MAXIM

HEALTHCARE SERVICES ®

May 31, 2013

Greg Yakaboski, Project Analyst
Certificate of Need Section
Division of Health Service Regulation
North Carolina Department of Health and Human Services
809 Ruggles Drive
Raleigh, North Carolina 27626-0530

RE: Comments on Home Health CON Applications for Brunswick County

Dear Mr. Yakaboski:

Enclosed please find comments prepared by Maxim Healthcare Services, regarding the competing
CON applications for one new Medicare-certified Home Health Agency to meet the need identified
in the *2013 State Medical Facilities Plan* for Brunswick County. We trust that you will take these
comments into consideration during the Agency's review of the applications.

If you have any questions about the information presented here, please feel free to contact me at
(910) 616-0319. I look forward to seeing you at the public hearing.

Sincerely,

Mike Raney
Area Vice President
Maxim Healthcare Services

COMMENTS ABOUT COMPETING CERTIFICATE OF NEED APPLICATIONS

HOME HEALTH NEED DETERMINATION FOR BRUNSWICK COUNTY

SUBMITTED BY MAXIM HEALTHCARE SERVICES, INC.
MAY 31, 2013

Seven applicants submitted Certificate of Need (CON) applications in response to the need identified in the *2013 State Medical Facilities Plan (SMFP)* for one additional Medicare-certified Home Health Agency in Brunswick County. In accordance with N.C.G.S. §131E-185(a.1)(1), this document includes comments relating to the representations made by the other applicants, and a discussion about whether the material in those applications complies with the relevant review criteria, plans, and standards. These comments also address the issue of which of the competing proposals represents the most effective alternative for development of a new Medicare-certified home health program in Brunswick County.

Specifically, the CON Section, in making the decision, should consider several key issues. These include, but are not limited to:

(1) The extent to which each applicant projects a reasonable number of patients and patient visits, documented by credible assumptions and evidence of referral sources and relationships.

(2) The extent to which the proposed project will increase and improve accessibility to home health services, especially for the medically underserved residents of the service area;

(3) The extent to which the proposed project represents a cost-effective alternative for developing a new Medicare-certified home health program;

(4) The extent to which the applicants project to increase competition and consumer choice for Brunswick County residents.

(5) The extent to which the competing applicants submitted full and complete applications that are conforming to all statutory and regulatory criteria.

Brunswick County Home Health Need

The need determination in the 2013 SMFP is for one Medicare-certified home health agency in Brunswick County. The methodology is calculated based on the home health utilization of Brunswick County residents. Therefore, the competing applications should be evaluated based on their projected home health utilization for Brunswick County residents. Maxim was the only applicant whose patient projections are based on serving the needs of Brunswick County patients. Each of the competing applications projected serving patients from adjacent counties. Thus, to evaluate the competing applications based on a level playing field and to be responsive to the need identified in the 2013 SMFP is for one Medicare-certified home health agency in Brunswick County, it is necessary to exclude patient and visit projections from outside Brunswick County. The following table summarizes the projected home health patients and visits to be served in Brunswick County based on the utilization projections and patient origin provided in the competing applications.

Projected Brunswick County Unduplicated Home Health Patients & Visits
Project Year 2

	Maxim	Advanced	Gentiva	HealthKeeperz	Continuum	UniHealth	NHRMC
Total Projected Unduplicated HH Patients (Year 2)	503	533	813	582	474	508	1,328
Total Projected HH Visits (Year 2)	9,405	11,123	7,706	10,935	11,162	11,576	23,022
Brunswick County Patient Origin (Year 2)	100.0%	56.8%	80.0%	94.1%	95.6%	85.0%	83.4%
Brunswick County Unduplicated HH Patients (Year 2)	**503**	**303**	**650**	**548**	**453**	**432**	**1,108**
Brunswick County HH Visits (Year 2)	**9,405**	**6,318**	**6,165**	**10,290**	**10,667**	**9,840**	**19,200**

Source: 2013 Brunswick County Home Health CON applications

Regardless of the historical patient origin patterns of the two home health agencies based in Brunswick County, the need determination in the 2013 SMFP is based on the home health utilization of Brunswick County residents. Thus, it is logical and necessary to evaluate the competing applications based on their projected access to Brunswick County residents. For example, UniHealth projects to serve 679 duplicated home health clients during Project Year 2 (page 149 of CON application); however, only 85% of these patients will be residents of Brunswick County. Thus, to evaluate the level of access for duplicated Medicaid patients, the Agency should reduce their projected duplicated patients by 85%. As an example, during Project Year 2 United projects 17.73% of duplicated home health patients will be Medicaid patients (page 188 of CON application). Thus, the following calculation determines the projected

number of duplicated Medicaid patients from Brunswick County: 679 total duplicated clients in Project Year 2 x 85% Brunswick County patient origin = 577 duplicated Brunswick County patients in Project Year 2 x 17.73% Medicaid clients = 102 duplicated Medicaid patients from Brunswick County in Project Year 2. This simple calculation should be applied to the Agency's comparative analysis of the following metrics:

- Projected Access by Medicare Recipients
- Projected Access by Medicaid Recipients
- Average Number of Visits per Unduplicated Patient

Including patient projections from other counties only inflates utilization projections and, therefore, artificially increases many of the comparative metrics analyzed by the Agency in the comparative review. Therefore, the Agency should analyze each of the comparative factors based on Brunswick County patient utilization.

