown it has competed effectively in Cumberland County, where it has never reached a market share of even 15%. It has presented no evidence that

approving its application would have a positive impact on the cost effectiveness, quality, and access to the services proposed.

For these reasons and others, the Agency may discern, the Agency should find the Aveanna application non-conforming with Criterion (18a).

PERFORMANCE STANDARDS: 10A NCAC 14C .2003

An Applicant proposing to develop a new Medicare-certified home health agency pursuant to a need determination in the annual State Medical Facilities Plan in effect as of the first day of the review period shall:

(1) provide projected utilization for each of the first three full fiscal years of operation following completion of the project;

(2) project to serve at least 325 residents of the proposed service area during the third fiscal year of operation following completion of the project; and residents of Forsyth County during its third year of operations.

(3) provide the assumptions and methodology used to provide the projected utilization required in Item (1) of this Rule.

Aveanna has not adequately supported its patient volume projections and thus has not shown it meets the second prong of the performance standard. There is no reasonable certainty Aveanna can achieve a 4.4% market share in Forsyth County by its third full year of operation. PruittHealth has been in Forsyth County since 2019 and has never had a market share over 1%. Aveanna's reference to the average market share of Forsyth County HHAs is an irrelevant mathematical exercise that does not substantiate its projection.

In Cumberland County, Aveanna's market share fell from the 7.4% market share reported on page 4 of Schedule C to 5% in 2022, as reported to the Agency. The patient volume in Cumberland County fell from 509 to 312, and the total patient volume for Aveanna Cumberland fell from 690 to 451.

Aveanna identifies Forsyth County as its service area but assumes it will obtain almost 20% of its patients from other counties it does not name. Its only basis for projecting the patient volume from other counties is the average percentage of patients from other counties existing Forsyth County HHAs receive. Aveanna's reference to the average percentage of patients from other counties Forsyth County HHAs receive is an irrelevant mathematical exercise that does not substantiate its projection.

For these reasons and others, the Agency may discern, the Agency should find the Aveanna application does not meet the performance standard.

[This space intentionally left blank]

COMPARATIVE ANALYSIS FOR FORSYTH COUNTY HOME HEALTH AGENCIES

Pursuant to N.C. Gen. Stat. § 131E-183(a)(1) and the 2022 State Medical Facilities Plan, no more than one new home health agency (HHA) may be approved for Forsyth County in this review. Because the four applicants in this review collectively propose to develop four more HHAs in Forsyth County, all applications cannot be approved.

After considering the information in each application and reviewing each individually against the applicable review criteria, a comparative review is required as part of the Agency findings if more than one application is found conforming with the applicable review criteria.

The Agency has developed a list of suggested comparative factors for competitive batch reviews. These factors are suggested for all reviews of all types of services and facilities.

- Conformity with Statutory and Regulatory Review Criteria
- Scope of Services
- Historical Utilization
- Geographic Accessibility (Location within the Service Area)
- Access by Service Area Residents
- Competition (Access to a New or Alternate Provider)
- Access by Underserved Groups: Medicare
- Access by Underserved Groups: Medicaid
- Access by Underserved Groups: Charity Care
- Projected Average Net Revenue per Patient, Procedure, Case or Visit
- Projected Average Total Operating Cost per Patient, Procedure, Case, or Visit

However, several of these factors have different definitions or different meaning for HHAs than for facilities. Several factors are not appropriate for comparing applications for home health services because of the physical characteristics and payment mechanisms for home health services.

INAPPROPRIATE COMPARATIVE FACTORS

Geographic Accessibility (Location within the Service Area) – The only location an HHA specifies in its application is the location of the administrative office. No services are delivered at the administrative office. Direct care staff and marketing staff visit the administrative office infrequently because they spend their time at patient homes and at referral sources. The location of the administrative office does not affect the accessibility of home health services as it would for inpatient or outpatient acute care or post-care facilities. This should not be a comparative review factor.

Access by Service Area Residents – The Agency often considers the percentage of patients an applicant projects to serve from the county or planning area where the applicant is located. For an HHA this serves no purpose. HHAs send direct care staff and marketing staff into counties other than the county for which the CON is granted. HHAs receive most referrals from hospitals that serve patients from multiple counties. To accept referrals HHAs locate direct care staff where they receive referrals. There is no reason to assume HHAs neglect their home county because they deliver services in other counties. There are almost no North Carolina HHAs that serve residents of only one county. Any applicant that projects only serving residents of the home county is probably neither candid nor correct. This should not be a comparative review factor.

Access by Underserved Groups: Medicare – For home health services it is incorrect to consider Medicare patients an underserved group. Medicare was defined as an underserved group for acute care services where Medicare paid less than commercial insurance plans. This is not the case for home health services. The need determination in this review is for Medicare-certified home health services, so the approved applicant must serve Medicare patients. The table below shows Novant Health's experience with NHHC-Pender is Medicare, and particularly traditional Medicare, pays more for home health services than any other payor category. In Novant Health's experience, HHAs do not decline but actively seek traditional Medicare patients based on payment rates.

Novant Health Home Care - Pender
2022 Net Revenue to Gross Revenue Percentage

Medicare FFS and MCO	99.5%
Medicaid FFS and MCO	48.3%
Commercial insurance	44.8%
Other insurance*	9.4%
Self-pay**	0.4%
Total	86.7%

Source: Novant Health internal data
**Workers' compensation, CHAMPUS, VA, etc.*
***Some self-pay patients do not qualify for charity care*

Therefore, an HHA with an extremely high percent of Medicare patients may indicate it declines patients in other payment categories such as self-pay, workers' compensation, and personal injury. This should not be a comparative review factor.

However, should the Agency decide to make Medicare a comparative review factor, Novant Health ranks first among the current applicants. The table below shows the responses in Section L, Question 3.

Payor Source Percentage of Total Patients Served				
	Novant Health	Well Care	Personal Health Care	Aveanna
Self-Pay	0.3%	0.0%	**	0.7%
Charity Care	0.5%	1.0%	1.7%	0.0%
Medicare *	85.3%	83.5%	72.7%	77.4%
Medicaid *	3.4%	9.0%	20.0%	2.0%
Insurance *	8.4%	4.0%	2.5%	19.8%
Workers Compensation	0.1%	0.0%	0.0%	0.0%
TRICARE	0.1%	2.5%	**	0.0%
Other (Describe)	1.9%	0.0%	3.1%	0.1%
Total	100.0%	100.0%	100.0%	100.0%

* Including any managed care plans.
** included in other
Source: Section L, Question 3

Access by Underserved Groups: Medicaid – In Novant Health's experience, North Carolina Medicaid payment rates are below Medicare rates but equal or exceed commercial payment rates and some Medicare MCO rates. The Medicaid payment for home health services relative to commercial payment sources is different than for acute care services. Elderly Medicaid patients are usually dual eligibles and Medicare is billed for home health services. A large percentage of home health services billed to Medicaid are for pediatric patients. No applicant in this review cycle has shown the county has a need for more pediatric home health services and proposed specialized pediatric services. A high Medicaid patient percentage does not show better access to services.

Further, the table below compares the percentage of Medicaid patients each applicant projected in Year 3 to its actual Medicaid percentage in 2022 in a North Carolina HHA. Novant Health assumed the average Medicaid percentage for Forsyth County HHAs. This reflects conditions in Forsyth County and average access. Novant Health-Pender's actual percentage was 2.5 times higher. For all other applicants their projected percentage was higher than their actual percentage. For Aveanna the projected is almost twice the projected number. For Well Care the projected is over

three times its actual performance in the same counties. These projections should not be a comparative review factor.

