

## **Long-Term & Behavioral Health Committee**

Agency Report for Petition to  
Amend ESRD Need Methodology  
Utilization Standard

### **Proposed 2013 State Medical Facilities Plan**

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***Petitioner:***

Mr. Jim Swann, Director  
Market Development and Certificate of Need  
Fresenius Medical Care, NA  
3725 National Drive, Suite 130  
Raleigh, NC 27612

***Request:***

The petition requests the utilization standard for existing facilities be increased from 80 percent to 95 percent before new dialysis stations can be added. In addition, the petition seeks to increase the minimum size for a new dialysis facility from 10 stations to 12 stations, (or 45.6 patients at 3.8 patients per station).

***Background Information:***

The current dialysis methodology was established in 1993. The methodology assesses individual "County Need" for each of North Carolina's 100 counties on a semiannual basis. The methodology states that "if a county's...projected station deficit is ten or greater and the [current] Semiannual Dialysis Report shows that utilization of each dialysis facility in the county is 80% or greater, the ...county station need determination is the same as the projected...station deficit." However, if "...the projected station deficit is less than ten or if the utilization of any dialysis facility in the county is less than 80%, the country's...station need determination is zero."

The threshold of ten stations is taken from a "Basic Principle" of the dialysis methodology, which states, "[n]ew facilities must have a projected need for at least 10 stations (or 32 patients at 3.2 patients per station) to be cost effective and to assure quality of care." This basic principle was created to assure that new facilities would have a sufficient number of patients to establish quality services and to be financially viable.

In addition, the State Medical Facilities Plan (Plan) includes a Facility Need methodology, which is designed to allow any existing facility to submit an application to expand if its utilization exceeds 80 percent and the facility is located in a service area where there is no need shown by the County Need methodology. This Facility Need methodology is permissive, allowing providers to determine whether or not to pursue additional stations based on the business and patient needs at each facility.

***Analysis of Petition:***

The petition seeks two basic changes: an increase in the expected minimum utilization of facilities from 80 percent to 95 percent; and an increase in the minimum size for a new facility from 10 stations to 12 stations (with an exception for service areas with no facility). The

petition provides a general rationale for these changes inferring improved financial viability (to address changes in Medicare reimbursement) and improved utilization of existing resources (i.e. through additional shifts). The petition does not; however, provide rationale for the specific increments of change.

Projecting utilization of existing facilities at 80 percent (based on four patients per station per week) has been the benchmark of the ESRD methodology in North Carolina since its implementation in 1993. The use of 80 percent was intentionally low compared to some other types of facilities and equipment because of the need for facilities to provide dialysis services to transient patients (visiting the area) and for emergencies. Access to dialysis is critical to the patient and cannot be delayed. Raising the expected utilization to 95 percent is an extraordinary increase that would limit flexibility of dialysis facilities to respond to these situations or to address the needs of new patients on a timely basis.

Likewise, an increase in the minimum facility size to 12 stations would limit the opportunities for new facilities, thereby affecting patient access. The State Health Coordinating Council (Council) has received requests for “adjusted need determinations” in sparsely populated areas for facilities below the current minimum size of ten stations and new spin-off facilities have been created in urban areas with ten stations to provide improved patient access. These facilities have been established and have maintained viability at, and even below, the current minimum of ten stations. The Agency is not aware of any dialysis facilities that have closed due to financial issues.

The petition indicates that adding an additional shift would improve utilization of the existing station capacity. While this is true, there is nothing to prevent existing providers from implementing one (or more) additional shifts at present. The number of shifts is not controlled by the State Medical Facilities Plan or the standard methodology. Any decision regarding the utilization of existing stations is controlled by the provider.

The petition asserts that, “There is currently excess capacity; the number of new dialysis stations is increasing at a rate greater than the number of in-center patients.” Yet the petition later states that “...the number of certified dialysis stations has increased [*between 2007 and 2012*] by 612 stations or 17.2%”...while it also states that in the same time period there “...[*was*] an increase of 2,195 patients, or 17.91%.”

Using that same timeframe (2007 to 2012), the Agency notes that 107 dialysis stations were generated by the County Need methodology and an additional 15 stations were granted as Adjusted Need Determinations by the Council. This accounts for a total of 122 dialysis stations, while the actual increase reported in Semiannual Dialysis Reports was 610. As a percentage of this total, the number of dialysis stations generated by the County Need methodology and “adjustments” was only 20 percent. This means that the other 80 percent (488 dialysis stations) were obtained pursuant to the Facility Need methodology at the initiative of the providers. If there is perceived “excess capacity,” it is not attributable to the County Need methodology.

The petition has not provided sufficient data to document that the current methodology utilization standard is ineffective. There is a lack of justification in the petition for the requested changes.

Comments received from DaVita (another major provider of dialysis in North Carolina) indicate that they are “categorically” opposed to requested changes to the dialysis need methodology as proposed in this petition.

***Agency Recommendation:***

The Agency supports the current approach to calculating projected dialysis facility need for purposes of the Proposed 2013 Plan. However, if the Long-Term Behavioral Health Committee believes the general methodology deserves review, it could recommend convening a workgroup in the fall to make recommendations with input from all affected parties prior to the next planning cycle. The Agency recommends that this petition be denied.