Access

Based on the need for access to home health services, as indicated by the need determination in the 2013 SMFP, it is important to consider the dates when the competing applications will become operational. Maxim proposes to be operational January 1, 2014. Thus, in addition to providing the highest level of access to Brunswick County home health residents, Maxim will increase access because it will be the first to operate a Medicare-certified home health agency.

Quality

As shown in the following table, Maxim projects to have the highest Nursing Services costs per visit of any applicant. Given that home health care is provided by trained clinical staff, a higher direct care nursing cost is indicative of a likelihood of higher quality services, and thus is a more effective alternative.

Projected Brunswick County Unduplicated Home Health Patients & Visits
Project Year 2

	Maxim	Advanced	Gentiva	HealthKeeperz	Continuum	UniHealth	NHRMC
Total Nursing Services Cost Per Patient Visit (Year 2)	$57.41	$43.77	$26.94	$55.98	$51.87	$48.37	$31.03

Source: 2013 Brunswick County Home Health CON applications

Scope of Services

As described in its CON application, Maxim will provide a full continuum of home health services to Brunswick County residents. Some of the competing applicants may describe specialized services such as pediatrics or behavioral health as a method to differentiate their proposal from the competing applicants. Maxim will offer these services as part of its continuum of care.

Specific Comments Regarding Competing Applicants

The following pages provide critiques specific to each of the competing applicants and discussion regarding their nonconformity to statutory and regulatory criteria.

Continuum Home Care of Brunswick County O-10122-13

Comments Specific to Criterion 3

The Continuum application is non-conforming to Criterion 3 because its projected patients (duplicated and unduplicated) and visits are based on unreasonable and unsupported assumptions. Specifically:

- Continuum failed to provide a detailed description of the assumptions and methodology for projecting 125 patients in Project Year 1 and 474 patients in Project Year 2. Page 53 of the CON application states "Continuum only anticipates serving 125 unduplicated clients." Page 54 states unduplicated patients will increase from 125 to 453 in Project Year 2; however, no explanation is provided to describe how Continuum arrived at its annual projections. They appear to have been provided at random. Continuum provides several analyses relative to population, patients, and use rates for Brunswick County and its respective CoG; however, Continuum failed to provide any specific methodology to describe how it projected its annual number of annual home health patients. Without this information, the Agency is unable to evaluate the reasonableness of Continuum's unduplicated projections.

- Continuum's patient projections are based on inflated and unreasonable assumptions. In Step 2 of Continuum's methodology for projecting duplicated patients and visits (page 102), Continuum utilized a duplication factor of 2.6 to convert unduplicated patients to duplicated patients. Based on the information utilized by Continuum in its analysis, Continuum relied on data unrelated to Brunswick County to inflate its patient projections. Specifically, Continuum's duplication factor of 2.6 is higher compared to all FY2012 averages provided in the table developed by Continuum on page 102 (Brunswick Co: 2.3; Continuum: 2.44; All NC Agencies: 2.13). Continuum's duplication factor of 2.6 is also higher than all but one of the FY2011 averages provided in table on page 102 (Brunswick Co: 2.28; Continuum: 2.7; All NC Agencies: 2.13). Continuum did not provide any rationale to explain why Brunswick County and North Carolina duplication factors were not a reasonable proxy for their methodology. Therefore, Continuum's projections are inflated and unreliable. It is clear that Continuum is purposely utilizing a duplication factor that will inflate its number of duplicated patients and ultimately its projected number of visits, with the sole objective of being evaluated more favorably in a comparative review.

- In Step 6 of Continuum's methodology for projecting duplicated patients and visits (pp.106-108) Continuum cherry-picked the "highest number of visits per beneficiary per discipline" from the five HHAs that serve Brunswick County residents, Palmetto GBA data and North Carolina HHA data. On page 106, Continuum states, "In the case where Brunswick Co. HHAs had a higher value than either Palmetto or North Carolina, Continuum used the Brunswick Co. value." As a result, specific to projecting visits per duplicated client for physical therapy, speech therapy, occupational therapy and home health aide, Continuum relied on data unrelated to the local service area. For these disciplines, Continuum relied on FY2011 statewide data and/or data from the Palmetto