Projected Percentage Versus Actual Percentage
Unduplicated Medicaid Patients as a Percentage of Total Unduplicated Patients

Applicant /Existing HHA	Projected Year 3*	Actual 2022
Novant Health/NHHC-P	3.4%	8.6%
Aveanna/Aveanna Cumberland	2.0%	1.1%
PHC/PHC Mecklenburg	20.0%	18.5%
Well Care/WellCare Davie	9.0%	2.4%

Source: CON Applications, Section L Question 3 and 2023 License Renewal Applications

Projected Average Net Revenue per Patient, Procedure, Case or Visit – The Agency has usually assumed the lowest net revenue per patient or visit to be the most effective application. For home health services this is an invalid assumption. Applicants have no control over their net revenue. 75% to 90% of home health patients are Medicare patients. An additional 2% to 5% of patients are Medicaid patients. Payment for most commercially insured patients is based on rates negotiated in provider contracts. Differences in net revenue between HHAs will depend on variations in payor mix and in the mix of disciplines required by patients. Differences in payment rates within a payor category will be small to nonexistent. Lower net revenue per patient or visit does not reflect cost-effectiveness in home health services as it may in other services. This should not be a comparative review factor.

Projected Average Total Operating Cost per Patient, Procedure, Case, or Visit – The Agency has usually assumed the application with the lower operating cost per patient or visit to be the most effective application. For home health services this is an invalid assumption. As long as an applicant projects positive net income, higher operating costs are not a public policy concern. Because payment rates for most patients are set by Medicare, Medicaid, or provider contracts, spending more does not increase an HHA's net income as it may for some hospital patients. Most HHA expenses, 70% to 90%, are for salaries and benefits. Lower operating costs often means less staffing or lower wages that can lower the quality of services. A further problem with this factor is financial models are not consistent for all applicants in a review cycle. This should not be a comparative review factor.

APPROPRIATE COMPARATIVE FACTORS

Novant Health thinks these comparative factors are appropriate for this review cycle. Some are on the Agency's standard list, and some are not. The Agency has discretion to choose reasonable factors for each review.

Conformity with Review Criteria – As discussed in the individual comments on each application, only the Novant Health application is conforming to all applicable review criteria and rules. Accordingly, the Novant Health application is comparatively superior with respect to this factor.

Demonstration of Need – The 2023 SMFP contains a need determination for a new HHA in Forsyth County but that alone does not prove the need for a specific application. Each applicant has to show there is an unmet need of the population that its proposal will address. In this review cycle only Novant Health has met that burden. The other three applicants each proposed to add a generic HHA that offers no capabilities or services not offered by the existing HHAs. They have identified no underserved subpopulation in Forsyth County or proposed specific programs to meet the needs of a subpopulation.

Novant Heath has identified specific needs discussed on pages 47 through 50 of the application. Novant Health manages thousands of patients who are discharged to home health each year. In 2022, 2,477 Forsyth and Davidson County residents were discharged from a Novant Health Forsyth hospital to home health. Approving a Forsyth County HHA for Novant Health will improve continuity of care for Novant Health hospital patients by:

- Decreasing Excess Inpatient Days (page 47)
- Including home health services in the patient's electronic medical record (page 49)
- Giving home health patients access to Novant Health physician specialists and other advanced capabilities (page 49)

Some patients are difficult or impossible to place with existing HHAs serving Forsyth and Davidson Counties. The unwillingness of existing HHAs to accept these patients means they unnecessarily remain in the hospital for several days. Those who receive limited home health services are more likely to present to the emergency department or to be readmitted as inpatients.

Because Novant Health hospitals bear the cost of delays in discharges, some hospital readmissions, and uncompensated hospital care for uninsured patients, Novant Health has a need and an economic incentive to see all hospital patients who need home health care at discharge are promptly admitted by a HHA and receive proper home health services.

These are some reasons Wake Forest Baptist Medical Center (Baptist) and Atrium Health (Atrium) have added HHAs in Forsyth and Mecklenburg Counties, respectively. In Forsyth County, Baptist

had a market share of 12% in 2022 and in Mecklenburg County Atrium Health had a market share of 19%.[33] Both market shares are far less than their inpatient hospital market shares, which shows hospitals do not unduly favor their HHAs with referrals but use their HHAs to better manage their responsibilities to hospital patients and manage their hospital costs. Novant Health has the same need for a HHA in Forsyth County. The other applicants have shown no specific need for a new freestanding HHA in Forsyth County. Well Care has the least need of all as it is already providing all the home health services in Forsyth County it would if given the Forsyth CON.

Aveanna and PHC propose to add one more HHA to Forsyth County that meets no specific need and offers no services or capabilities not offered by the existing HHAs. Well Care would add no services or capabilities in Forsyth County it does not deliver today through Well Care-Davie. Only Novant Health has identified specific needs in Forsyth County and it is the only applicant that can meet that need.

Ranking of Applications on Showing Specific Need for Proposed Project

Novant Health	Well Care	Personal Health Care	Aveanna
1	3	3	3

Competition (Access to a New or Alternate Provider) – The Agency should take a realistic view of which applicants are already delivering home health services in Forsyth County and which have shown the financial and organizational capacity to do so. Novant Health is not delivering any home health services in Forsyth, Davidson, or other nearby counties and would be a new provider. Novant Health has the financial and organizational ability to be an effective competitor based on the capabilities of the NHHC-P management team and Novant Health Inc.'s financial resources.

Novant Health Inc. and its Forsyth County hospitals have provider contracts with all major commercial health plans, Medicare MCOs, and Medicaid MCOs. Most or all these contracts can be quickly extended to include NHHC-F to give it in-network status for most patients. Novant Health will continue to give all hospital patients discharged to home health a choice of home health providers. Novant Health is well-positioned to be an effective competitor and bring the benefits of competition to residents of Forsyth County and nearby counties.

Well Care would not be a new provider of services in Forsyth, Guilford, or Stokes Counties. In 2022 it had nearly 2,500 referrals from these counties. It already has direct care staff and marketing staff in Forsyth County. We incorporate by reference the extensive discussion of Well Care's existing operations in Forsyth County from our specific comments on the Well Care application.

[33] Draft 2024 SMFP, Chapter 12: Home Health Data by County of Patient Origin, Draft May 11, 2023

Personal Home Care has not shown it has the financial or organizational capacity at this time to compete in Forsyth County. Its start-up HHA in Wake County had only 45 patients in 2022. It is not yet a stable operation. PHC-Mecklenburg had a substantial decline in patients in 2022. In recent years it had substantial operating losses that were offset by COVID relief funds that are no longer available. Unlike NHHC-P, it is not part of a larger organization with the financial resources to cover sustained operating losses. PHC and its owner have not given the Agency audited financial statements or other documentation PHC can start a new HHA in a highly competitive market while still developing PHC-Wake and returning PHC-Mecklenburg to profitability.

Aveanna Healthcare Holdings Inc.'s financial condition is sufficiently grave it hid its 2022 10-K from the Agency even though it had it a month before it filed its CON application. The company has negative equity. It has debt of about $1.2 billion. Most of its assets are accounting goodwill which Aveanna has been writing off. A large part of the goodwill impairment is in its home health service line. It has not shown the Agency it has the financial or organizational capacity to start a new HHA in Forsyth County.

Based on these considerations, Novant Health should be ranked first on this factor. PHC and Aveanna should be ranked equally because they do not have a HHA in Forsyth County but they have not shown the financial and organizational capacity to develop an effective competitor at this time. Well Care should be ranked last because of its large volume of patients in Forsyth County.

Ranking of Applications on Competition

Novant Health	Well Care	Personal Health Care	Aveanna
1	4	2.5	2.5

Quality of Care – Even if the Agency finds all applications conforming with Criterion (20), it can still distinguish among the applications on the factor of quality of care based on the performance of the North Carolina HHAs owned and operated by each applicant. The table below shows the most recent CMS quality ratings for four HHAs operated by the four applicants.[34] NHHC-P is Novant Health's only HHA. Well Care of the Triad is the Davie County HHA and the most relevant to Forsyth County. PHC-Mecklenburg and Aveanna-Cumberland are the only North Carolina HHAs owned by those companies with enough patients for CMS to report a score.

The first table shows the score for the patient satisfaction survey, the overall quality score and scores for the detailed quality metrics for the four HHAs. The last column shows the North Carolina average CMS reported or the national average if no state average was reported. All

[34] CMS Quality Detail updated April 23, 2023. CMS Home Health Quality Data is available at: https://www.medicare.gov/care-compare/?providerType=HomeHealth

applicants have above average patient satisfaction scores. However, only NHHC-P and Well Care Davie have above average quality ratings.

The next table converts the detailed quality scores into ranks for the four HHAs. Lower ranks are better. Weighting all detailed quality metrics equally, NHHC-P has the best (lowest) average rank followed by Well Care Davie, PHC-Mecklenburg and Aveanna Cumberland.

CMS Quality Scores for Applicants' Existing Home Health Agencies

	Novant Health Pender	Well Care-Triad	PHC Mecklenburg	Aveanna Cumberland	North Carolina Average
HHCAHPS Patient Satisfaction Survey	5	4	4	4	
Quality rating	4	5	2.5	2.5	3*
Managing daily activities	83.10	93.50	70.00	74.30	85.30
Getting in and out of bed	96.10	95.20	90.20	75.40	86.80
Getting better at bathing	85.90	94.20	79.80	72.40	85.90
Assessment and goals	100.00	91.10	100.00	96.00	97.90
Breathing improved	90.30	96.70	70.60	77.40	87.20
New or worse ulcers or pressure sores	0.30	0.40	0.00	0.30	0.20
Began care timely	98.10	99.90	99.00	97.10	97.10
Taught patients about drugs	99.90	99.20	99.10	98.20	99.00
Taking oral medication correctly	79.10	92.90	62.70	68.20	81.70
Determined if patient had flu shot	82.70	82.10	67.10	74.20	74.30
Medication actions completed timely	94.90	95.30	89.00	97.00	93.60
Falls with major injury	0.80	0.80	0.00	1.50	0.90
Admitted to hospital	12.00	12.60	22.90	14.00	14.10
ED visit without hospital admission	10.30	14.60	10.70	11.10	missing
Patient remained in community after HH discharge	82.60	81.30	71.80	77.60	76.3*
Hospital readmission after HH discharge	2.90	4.50	3.50	4.50	3.4*
Medicare spends (% national average)	0.84	0.95	0.72	1.00	1*

**National average; no North Carolina average shown*
Source: CMS Quality Detail updated April 23, 2023 CMS Home Health Quality Data is available at: https://www.medicare.gov/care-compare/?providerType=HomeHealth

Ranking of CMS Detailed Quality Scores for Applicants' Existing Home Health Agencies

	Novant Health Pender	Well Care-Triad	PHC Mecklenburg	Aveanna Cumberland
Managing daily activities	2	1	4	3
Getting in and out of bed	1	2	3	4
Getting better at bathing	2	1	3	4
Assessment and goals	1.5	4	1.50	3
Breathing improved	2	1	4	3
New or worse ulcers or pressure sores	3	4	1	2
Began care timely	4	1	2	3
Taught patients about drugs	1	2	3	4
Taking oral medication correctly	2	1	4	3
Determined if patient had flu shot	1	2	4	3
Medication actions completed timely	3	2	4	1
Falls with major injury	2.5	2.5	1	4
Admitted to hospital	1	2	4	3
ED visit without hospital admission	1	4	2	3
Patient remained in community after HH discharge	1	2	4	3
Hospital readmission after HH discharge	1	3.5	2	3.50
Medicare spends (% national average)	2	3	1	4
Average of all but quality rating	**1.79**	**2.24**	**2.79**	**3.15**

Source: Previous table

Overall, NHHC-P and Well Care Davie are tied on quality with PHC-Mecklenburg third and Aveanna fourth.

Ranking of Applications on Quality for Existing Home Health Agencies

Novant Health	Well Care	Personal Health Care	Aveanna
1.5	1.5	3	4

Average visits per unduplicated patient – Generally, the application proposing the highest number of visits per unduplicated patient is the more effective alternative. This metric is another indicator of the quality of care a HHA delivers. Additional visits increase costs. Medicare pays by episode rather than by visit so for most Medicare patients HHAs do not have an economic incentive to make any unnecessary visits to patients. More nursing visits per patient are likely to reduce the risk of ED visits or hospital readmission. More therapy visits are likely to improve functional capacity and speed recovery.

The table below shows the applicants' average visits per unduplicated patient. Novant Health ranks first, followed by PHC, Well Care, and Aveanna.

Ranking of Applications on Average Visits per Unduplicated Patient

Rank	Applicant	Number of Unduplicated Patients	Projected Number of Visits	Average Number of Visits per Unduplicated Patient*
1	Novant Health	1,202	27,471	22.9
4	Aveanna	568	10,414	18.3
2	Personal Home Care	1,578	34,884	22.1
3	WellCare	2,539	54,642	21.5

Source: Form C.5
**The average number of visits per unduplicated patient calculated by dividing the projected number of visits by the applicant's projections of total unduplicated patient in the third full fiscal year of operation.*

Nursing and Home Health Aide Salaries - The most recent Agency decision in a competitive review cycle for home health agencies was in 2021 for Mecklenburg County. The Agency compared the projected salaries for nurses and home health aides. The Agency considered the application with the highest projected salaries to be the most effective. This was based on the assumption higher salaries would help with recruitment and retention of staff.

However, there is a serious problem in basing a comparative review factor on projected salaries without first confirming the compensation the applicants actually pay and how the compensation is computed. Novant Health based its salaries on actual current salaries and a 3% annual increase. The other applicants did not state the basis for their salaries.

Home health nurses are paid per visit with small additional hourly pay for meetings and training. The projected salary in each application will vary based on the number of visits per year budgeted for a nurse. Novant Health assumes 1.6 hours per nurse visit including travel and documentation. Based on a standard 2,080 hour work year, Novant Health budgets a nurse to make 1,301 visits

per year. This equates to hourly pay of $42.61. For comparison, all numbers in the table below are taken from the applications except the 1.6 hours per visit assumed for the other applicants.

Section Q lists total skilled nursing visits and does not provide for a separate listing of visits for registered nurses (RN) and licensed practical nurses (LPN). PHC projects 48% of nursing visits in Year 3 will be by LPNs,[35] but Well Care made no comparable assumption. Therefore, the table below shows total nursing visits and total nursing FTEs for Year 3. The annual salary number shown is for RNs from Schedule H. It would also have been reasonable to use the average nursing salary for Well Care and PHC. This would have lowered their hourly pay but would have obscured what they were actually paying RNs and LPNs.