GBA Medicare fiscal intermediary. At the bottom of page 107, Continuum admits their projections exceed the average for the service area. Again, it is clear that Continuum is purposely utilizing assumptions that will inflate its projected number of visits, with the objective of being evaluated more favorably in a comparative review. Continuum actually admits this strategy on page 107 stating, "The result of providing higher numbers of visits per discipline in an overall higher number of visits per duplicated client". Continuum's strategy of cherry-picking visits per discipline is not an appropriate means to project reasonable patient visits. Specifically, Continuum utilized visit data from multiple data sources representing different patient populations and even different time periods. For example, Continuum utilized FY2012 Brunswick Co. data to project skilled nursing visits per duplicated client, FY2011 North Carolina data to project speech therapy and home health aide visits, and FY2012 Palmetto data to project physical therapy and occupational therapy visits. Utilizing individual assumptions and excluding the companion data results in patient projections that are not representative of one source data group, and are therefore unreasonable. Continuum's use of overstated and unreliable assumptions results in the highest projected visits per patient during Project Year 2 (23.5) for the Brunswick County Home Health Agency batch review. However, the application cannot be found conforming to Criterion 3 for the various reasons described in this section.

- On page 90 of its application, Continuum projects that it will provide home health services to 21 New Hanover County residents during Project Year. However, the applicant failed to provide any rationale or specific methodology to explain how it arrived at its annual patient projections. Continuum states it "believes the New Hanover County need will be such that New Hanover County residents will seek care from Brunswick County agencies"; however, there is no specific methodology provided to describe how Continuum determined 21 New Hanover County residents was reasonable and supported. The number appears to have been determined at random. Therefore, Continuum's projections are overstated and unsupported. Thus, the Continuum application is non-conforming to Criterion 3.

Comments Specific to Criterion 5

- Continuum failed to justify the reasonableness of its projections of 1.43 episodes per unduplicated client. As shown on page 148, Continuum provided an analysis of episodes per unduplicated client (Medicare Beneficiary). Continuum's assumption of 1.43 episodes per unduplicated client is higher compared to the most recent FY2011 and FY2012 data for HHAs serving Brunswick County, 1.33 and 1.27 respectively. The number of episodes per unduplicated client actually decreased from FY2011 to FY2012. Furthermore, based on an analysis of the two HHAs based in Brunswick County, the FY2012 average episodes per unduplicated client was 1.22. Continuum decided to utilize a factor that was both greater than recent Brunswick County data and completely unrelated to the local service area. Continuum failed to provide any rationale to justify the reasonableness for its assumptions. Thus, Continuum's projected operating costs are not reliable because Continuum's Medicare revenue projections are unsupported and unreliable.

Comments Specific to Criterion 13c

- Continuum projects a Medicaid payor mix higher than the current Brunswick County average without providing reasonable justification. Specifically, Continuum sites reviewing License Renewal Application data from five agencies serving Brunswick County. However, only two of those agencies are based in Brunswick County, and the others have a significant majority of their patients who are not Brunswick County residents. Therefore, Continuum did not demonstrate why it is reasonable to utilize data that includes a significant percentage of patients originating from other counties to project the payor mix for its proposed Brunswick agency. Alternatively, it is possible that Continuum actually intends to serve a much lower percentage of Brunswick County residents than it portrays in its CON application.

Comments Related to Comparative Review

- Continuum projects higher costs and nursing, home health aide, and therapy charges per visit than Maxim, as shown in Section X.

- Continuum projects to provider less charity care and bad debt value than Maxim, as shown in Section VI.

- Continuum projects serving 4.43% New Hanover County patients in Project Year 2. With a focus on adjacent counties, Continuum is a less effective alternative with respect to meeting the home health needs of Brunswick County residents.

HealthKeeperz of Brunswick O-10119-13

Comments Specific to Criterion 3

- HealthKeeperz projects unreasonably high patient projections during Project Years 1 – 3. HealthKeeperz provides a table on page 55 of its CON application summarizing its independent analysis of the home health need in Brunswick County during 2014. However, HealthKeeperz utilized the anticipated 2014 North Carolina Home Health Use Rate by Age Group to project the total projected home health utilization in 2014 instead of service area specific use rates. This assumption is fundamentally flawed because it assumes Brunswick County residents will assume statewide home health utilization rates during 2014. The anticipated 2014 home health use rates by age cohort are very different for Brunswick County and North Carolina, as indicated in the following table.

Age Group	Anticipated 2014 Brunswick Co. HH Use Rate by Age Group	Anticipated 2014 NC HH Use Rate by Age Group
<18	4.5697	2.6861
18-64	15.1591	12.905
65-74	58.8194	66.1022
75+	169.6945	185.454

Source: 2013 SMFP

As noted in the previous table, the use rates for individuals age 65-74 and 75+ are higher for North Carolina compared to Brunswick County. This is important because these two age cohorts utilize home health services higher than any other age group. HealthKeeperz decision to utilize anticipated 2014 North Carolina home health use rates by age group results in overstated estimates for projected utilization during 2014. Therefore, the resulting deficit of 537 patients calculated by the applicant is overstated. HealthKeeperz utilizes this deficit (537 patients) as the basis for its Project Year 1 patient projections. However, these projections are overstated and unreliable because HealthKeeperz utilized statewide data that is not comparable to Brunswick County data. Therefore, the application is nonconforming to Criterion 3.