Comparison of Hourly Pay Rates for Registered Nurses

Applicant	Year 3 Visits*	Year 3 FTE*	Visits/ FTE	Hours/ Visit	Hours/ Year	Annual Salary[1]	Hourly Pay
Novant Health	8,949	6.88	1,301	1.6	2,081	$ 88,671	$ 42.61
Well Care	20,464	12.7	1,611	1.6	2,578	$ 108,726	$ 42.17
Personal Home Care	15,000	8.7	1,724	1.6	2,759	$ 106,121	$ 38.47
Aveanna	4,182	3	1,394	1.6	2,230	$ 82,162	$ 36.84

[1]Source: Visits from Form C.5; FTEs and annual salary from Form H.
**Visits and FTEs for RN and LPN combined. Visits/FTE and Hours/Visit assumed the same.*

In the 2021 Mecklenburg decision, the Agency ranked the applications based on the annual salaries without consideration of the factors in the table above. When we consider how many hours a nurse must work to earn the respective salaries and the resulting pay per hour, the picture changes. Novant pays the most per hour with Well Care a close second with substantial separation from the other two applicants.

The number of hours the nurses for the other applicants must work to earn the projected salaries raises questions of burn out and whether they can deliver that many hours of consistent quality care. It is also questionable whether PHC and Aveanna can recruit qualified staff at their lower hourly pay rates. As shown elsewhere in these comments, PHC has declined numerous referrals from Novant Health in Mecklenburg County because it lacks sufficient staff. Aveanna's financial difficulties may make it challenging for it to recruit and retain qualified staff.

[35] PNC application, page 162.

Ranking of Applications on Hourly Pay for Registered Nurses

Novant Health	Well Care	Personal Health Care	Aveanna
1	2	3	4

It is unclear why the Agency used salaries for home health aides as a comparative review factor. As Form C.5 shows they play a relatively minor part in the total visits. For Novant Health in Year 3 they are 601 of 27,471 visits (2.2%). The largest number of therapy visits are for physical therapy. Novant Health recommends the Agency use hourly pay for physical therapists instead of home health aides as a comparative factor.

Physical Therapist Salaries – The same reasons the Agency compares applicants on salaries for nurses apply to salaries for physical therapists. Like nurses, physical therapists are paid by visit and the salaries in the application must be translated to hourly pay to make a meaningful comparison. We assume an average of 1.43 hours per visit for physical therapists. For the reasons discussed for nurses, visits and FTEs for physical therapists and aides are combined. Salaries shown in the table are for physical therapists.

Comparison of Hourly Pay Rates for Physical Therapists

Applicant	Visits	FTE	Visits/ FTE	Hours/ visit	Hours/ year	Annual Salary[1]	Hourly Pay
Aveanna	4,057	3.0	1,352	1.43	1,934	$122,680	$63.44
Novant Health	13,554	10.4	1,303	1.43	1,864	$102,648	$55.08
Well Care	21,749	13.0	1,673	1.43	2,392	$130,915	$54.72
Personal Home Care	11,930	7.8	1,529	1.43	2,187	$115,672	$52.89

[1]Source: Visits from Form C.5; FTEs and annual salary from Form H
*Visits and FTEs for physical therapists and aides combined. Visits/FTE and Hours/Visit assumed the same.
**Salaries shown are for physical therapists

Aveanna has budgeted the highest hourly pay for physical therapists, followed by Novant Health, Well Care and PHC. We incorporate by reference our earlier discussion of Aveanna's precarious financial situation. Well Care has budgeted physical therapists to work an excessive number of hours to earn the budgeted salary which raises questions of staff burnout and quality of care.

Ranking of Applications on Hourly Pay for Physical Therapists

Novant Health	Well Care	Personal Health Care	Aveanna
2	3	4	1

Access by Underserved Groups: Charity Care – Novant Health projected charity care patients based on the number of patients in Novant Health Forsyth County hospitals who qualified for charity care under the Novant Health charity care policy and were discharged to home health. This means NHHC-F has committed to take all referrals of charity care patients from the four Novant Health hospitals in Forsyth County. No other applicant has made a similar commitment. Their count or percent of charity care patients is arbitrary and not tied to the needs of Forsyth County. Any applicant can project any arbitrary number of charity care patients.

The Agency should base the ranking of applicants on this factor on the wording of their charity care policies and the objective certainty those policies give residents of Forsyth County.

- Novant Health has a written commitment to not charge uninsured patients whose household income does not exceed 300% of the Federal Poverty Guidelines (Exhibit1)
- Personal HealthCare has a less generous policy to not charge uninsured patients whose household income does not exceed 250% of the Federal Poverty Guidelines. PHC has declined referrals from Novant Health Mecklenburg hospitals based on ability to pay. (Exhibit 2)
- Well Care has no objective criteria for when it will not charge uninsured patients and makes no commitment to take clinically eligible patients. Well Care has declined referrals from Novant Health Forsyth County hospitals based on ability to pay. (Exhibit 3)
- Aveanna has no objective criteria for when it will not charge uninsured patients and makes no commitment to take clinically eligible patients. Approval to accept and not charge a patient must be made by corporate managers in Atlanta. (Exhibit 4)

Ranking of Applications on Access for Charity Care Patients

Novant Health	Well Care	Personal Health Care	Aveanna
1	3	2	4

Ratio of Average Net Revenue to Average Total Operating Cost per Visit – This financial ratio is net income as a percentage of operating cost. It shows how much of the HHA's net revenue is kept by the owner and not spent on patient care. Generally, the application proposing the lowest ratio to be the more effective alternative. However, the ratio must equal one or greater for the proposal to be financially feasible. The table below shows all applicants have projected positive

net income in Year 3. Novant Health has projected the lowest margin and should be ranked first. Well Care has projected a very high net income percentage and should be ranked last.

Applicants Year 3 Net Income Percentages

Rank	Applicant	Average Net Revenue Per Visit (B)	Average Operating Cost Per Visit (C)	Net Income Percentage (B / C)
1	NHHC-F	177.0	167.7	1.06
2	Aveanna	183.5	170.4	1.08
3	Personal Home Care	122.7	105.3	1.17
4	WellCare	124.1	100.4	1.24

Source: Form C.5 and Form F.2b

SUMMARY OF COMPARATIVE FACTORS

A comparative review is needed only if more than one application is conforming on all CON criteria. As shown in the comments on the applications, only Novant Health is conforming on all criteria and should be approved on that basis. However, if the Agency disagrees, Novant Health should be approved based on the appropriate comparative factors.

In past decisions the Agency has given all comparative factors equal weight. In this review we urge the Agency to give extra weight to the specific need Novant Health has shown for its application to provide continuity of care and avoid unnecessary inpatient days for the patients Novant Health hospitals in Forsyth County discharge to home health.

The table below summarizes the ranking of applicants on the appropriate comparative factors. The lowest number is the highest rank. The table shows Novant Health is the most effective alternative and the Agency should approve its application.

[This space intentionally left blank]

Comparative Factor	Novant Health	Well Care	Personal Health Care	Aveanna
Conformity to relevant CON Criteria	1	3	3	3
Demonstration of need	1	3	3	3
Benefits of competition	1	4	2.5	2.5
Quality of existing home health agencies	1.5	1.5	3	4
Average visits per unduplicated patient	1	2	3	4
Hourly pay rates for registered nurses	1	2	3	4
Hourly pay rates for physical therapists	2	3	4	1
Access for charity care patients	1	3	2	4
Ratio of Net Revenue to Total Operating Cost per Visit	1	4	3	2
Total ranks	10.5	25.5	26.5	27.5
Average rank	1.17	2.83	2.94	3.06

EXHIBIT 1

TITLE	Charity Care		
NUMBER	NH-LD-FM-111.1	**Last Revised/Reviewed Effective Date:**	Feb21
TJC FUNCTIONS	LD-FM		
APPLIES TO	Novant Health: Hospitals, NHMG, Freestanding Surgery Centers, Rehabilitation Centers, Corporate Departments and Entities NH UVA: HAMC, PWMC, Caton Merchant House, Cancer Center, NHMG NH New Hanover Regional Medical Center (NH NHRMC)		

I. SCOPE / PURPOSE

The Novant Health mission statement, "improving the health of communities' one person at a time" reflects Novant Health's not-for-profit heritage and social accountability to the communities in which we are located.

II. POLICY

All Novant Health Affiliates ("Novant Health") will provide charity care (free care) for qualified low-income patients. This service, along with other community benefit services, is essential to Novant Health's mission fulfillment.

The purpose of this policy is to establish the criteria and conditions for providing charity care to patients whose financial status makes it impractical or impossible to pay for emergency or medically necessary services. This policy does not cover elective services. Individuals who meet the eligibility criteria established in this policy qualify to receive free care for emergency or medically necessary services. Confidentiality of information and individual dignity will be maintained for all who seek assistance under this Policy.

The Novant Health Executive Leadership Team and/or the Novant Health Board of Directors must approve any modification of this policy.

A. Eligibility for Charity Care.

1. Service Area –
   a. *Hospital patients*: residents within a Novant Health Service Area (see attached), are eligible to apply for Charity Care, as defined in this Policy.
   b. *Non-provider based physician clinic ("Physician Clinic") patients:* patients must live in the traditional service area for the clinic, as defined and documented at each clinic and available upon request by a patient.
   c. *Outpatient radiology at a non-acute care facility ("Outpatient Radiology") patients:* patients residing within a 25-mile radius of the facility are eligible to apply for Charity Care, as defined in this Policy.

   Patients outside the applicable Novant Health Service Area will be reviewed and approved by Market Presidents and/or designees. For planned registrations, without prior approval, patients will be expected to pay for

services rendered if the patient resides outside of the Novant Health service area.

2. Established Patient. In the case of a Physician Clinic, a patient must be a patient who has been treated by a Novant Health Medical Group primary care physician within the previous three (3) years.
3. Income. The patient must be uninsured, be unable to access Entitlement Programs, have annual family income less than or equal to 300% of the available current year Federal Poverty Guidelines and must be without substantial liquid assets (i.e. cash-on-hand). Coverage of insured parties shall only be granted in limited circumstances upon management's review and approval of all Charity Care documents.
4. Covered Services. For hospital and Outpatient Radiology patients, Covered Services include emergency and Medically Necessary Services received at a Novant Health hospital, provider-based practice, or an Outpatient Radiology setting. For patients of a Physician Clinic, Covered Services are determined by physician evaluation. Covered Services do not include cosmetic, elective, non-urgent tests, services or procedures, fertility services or experimental treatments. In the case of Physician Clinics, prescription medications are not included as Covered Service.
5. Other Health Coverage. Patients who are known to have chosen not to participate in employer sponsored health plans and / or not eligible for government sponsored health coverage due to non-compliance with program requirements are not eligible for Charity Care under this Policy. This exclusion does not apply to patients who are known to have chosen not to participate in the healthcare exchange established by the Affordable Care Act.
6. Special Circumstances. Deceased patients without an estate or third party coverage may be considered for Charity Care eligibility. Patients who are in bankruptcy may also be eligible for Charity Care.

B. Application - An application (see attached application) providing all supporting data required to verify Charity Care eligibility will be completed by the patient and returned to the business office, revenue cycle advocate or a financial counselor at the facility or clinic. Supporting data includes proof of income documents such as W2 forms, pay stubs or the previous year's tax return. Patients without an income source should supply a letter of support stating their need for Charity Care consideration based on their current financial situation. Letters should at a minimum state that the patient has no supporting financial documentation to supply. See Section G below. Applications will be maintained in the facility or clinic business office and provided to individuals requesting Charity Care or identified as potential candidates for Charity Care. Applications are available in English and Spanish. Assistance may be provided in completing the application by contacting a financial counselor at any of the phone numbers listed in Section O of this Policy.

C. Determination Based Upon Application - Once complete documents are received and an eligibility determination has been made, a notification letter will be sent to each applicant advising them of the facility's or clinic's decision. If the patient meets eligibility requirements, they will be designated as eligible to receive Charity Care. Patients who submit incomplete applications and/or do not provide supporting documentation will be contacted via phone or mail.

D. Presumptive Eligibility Determination –An account may be reviewed for presumptive eligibility for Charity Care.. Any account without insurance coverage is reviewed by obtaining the household size and household income through Experian Healthcare, a data and analytics company, and calculating the Federal Poverty Percentage based on the most recent Federal Poverty Guidelines. Any account with a Federal Poverty Percentage under 300% and no insurance coverage will be eligible to receive Charity Care and will obtain a 100% adjustment to any charges for services covered under this Policy.

E. Providers Delivering Emergency and Medically Necessary Care – Each NH facility maintains a list of providers that deliver emergency or other medically necessary care in the NH facility, which identifies which providers are covered under this Policy ("List of Providers"). This list may be updated on a regular basis without approval by the NH facility governing board. A List of Providers may be obtained through Novant Health's website or by contacting a financial counselor at any of the phone numbers listed in Section O of this Policy.

F. Eligibility Period – The Charity Care application and documentation must be updated every six months, or at any time during that six month period the patient's family income or insurance status changes to such an extent that the patient becomes ineligible. Each visit within the six month period will be reviewed for potential access to other Entitlement Programs.

G. No Supporting Financial Documentation - Patients without an income source may be classified as charity if they do not have a job, mailing address, residence or insurance. Consideration must also be given to patients who do not provide adequate information as to their financial status. Patients without an income source should supply a letter of support stating their need for Charity Care consideration based on their current financial situation. Letters should at a minimum state that the patient has no supporting financial documentation to supply. Charity care may not be denied under this Policy based on an applicant's failure to provide information or documentation that this Policy or application form does not require an individual to submit.

H. Billing and Collection Actions –For information regarding Novant Health's billing and collection activities please see the Novant Health Billing and Collections Policy. A copy of the policy may be obtained through Novant Health's website or by contacting a financial counselor at any of the phone numbers listed in Section O of this Policy.

I. Effective Date of Charity Care. While it is desirable to determine a patient's eligibility for Charity Care as close to the time of service as possible, so long as the patient submits the required documentation within the Application Period, Charity Care will be provided, if deemed eligible.

J. Record Keeping –Records relating to potential Charity Care patients must be readily obtained for use. Document images related to Charity Care are accessible in the following areas at the account or medical record level of the patient for retrieval:

- NHMG Revenue Cycle: Application documentation is kept in locked file cabinets for 30 days and then scanned in to Hyland OnBase and/or media manager in Dimensions for storage.
- NH Outpatient Radiology Facilities: Documents are scanned in to media manager in Dimensions for storage.
- NH Dimension Acute Facilities: Documents are scanned in to media manager in Dimensions for storage.