- On page 59 of its application (Step 3 of its methodology), HealthKeeperz projects that it will provide home health services to 25 New Hanover County residents in Project Years 1-3. However, the applicant failed to provide any rationale or specific methodology to justify the reasonableness of its assumption. HealthKeeperz states the 25 New Hanover County patients "represent 13.4% of the identified home health deficit for New Hanover County included in the 2013 SMFP"; however, there is no specific methodology provided to describe how HealthKeeperz determined 25 New Hanover County residents was reasonable and supported. The number appears to have been determined at random Therefore, HealthKeeperz projections are overstated and unsupported and the application is non-conforming to Criterion 3.

- HealthKeeperz failed to justify the reasonableness of its projected ratio of duplicated patients to unduplicated patients. Specifically, on page 62 of its CON application, HealthKeeperz provided two tables containing related to duplicated and unduplicated patients. The following table summarizes this data.

	Total Unduplicated Patients	Total Clients	Ratio
Brunswick County Agency			
AssistedCare	1,940	3,573	1.8
Liberty Home Care	1,452	5,424	3.7
Average	3,392	8,997	**2.7**
New Hanover County Agency			
Liberty Home Care	1,464	4,877	3.3
Well Care	3,906	7,901	2.0
Average	5,370	12,778	**2.4**

HealthKeeperz states on page 62 that it "reasonably assumes that differences between physician referral patterns and patient acuity are responsible for observed differences among duplicated to unduplicated patient ratios by different agencies." However, a simple review of the data provided by HealthKeeperz indicates that Liberty Home Care exhibits a higher ratio of duplicated patients to unduplicated patients, i.e. Brunswick Co." 3.7 and New Hanover County: 3.3. Liberty Home Care is the obvious outlier in the comparison, thus HealthKeeperz should have excluded them from their analysis. Instead, HealthKeeperz ignored the outlier and incorporated the data into their methodology by utilizing the Brunswick County ratio of 2.7. As a result, HealthKeeperz utilized an unreasonably high ratio of duplicated to unduplicated patients in their methodology which results in unreasonable patient projections. Therefore, the application is nonconforming to Criterion 3.

- HealthKeeperz projected number of visits per unduplicated patients is based on a **mathematical error** and is therefore unjustified. Specifically, in Step 9 of its methodology (page 65) HealthKeeperz states its projection of 18.8 visits per unduplicated patient represents the average of visits per unduplicated patient for Brunswick County home health agencies and New Hanover County home health agencies in FY2012, reflected in Exhibit 8, Table 21. However, HealthKeeperz incorrectly calculated the average number of visits per unduplicated patients because it failed to calculate a *weighted* average. The following table correctly calculates a weighted average number of visits per unduplicated patients for the home health agencies serving Brunswick County residents (based on the data provided by HealthKeeperz in Exhibit 8, Table 21).

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	Total Unduplicated Patients (Brunswick Co.)	Total Visits (Brunswick Co.)	Visits per Unduplicated Patient
Brunswick County Agency			
AssistedCare	692	10,296	14.9
Liberty Home Care	1,447	20,010	13.8
New Hanover County Agency			
Liberty Home Care	100	1,495	15.0
Well Care	1,025	24,806	24.2
Total: HHAs Serving Brunswick Co.	**3,264**	**56,607**	**17.3**

HealthKeeperz projection of 18.8 visits is based on the average of Brunswick County home health agencies (14.2) and New Hanover County home health agencies (23.4); however, this calculation incorrectly incorporates greater emphasis on the New Hanover County agencies. Specifically, New Hanover County home health agencies accounted for only 34.47% of total Brunswick County patients served during FY2012, yet HealthKeeperz method of averaging Brunswick County and New Hanover County distributes the data equally. The only accurate way to calculate a weighted average is to calculate the average number of visits per unduplicated patients is to divide the quantity of all home health visits in Brunswick County by the quantity of all home health patients in Brunswick County (56,607 ÷ 3,264 = 17.3). This results in a number of visits per unduplicated patients (17.3) that is lower compared to HealthKeeperz projection of 18.2. HealthKeeperz mathematical error is not insignificant as the projected number of visits per unduplicated patients has a direct impact on the overall projected number of patient visits and revenue projections, all of which are evaluated in the Agency's comparative analysis. Therefore, HealthKeeperz is nonconforming to Criterion 3 because its projected visits are based on unreasonable and unsupported assumptions.

Comments Specific to Criterion 5

- As shown in Section XII, HealthKeeperz projects Medicare certification on the same day that the agency becomes operational, which is not a reasonable assumption. This results in flawed projections about revenue collected from Medicare, which makes the proformas financial statements unreliable. Thus, HealthKeeperz application is non-conforming to Criterion 5.

- In calculating its projected Medicare reimbursement per episode, HealthKeeperz incorrectly used the FY2012 labor/non-labor proportions of .77082/.22918, rather than the updated FY2013 labor of .78535 and non-labor of .21465.