K. Charges. No Charity Care-eligible individual will be charged for emergency or other medically necessary care under this Policy. If Novant Health were to charge for emergency or other medically necessary care under this Policy, it would use the prospective method to determine amounts generally billed using Medicaid rates ("AGB") and would not charge a Charity Care-eligible individual more than AGB.

L. Charity Care Budget. The availability of Charity Care may be limited based upon Novant Health's budget or other financial constraints, which would impact the ability of Novant Health to remain financially viable.

M. Public Notice and Posting – Novant Health will make available to the public information about the assistance provided in this Policy as follows:
- This Policy, the application and a Plain Language Summary shall be available on NH's website;
- Paper copies of this Policy, the application and a Plain Language Summary shall be available upon request and without charge, both by mail and in public locations throughout Novant Health facilities, including at a minimum the ER and admissions areas;
- Charity care brochures, which inform the reader about the financial assistance available under this Policy, how to obtain more information about this Policy and the application process, and how to obtain copies of this Policy, the application and a Plain Language Summary, will be available at various free community health clinics within the Novant Health Service Areas;
- Patients shall be offered a paper copy of the Plain Language Summary as part of the intake or discharge process;
- Billing statements will have a conspicuous notice on them to inform the reader of this Policy, as set forth in more detail in Novant Health's Billing and Collections Policy; and
- Conspicuous public displays that notify and inform patients of this Policy will be displayed in public locations throughout Novant Health facilities, including at a minimum the ER and admissions areas.

N. Accessibility to LEP Individuals - Novant Health shall make this Policy, the application form and the Plain Language Summary available to all significant populations that have limited English proficiency ("LEP"). To determine whether a population is significant, Novant Health will use a reasonable method to determine LEP language groups within a Novant Health Service Area.

O. Availability of Policy and Related Documents. For hospital patients, a copy of this Policy, Plain Language Summary, an application, the List of Providers and the Billing and Collections Policy may be obtained by:

- Visiting the Novant Health website at http://www.novanthealth.org/GiveBack/FinancialAssistance.aspx
- Visiting the Financial Counseling office at any Novant Health hospital.
- Calling Customer Service toll free at 888-844-0080
- Calling any Novant Health hospital financial counselor at the numbers listed below:

Novant Health Forsyth Medical Center Novant Health Clemmons Medical Center Novant Health Kernersville Medical Center Novant Health Medical Park Hospital Novant Health Thomasville Medical Center	(336) 718-5393
Novant Health Presbyterian Medical Center Novant Health Matthews Medical Center Novant Health Huntersville Medical Center Novant Health Charlotte Orthopedic Hospital Novant Health Brunswick Medical Center Novant Health Rowan Medical Center Novant Health Mint Hill Medical Center	(704) 384-0539
Novant Health New Hanover Regional Medical Center	(910) 667-7050
Novant Health Prince William Medical Center Novant Health Heathcote Medical Center Novant Health Haymarket Medical Center	(703) 369-8020

For Physician Clinics and Outpatient Radiology, a copy of the charity care policy, plain language summary, an application and the billing and collections policy may be obtained by contacting the particular clinic.

EXCLUSIONS: This policy only applies to services rendered at Novant Health affiliates and does not apply to services rendered by any independent physicians or practitioners. This policy also does not apply to services provided within or outside the hospital/facility by physicians or other healthcare providers including but not limited to Anesthesiologists, Radiologists, and/or Pathologists, who are not employed by Novant Health.

III. QUALIFIED PERSONNEL

N/A

IV. EQUIPMENT

N/A

V. PROCEDURE

The procedure serves as a guideline to assist personnel in accomplishing the goals of the policy. While following these procedural guidelines personnel are expected to exercise judgment within their scope of practice and/or job responsibilities.

N/A

VI. DOCUMENTATION

N/A

VII. DEFINITIONS

Affiliate – includes Novant Health, Inc. and any wholly-owned entity or an entity operated under the Novant Health name.

Application Period – the period that begins on the date the care is provided to an individual and ends on the 240th day after the individual is provided with the first billing statement for the care.

Charity Care – Services needed to treat an illness, injury, condition, disease, or its symptoms and that meet accepted standards of medicine, which, if not promptly treated, would lead to an adverse change in the health status.

Entitlement Program – a government program guaranteeing certain health care benefits to a segment of the population. This does not include the healthcare exchange established by the Affordable Care Act.

Family – Includes husband, wife, and any children (including stepchildren) that live in the home and are qualifying dependents for tax purposes.

Income – Annual family earnings and cash benefits from all sources before taxes, less payments made for alimony and child support.

Medically Necessary Services – Services for a condition which, if not promptly treated, would lead to an adverse change in the health status of a patient.

Plain Language Summary – A written statement that notifies an individual that the Novant Health facility offers financial assistance under this Policy and provides the following additional information in language that is clear, concise, and easy to understand: (i) a brief description of the eligibility requirements and assistance offered under this Policy; (ii) a brief summary of how to apply for assistance under this Policy; (iii) the direct website address (or URL) and physical locations where the individual can obtain copies of this Policy and application form; (iv) instructions on how the individual can obtain a free copy of this Policy and application form; (v) the contact information, including telephone number and physical location, of the facility office or department that can provide information about this Policy and either the office or department that can provide assistance with the application or a nonprofit or governmental agency that can provide assistance; (vi) a statement of the availability of translations of this Policy, application and Plain Language Summary in other languages, if applicable, and (vii) a statement that a Charity Care eligible individual may not be charged more than the amount generally billed to individuals with insurance covering the same emergency care or other medically necessary care.

Traditional Service Area – Defined and consistently applied by the relevant Physician Clinic and includes 80-90% of their patients.

VIII. RELATED DOCUMENTS

Catastrophic Settlement, Uninsured Discount, Payment Plan, Admissions, Charges and Financial Counseling, Billing and Collections

IX. REFERENCES

N/A

X. SUBMITTED BY

Novant Health Charity Care/ Bad Debt Sub-Committee

XI. KEY WORDS

Charity, uninsured patient, charity care, financial assistance

XII.

INITIAL EFFECTIVE DATE	June 1, 2015
DATES REVISIONS EFFECTIVE	01/2016, 08/15/18, 03/2020, 02/2021
DATES REVIEWED (No changes)	
Date Due for Next Review	February 2024

SIGNATURE SHEET

TITLE	Charity Care
NUMBER	NH-LD-FM-111.1
TJC FUNCTIONS	LD-FM
APPLIES TO	Novant Health: BMC, FMC (FMC main, CMC, KMC & all other locations), HMC, MMC, MPH, MHMC, PMC (PMC main, COH & all other locations), RMC, TMC, NHMG, Freestanding Surgery Centers, Rehabilitation Centers, Corporate Departments and Entities NH UVA: HAMC, PWMC, Caton Merchant House, Cancer Center, NHMG NH New Hanover Regional Medical Center (NH NHRMC)
ACTION	Revised

APPROVED BY:

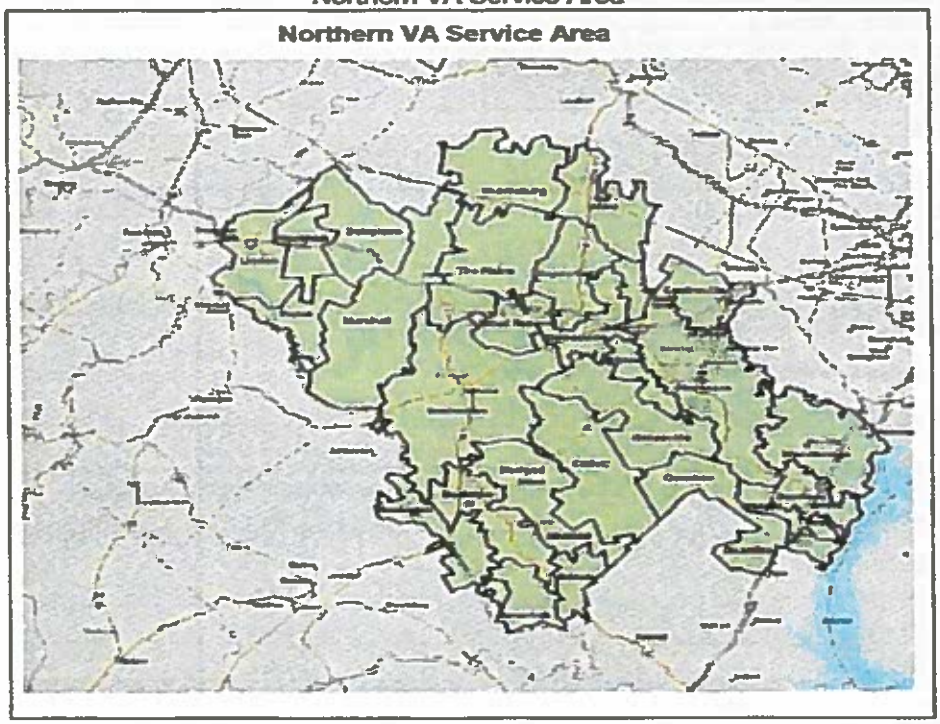
Title	Approved By	Signature	Date
EVP, CFO	Fred Hargett		See electronic approval

COMMITTEES APPROVED BY:

Committee	Chairperson/Designee	Date
NH Executive Team	Fred Hargett	2/11/2020
NHMG Clinic Standards/Patient Safety Committee	John Card, MD, Chairman	1/28/2020

NC and SC Service Area

Northern VA Service Area



Financial Assistance Application

I. Patient Demographics

Patient Name: _____
(Last) (First) (Middle) (SSN) (DOB)

Guarantor Name: _____
(Last) (First) (Middle) (SSN) (DOB)

Address: _____
(Street) (City) (State) (Zip Code)

Phone: _____

Have you applied for Financial Assistance with any Novant Health, Inc. facility (e.g. Novant Health Medical group, Novant Health hospital, Novant Health Imaging center) in the past? _____Yes____No

If yes, date of application or approval? _____

II. Household Information

Marital Status *(Circle One)*	Married	Single	Separated	Total in Household:

Dependent Name(s) *(Attach separate sheet for addtl. Dependents)*	Dependent Date of Birth

III. Employment/Income

Patient/Guarantor Employer:
Gross Monthly Income Amount: $
Income source – *Please attach verification or explanation of current situation*
Spouse or Other Income Source and Gross Monthly Amount: $
Total Annual Gross Household Income: $
Do you have an active bank account? Did you file taxes for the prior year?

IV. Insurance Verification

Do you have any health insurance?	YES	NO
Name of insurance company:		
Are you employed?	YES	NO
For current employer or is you have become unemployed within the last 90 days, former employer, please provide: The name of employer (and dates of employment if no longer employed): Give the name of your employer sponsored insurance carrier (if any): If recently unemployed; Are you eligible for COBRA benefits?		

I certify that the information provided is true and to the best of my knowledge. I understand that fraudulent or misleading information will make me ineligible for any financial assistance. I authorize the release of any information needed to verify the information provided and for billing and collections in compliance with applicable federal and state laws. Proof of income may be required before any consideration is made. Acceptable proof of income maybe but not limited to, copy of paycheck stubs, copy of last year's tax return, or letter from employer stating present salary and hours worked.

Signature of Patient/Guarantor		*Date:*
Signature of Interviewer		Date:
Signature of Manager		Date:
Signature of Director		Date:
Signature of VP		Date:
Comments		

EXHIBIT 2

Exhibit L.4

Personal Home Care Charity Care Policy

PERSONAL HOME CARE OF NORTH CAROLINA, LLC

CHARITY CARE / ABILITY TO PAY

I. Policy:

Personal Home Care of North Carolina, LLC (PHC) is committed to providing charity care to patients who meet financial criteria based on the Federal Poverty Guidelines.

II. Purpose:

The purpose of this policy is to establish a conventional method within the agency, and with each patient, the extent to which the patient is expected to pay for services, based on the patient's ability to pay. This policy applies to patients that do not have any third party coverage in addition to those who have a balance remaining after application of all third party payments.

Application of this policy will occur only after the patient has exhausted all possible sources of sponsorship. This includes Medicaid and all federal, state and county sponsored programs.

Patients with self-pay balances remaining will be classified into two groups as follows:

Group	Identification Criteria	Account Resolution
A. Indigent	Income below Federal Poverty Guidelines based on number of family in household	Full charity discount
B. Partially Indigent	Income below 200% of Poverty Guidelines based on number of family in household	Discount of self-pay balance based on percentage of income over Federal Poverty Guidelines.

In order to qualify for charity assistance, the patient will be expected to complete a "financial information worksheet" which provides income and expense information. The patient must also supply verification to support the reported income. The following forms will be accepted as income verification: W2 statements, pay check stubs, Social Security letters, or written statements from private employers.

III. Full Charity Discount

A full charity discount write off of an account is available to those with incomes below the Federal Poverty Guidelines and no other available sponsorship.

Guidelines:

1. Establish family size in the household

2. Confirm if household income is at or below Federal Poverty Guidelines based on family size.
   If Yes – go to step 3.
   If No – determine if patient qualifies for partial discount.

3. Determine if other sponsorship is available.

   If Yes – Have patient apply for other sponsorship.
   If No – process full indigent discount.

IV. Partial Indigent Discount

A partial charity discount is available to those patients with family household income that are above the Federal Poverty Guidelines but no greater than 200% of the poverty guidelines per family size.

Guidelines:

1. Is household income per family size between 100 and 200% of the poverty guidelines? This is calculated by dividing the family income by the poverty guidelines published annually.

   If Yes – Patient qualifies for discount.
   If No – Go to step 3.

2. Calculate the discount. The percentage above the poverty guideline for the family size is the percentage of the bill the patient will be responsible for.

3. If the household income is over 200% of the poverty guidelines, then the patient does not qualify for a partial discount.

V. Approval for Charity Care Write Offs

Each case will be handled individually. All cases must be reviewed and approved by the Business Office Manager. PHC reserves the right to re-evaluate decisions as information becomes available.

No patient will be denied service because of inability to pay.

EXHIBIT 3

Exhibit L.4

Patient Financial Policies

Title: **Billing of Insurance Claims Policy**
Section: **Leadership (LD)** **Policy #:** **02**
Origination Date: **10/2000** **Revision Date(s):** **03/04, 9/05, 10/11,3/13, 3,14, 2/16, 10/17, 7/18**
Approval: **Sr. Leadership**

I Policy

Insurance claims will be generated in the electronic medical record for services provided to participants.

II Purpose

To ensure correct and timely billing of insurance claims to all payors.

III Policy Detail

A. Each clinical staff member providing services to patients will complete visit information in the agencies electronic medical record.