- HealthKeeperz's application contains numerous inconsistencies in the financial proformas related to staffing expenses, rendering the application non-conforming to Criterion 5. Specifically:
  - Form B Year 1 RN salary expense of $126,078 doesn't match projected staffing table VII.2 of 2 FTE x $68,770 = $137,540.
  - Form B Year 2 RN salary expense of $194,224 doesn't match projected staffing table VII.2 of 3 FTE x $70,627 = $211,881.
  - Form B Year 1 OT contracted expense of $28,125 does not match projected staffing table VII.2, which shows 567 hours @ $75/hour = $42,525.
  - Form B Year 2 OT contracted expense of $38,925 does not match projected staffing table VII.2, which shows 784 hours @ $75/hour = $58,800.
  - Form B Year 1 ST contracted expense of $12,900 does not match projected staffing table VII.2, which shows 260 hours @ $75/hour = $19,500.
  - Form B Year 2 ST contracted expense of $17,775 does not match projected staffing table VII.2, which shows 358 hours @ $75/hour = $26,850.
  - Form B Year 1 PT contracted expense of $69,000 does not match projected staffing table VII.2, which shows 1,348 hours @ $75/hour = $101,100.
  - Form B Year 2 PT contracted expense of $32,625 does not match projected staffing table VII.2, which shows 657 hours @ $75/hour = $49,275.
  - Form B Year 1 MSW contracted expense of $3,675 does not match projected staffing table VII.2, which shows 113 hours @ $75/hour = $8,475.
  - Form B Year 2 MSW contracted expense of $5,325 does not match projected staffing table VII.2, which shows 160 hours @ $75/hour = $12,000.

Comments Specific to Criterion 7

- HealthKeeperz is lacking the clinical staffing levels necessary to address all the clinical visits it projected in Section IV. Specifically:
  - Year 1 nursing. Table IV.2 shows visits of 4,401, which requires 3.39 FTE (4,401 visits/5.0 visits/day/260 days). Yet Table VII.2 only shows 2.0 FTE RN and 1.25 LPN.
  - Year 1 HH Aide. Table IV.2 shows visits of 727, which requires 0.54 FTE (727 visits/5.2 visits/day/260 days). Yet Table VII.2 only shows 0.50 FTE HHA.

- The applicant projects unreasonably low administrative/support staffing levels. For example, HealthKeeperz shows no OASIS Coordinator, no clinical supervisor, no marketing personnel, and no dietician expenses. Each of these is an important component of providing home health services, and particularly for establishing a new agency.

Comments Related to Comparative Review

- HealthKeeperz projects to establish its Brunswick agency later than five of the six competing applicants.

- HealthKeeperz's secondary site is located in Sunset Beach, which is much less central to the county than the primary site. This is not amenable to cost-effective and efficient provision of home health services, which naturally rely upon travel to a patient's home.

- The applicant projects lower combined Medicare and Medicaid payor mix than Maxim. Also, HealthKeeperz unreasonably based its projected payor mix on existing agencies not based in Brunswick County, but rather in Cumberland, Robeson, Scotland and New Hanover counties, without documenting why those are to be considered representative of Brunswick County residents.

- HealthKeeperz projects lower charity care/bad debt than Maxim, as shown in Section VI.

- HealthKeeperz projects higher nursing and therapy charges per visit than Maxim, as shown in Section X.

UniHealth Home Health O-10113-13

Comments Specific to Criterion 3

- United utilized an unreasonably high number of episodes per Medicare admissions to project home health utilization. In Step 5 of its methodology (page 153), United states 1.35 is reasonable; however, this is not reasonable when compared to the experience in the local service area. Specifically, the 2012 average rate of existing Brunswick County home health agencies was 1.22 episode starts per admission. This number actually decreased compared to the same Brunswick County data for 2011 (1.27). United failed to describe why it is reasonable to project that episodes per Medicare admissions will be higher in Brunswick County compared to recent utilization.

- United failed to provide adequate rationale to justify the reasonableness of its projected number of visits per Medicare patient (full episode w/out outliers, hereinafter in this section referred to as Medicare patients). In Step 8 of its methodology (page 155), United projects Medicare patients will experience 19 average visits per start of care; however, this is much higher compared to the most recent experience in Brunswick County. United provides a table in Exhibit 56 (page 935) which estimates 15.75 average visits per Medicare patient during FY2012. United ignored the Brunswick County Medicare data and utilized its corporate data to project Medicare visits per patient. However, United used a different proxy for to project other visits by payor source. Specifically, United utilized the Brunswick County FY2012 average number of visits by payor source for commercial, indigent and private pay. United failed to provide any rationale to describe why it is reasonable to project some payor sources will assume service area visit trends and others will assume United's corporate visit trends. Without such explanation, one cannot evaluate the reasonableness of United's assumptions.

Comments Related to Comparative Review

- United projects serving 11.6% New Hanover County patients and 3.4% Pender County patient origin in Project Year 2. With a focus on adjacent counties, United is a less effective alternative with respect to meeting the home health needs of Brunswick County residents.