B. After all charges have been posted; the Billing Specialist will bill the appropriated payer for reimbursement. All Commercial, Government, Medicare Advantage, and Medicaid, will be billed at a minimum weekly. The Billing Specialist will create batches in electronic medical record and upload into the appropriate claims interface for transmission.

C. Once claims have been uploaded all errors will be corrected in the appropriate claims interface and the corrected claims resubmitted.

D. The Billing Specialist will notify the correct department regarding any corrections that need to be made so the claim may be billed in a timely manner.

E. All paper claims will be printed once a week. The Billing Specialist will print and attach the medical records to the claim and mail them to the appropriate payer.

F. Medicare claims are to be billed daily at a minimum; batches will be created in the electronic medical record and uploaded into the appropriate claims interface. The Billing Verification Message Report is to be printed and worked; a copy of the report is to be emailed to the Clinical Managers to be reviewed and any necessary corrections made to ensure that all claims are billed in a timely manner.

Title: Indigent Care Policy
Section: Leadership (LD) **Policy #:** 19
Origination Date: 7/5/2017 **Revision Date(s):** 7/18
Approval: 7/10/17

I Policy

Patients that do not have insurance to pay for home health services and do not have the financial means for private pay services will be considered on a case by case basis for approval of care by the Director of operations or the Vice President of Home Health Operations.

II Purpose

To establish a method for approval of charity care cases.

III Policy Detail

A. If patient is found to not have a payer source that will cover home health services and is not able to afford private pay services the case will be submitted to the Director of Operations for review. The Regional Director of Operations or the VP of Home Health operations will be back up if the Director of Operations is not available to review patient's case.
B. The Director of Operations will decide if patient can be accepted on to service and will authorize disciplines allowed to see patient and number of visits that are authorized for the episode of care.
C. Intake will enter Charity Care authorization note detailing the number of visits and disciplines authorized to see the patient during this episode.

Title: Accounts Receivable
Section: Leadership (LD)
Policy #: 15
Origination Date: 10/2000
Revision Date(s): 03/04, 9/05, 11/11, 2/13,3/14, 2/16; 10/17, 7/18
Approval: Sr. Leadership

I Policy

The Billing Specialist will make every attempt to collect on each account through mail, email and phone contact.

II Purpose

To ensure that all accounts are followed up on and every effort is made to collect the amount due in full.

III Policy Detail

A. The Billing Specialist or designee will review unpaid claims as needed.

B. The Billing Specialist or designee will call the various payors for accounts older than 30 days to determine status of the claim.

C. The Billing Specialist or designee will resubmit the claim if needed.

D. If claims are denied by the primary payor, the Billing Specialist will pursue other possible pay sources and submit claims to the new payor.

E. If no other pay source is available, the Billing Specialist or designee will bill the patient.

F. Subsequent to billing the patient, the Billing Specialist or designee will send three notices at designated intervals.

G. The Billing Specialist or designee will call the patient within two weeks of sending the first notice. Responses and subsequent payment plans will be handled on a case-by-case basis.

H. If the patient is deceased, Well Care will seek collection from the estate.

I. Well Care Reserves the right to add a 1.5% (or 18% annually) service charge to all past due accounts.

J. The timeliness and emphasis of the collection process will correlate directly to the default risk determined by Well Care. All accounts that go beyond ninety (90) days, without acceptable terms, will be handled by due process of the law or Well Cares internal collection agency.

- Minimum payment on account will be 10% of the outstanding balance or $50.00 per month, whichever is greater.

- Two copies of a written payment agreement will be sent to the client or their guarantor for their signature. One signed copy will be returned to the agency.

- If the client refuses to return the signed agreement, services will be discontinued and a claim will be filed in small claims court, or sent to Well Cares internal collection agency.

Title: Clinical and Billing Audits
Section: Leadership (LD)
Policy #: 18
Origination Date: 10/2000
Revision Date(s): 03/04,11/05, 11/10, 2/13,3/14, 2/16, 10/17, 7/18
Approval: Sr. Leadership

I Policy

Performance Improvement Department and/or designees perform ongoing clinical audits of client records.

II Purpose

To ensure patients receiving home health and home care services meet the criteria as described in the licensure requirements, that services billed were provided under physician's orders, are reasonable and necessary to meet the needs of the patient and that all physician's orders are signed and appropriate.

III Policy Detail

A. On-going Chart Audits

Well Care Home Health conducts quarterly record reviews. The results are tabulated and presented to Sr. Leadership and Well Care performance improvement director. The tabulated data is used to develop a plan of action for improvement.

EXHIBIT 4

Policy Number: 02.03.25
Official Title: Reduced and Discounted Services
Abbreviated Title: Discounted Services
Responsible Department: Compliance
Original Policy Date: May 1, 1998
Revised: 10/29/2018
Reviewed: 10/29/2018

Reduced and Discounted Services

Overview

It is the policy of the Company that patients are accepted based on the presence of a payor source. Occasionally it may be necessary to admit a patient who is financially unable to pay for services

Scope

This policy applies to (1) Aveanna Healthcare, LLC and its wholly-owned subsidiaries and affiliates, as described in the Legal department policy number 3.1.1 (2) any other entity or organization in which Aveanna Healthcare or an affiliate owns a direct or indirect equity interest of greater that 50% and (3) any other healthcare entity in which an affiliate either manages or controls the day-to-day operations of the entity.

Process/Procedures

Aveanna's goal is to be reimbursed for services provided.

Clients not covered by Medicare, Medicaid or other third party insurance may be eligible for care provided at a reduced rate, based on a review of their income and resources.

Location Directors can negotiate private pay rates with the approval of their VP and the Compliance Department.

Locations should make available to clients the Company's list of Community resources and / or Community Case Management services which may assist with additional resources.

Clients must complete a Private Pay Credit Application. The Location Director or Area Director will evaluate the information and forward to the Chief Compliance Officer (CCO) and VP of Business Operations. The CCO and the VP Business Operations will review the information and decide whether the client can be admitted to services and / or have care provided on a sliding scale payment basis. The Location will provide this information to the client so he/she can choose to accept or reject the service.

Aveanna will reference the Federal Poverty Guidelines in their decision making.

Pending and bad debt accounts are not considered reduced or discounted services.

A client or potential client cannot be offered a reduced negotiated rate as inducement to admit any client or obtain additional business or referrals (see Anti Kick Back Statue/Stark Law Policy No. 02.03.10)

Responsibilities

Department	Responsibility
Location	Verify client financial status, support with resources and offer application where appropriate.
VP Business Operations	Collaborate with location and Compliance and guide decisions.
Compliance	Evaluate appropriateness of requests; oversee review process, offer policy interpretation and guidance.

Revision History

July 1, 1998, July 27, 2000, January 15, 2004; January 1, 2007; July 17, 2009; November 20, 2017; October 29, 2018

Related Documents/Resources

Federal Poverty Guidelines: https://aspe.hhs.gov/poverty-guidelines

Policies

- Anti-Kickback Statue / Stark Law, Policy No. 02.03.10
- Unbilled Charges, Policy No. 06.01.36
- Medicaid Eligibility, Policy No. 06.01.25
- Billing Process, Policy No. 06.01.07
- Verification of Insurance Benefits, Policy No. 06.01.39

- Insurance Change: Commercial for PDN patients, Policy No. 06.01.20

Forms

Private Pay Credit Application (located under Billing Process Policy, Policy No. 06.01.07)

Private Pay Form (located under Billing Process Policy, Policy No. 06.01.07)