- United projects Medicaid payor mix higher than the current Brunswick County average without providing reasonable justification.

- United projects lower charity care/bad debt than Maxim, as shown in Section VI. In fact, United's projection is the lowest of any applicant.

- In its application, United identified numerous civil rights and equal access complaints filed against it in North Carolina during the past five years, raising questions about the treatment by the company of its employees.

- United projects higher nursing and therapy charges per visit than Maxim, as shown in Section X.

NHRMC Home Care O-10117-13

Comments Specific to Criterion 1

- NHRMC fails to demonstrate that its project is consistent with all applicable policies and need determinations in the 2013 SMFP. The need determination in the 2013 SMFP indicated a need for one additional Medicare-certified home health agency in Brunswick County to serve 325 patients by 2014. Because NHRMC is already a provider of home health services to Brunswick County patients and will likely shift existing Brunswick County clients from its Pender County agency to its proposed Brunswick County agency, its proposal does not fulfill the need determination in the 2013 SMFP.

Comments Specific to Criterion 3

- In FY2012, NHRMC provided care to 319 residents of Brunswick County through its Medicare-certified agency in Pender County. As shown in the following map, a 50-mile radius of the existing Pender County agency encompasses nearly all of Brunswick County, thus, NHRMC can continue to provide care to the vast majority of Brunswick County residents.
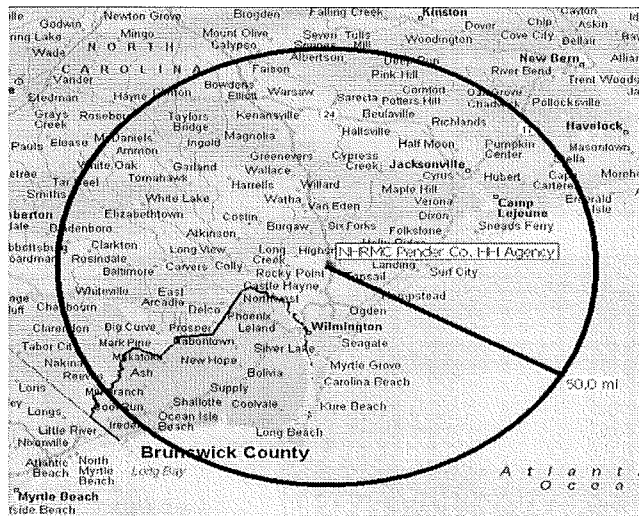
To demonstrate the need for the proposed project, NHRMC states, "The establishment of a home health agency in Brunswick County will allow NHRMC to serve the patients from Brunswick and Columbus counties that it currently cannot serve because they are not within the service area of the NHRMC Home Care Pender County agency." However, the NHRMC Home Care Pender County agency served 319 residents of Brunswick County in FY2012. Thus, NHRMC implies that the proposed project will serve the fraction of Brunswick County that is outside of the 50-mile radius of the NHRMC Home Care Pender County agency.

On page 65 of its CON application, NHRMC projects to serve 1,108 patients from Brunswick County during Project Year 2. However, it is unclear whether these patient projections are inclusive or exclusive of the current 319 Brunswick County home health patients currently served by the NHRMC Home Care Pender County agency. Without such clarification, one cannot evaluate the reasonableness of NHRMC's projections. Regardless, the patient projections are more than three times greater than the projected deficit of 325 patients in Brunswick County.

- NHRMC projects unreasonably high market share during the first two project years. On page 65 of its CON application, NHRMC projects 20.4% market share in Brunswick County during Project Year 1 and 26.5% during Project Year 2. This is more than double the existing market share of the existing NHRMC Home Care Pender County agency that currently serves Brunswick County residents. The proposed project will not provide any new services to Brunswick County residents, thus it is unclear how NHRMC will attain such a high market share during the initial project years. Furthermore, NHRMC failed to provide any analysis of the existing market shares for the other home health agencies currently serving Brunswick County to justify the reasonableness of their assumptions. The unreasonably high market share projections result in overstated patient projections, which are unjustified. Therefore, the application is nonconforming to Criterion 3.

Comments Specific to Criterion 4

- In its discussion of alternatives for the proposed project, NHRMC failed to evaluate the feasibility to continuing to serve Brunswick County residents via its existing NHRMC Home Care Pender County agency. As described previously, the NHRMC Home Care Pender County agency served 319 residents of Brunswick County in FY2012. Furthermore, nearly all of Brunswick County is encompassed by a 50-mile radius from the NHRMC Home Care Pender County agency. NHRMC failed to provide any discussion why the existing NHRMC Home Care Pender County agency was not an effective alternative for meeting the needs of Brunswick County home health patients. Therefore NHRMC is nonconforming to Criterion 4.

Comments Specific to Criterion 5

- In Section VI NHRMC projects 100% Medicare payor mix, without providing any supporting assumptions. At any rate, this is completely unreasonable, and is not consistent with the historical Brunswick home health payor mix, nor indeed with any North Carolina home health payor mix.

- NHRMC projects a very high Medicare outlier percentage of 6.5%, many times higher than the North Carolina average which is much less than 0.5%.

Comments Specific to Criterion 7

- NHRMC projects no staff training time for start-up expenses, which is an unreasonable financial assumption.

- Unreasonably low administrative/support staffing levels. For example, no OASIS Coordinator, no clinical supervisor, no dietician expenses.

- NHRMC is lacking the clinical staffing levels necessary to address all the clinical visits it projected in Section IV. Specifically:
  - Year 2 OT. Table IV.2 shows visits of 2,042, which requires 1.43 FTE (2,042 visits/5.5 visits/day/260 days). Yet Table VII.2 only shows 1.40 FTE PT.
  - Year 2 HHA. Table IV.2 shows visits of 1,740, which requires 1.22 FTE (1,740 visits/5.5 visits/day/260 days). Yet Table VII.2 only shows 1.20 FTE PT.

Comments Specific to Criterion 13c

- As previously stated, NHRMC projects 100% Medicare payor mix. Thus, NHRMC does not propose to provide services to Medicaid patients in Brunswick County. Therefore, the application is nonconforming to Criterion 13c with regard to access for the medically underserved.

Comments Related to Comparative Review

- NHRMC projects lower charity care/bad debt than Maxim, as shown in Section VI.

- Projects higher nursing, nurse aide and therapy charges per visit than Maxim, as shown in Section X.

- For nursing services NHRMC relies heavily on LPN staffing vs. RN staffing, which represents a lower level of training and skill in patient care than Maxim.

- NHRMC projects an unreasonably large net income, much higher than all other applicants combined.

- NHRMC projects to establish the agency later than five of the six other applicants.

- NHRMC projects the second lowest average visits per patient during Project Year 2 (17.3).

Advanced Home Care O-10118-13

Comments Specific to Criterion 3

The Advanced application is non-conforming to Criterion 3 because its projected patients (duplicated and unduplicated) and visits are based on unreasonable and unsupported assumptions. Specifically:

- To bolster its methodology assumptions, Advanced states on page 51 that during September 2012 – February 2013, it received 1,059 patient referrals for home medical equipment services of which 61% were for patients in Brunswick, New Hanover and Pender counties. However, Advanced provided no specific data regarding what percent of these patients were from Brunswick County. Furthermore, Advanced provided no information (statistical or anecdotal) to describe what percent of home medical equipment patients would require Medicare-certified home health services. Thus, this information cannot be used to substantiate the reasonableness of Advanced's utilization projections.
- In Step 2 of its patient projection methodology (page 52), Advanced states, "Based upon experience, 14% of hospital discharges represent potential home health agency patients." However, Advanced provided no historical data to describe how it arrived at 14%. For comparative purposes, Advanced references a 2009 MedPAC report (based on 2007 data) which reported that 15% of hospital patients were discharged to a home health agency. However, this is based on data that is six years old and Advanced provided no citation for the MedPAC report to verify the veracity of their statement. Furthermore, Maxim obtained a copy of a Healthcare Cost and Utilization Project (HCUP) report with more recent data which indicates that in 2008, discharges to the home with home health supervision accounted for 10% of hospital discharges[1]. This is much less than Advanced's estimate of 14%. Step 2 of Advanced's methodology is the foundation of their utilization projections, and because the applicant utilized a home health discharge percentage that is overstated and unjustified, the potential home health agency patients are also overstated and unjustified.
- In Step 3 of its patient projection methodology (page 52), Advanced assumes a "patient capture rate" for home health agency patients originating at each service area hospital during Project Year 1 and Year 2. However, Advanced provides no rationale to justify capture rate for each area hospital. The capture rate equates to an effective home health market share, and Advanced provided no such analysis of capture rate or market share in Step 3 of its methodology.
- In Step 4 of its patient projection methodology (page 52), Advanced incorrectly assumes the home health agency potential patients from each hospital will originate from the county location of each hospital. For example, in Step 4 Advanced projects 141 patients from New Hanover Regional Medical Center during Project Year 2, or 34.1% of total patients (414/414 = 34.1%). This is equivalent to Advanced's projected patient origin for New Hanover County during Project Year 2 shown in Step 7 on page 54. The same

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[1] HCUP Facts and Figures: Statistics on Hospital-Based Care in the United States, 2008.

concept is true for potential Brunswick County hospital discharges and potential Pender County hospital discharges. In other words, every potential home health discharge from NHRMC will be a New Hanover County resident, every potential home health discharge from Brunswick Novant Medical Center and Dosher Memorial Hospital will be a Brunswick County resident and potential home health discharge from Pender Memorial Hospital will be a Pender County resident. Advanced failed to analyze historical patient origin patterns for general acute care services for these hospitals to evaluate the reasonableness of its assumptions. According to its 2013 License Renewal Application, nearly 10% of Brunswick Novant Medical Center's general acute care patients are from outside Brunswick County. Therefore, Advanced's failure to incorporate historical patient origin into its analysis of potential home health discharges from area hospitals results in overstated patient projections. Therefore, the application is nonconforming to Criterion 3.

- In Step 8 of its patient projection methodology (page 55), Advanced provided no detail or rationale to justify the reasonableness of its assumptions regarding percentage of patients by payor class, conversion factor for the number of episodes or visits per patient, or patients by service. Without any such information, it is impossible to evaluate the reasonableness of their assumptions. Therefore, the application is nonconforming to Criterion 3.

Comments Specific to Criterion 5

- As shown in Section XII, Advanced projects Medicare certification (February 5, 2014) prior to the agency becoming operational (March 1, 2014), which is obviously not a reasonable assumption. This creates flawed projections about revenue collected from Medicare, which makes the proformas financial statements unreliable. Thus, Advanced's application is non-conforming to Criterion 5.

- The Form B rent expense of $30,000 annually is less than the rent expense outlined in the Letter of Intent for the primary site, as shown in Exhibit 18 of Advanced's application.

- Advanced unreasonably projects start-up expense of only $3,000, and specifically claims that hiring of staff for training prior to agency operations is unnecessary.

- Advanced claims no initial operating period, which is completely unreasonable considering this is not an existing agency operating in Brunswick County, and projects only four patients during the first month of operation and only nine patients during the second month of operation.

- Advanced's application includes several inconsistencies in the financial proformas related to staffing expenses, rendering the application non-conforming to Criterion 5. Specifically:
  - Form B Year 2 OT salary expense of $59,749 does not match projected staffing table VII.2, which shows 1 FTE @ $75,000 = $75,000.
  - Form B Year 2 HHA salary expense of $19,463 does not match projected staffing table VII.2, which shows 0.8 FTE @ $30,160 = $24,128.

- Advanced shows no dietician expenses, and projects no support staffing, neither of which is a reasonable operational or financial assumption.

Comments Specific to Criterion 13c

- Projects Medicare payor mix much higher than current county average without providing reasonable justification, indeed without any specific justification.

Comments Related to Comparative Review

- Advanced projects higher nursing, home health aide, social worker, and therapy charges per visit than Maxim, as shown in Section X.

- The primary site Advanced proposes is in Leland, which is not central within Brunswick County, a very large county geographically. This is not amenable to cost-effective and efficient provision of home health services, which naturally rely upon travel to a patient's home. Further, this location, which is adjacent to Wilmington, lends to the applicant targeting New Hanover County residents, rather than Brunswick County residents for whom the 2013 SMFP need determination project is focused.

- Advanced projects serving 34.1% New Hanover County patients and 9.2% Pender County patient origin in Project Year 2. With a focus on adjacent counties, Advanced is a less effective alternative with respect to meeting the home health needs of Brunswick County residents.

Gentiva Health Services O-10121-13

Comments Specific to Criterion 3

- In Step 1 of its projection methodology (pp 58-9), Gentiva utilized a methodology that is inconsistent with the methodology utilized in the 2013 SMFP for projecting need for home health services in Brunswick County. Gentiva projects a much higher home health patient need in Brunswick County during 2014 compared to the 2013 SMFP, i.e. 471 vs 325, respectively.

- In Step 2 of its projection methodology (page 59), Gentiva projects to capture 48% of the unmet Brunswick County home health patient need during Project Year 2. This equates to 313 patients during Project Year 2; however, this is less than the deficit identified in the 2013 SMFP of 325 patients in Brunswick County.

- On page 60 of its application (Step 3 of its methodology), Gentiva projects that it will provide home health services to 59 New Hanover County residents and 20 Pender County residents in Project Year 2. However, the applicant failed to provide any rationale or specific methodology to justify the reasonableness of its assumption. Gentiva states the 59 New Hanover County patients represent 31.5% and 36.9% of the need in those counties, respectively; however, there is no specific methodology provided to describe how Gentiva determined the proposed inmigration by New Hanover and Pender County residents was reasonable and supported. Therefore, Gentiva's projections are overstated and unsupported and the application is non-conforming to Criterion 3.

- Gentiva failed to provide the specific methodology and assumptions to justify the reasonableness of its projected unduplicated patients by discipline and projected duplicated patients and visits by discipline. There is no data, description or rationale to substantiate how Gentiva arrived at its total projected visits in Section IV. Therefore, the application is nonconforming to Criterion 3.

Comments Specific to Criterion 5

- Gentiva states it will not allocate central office overhead or management service fees to the proposal agency. This is an unreasonable assumption, as the corporate parent will certainly provide management and support services to the proposed agency.

Comments Specific to Criterion 7

- Gentiva's application is lacking the clinical staffing levels necessary to address all the clinical visits it projected in Section IV. Specifically:
    - Year 1 speech therapy. Table IV.2 shows visits of 373, which requires 0.31 FTE (373 visits/4.58 visits/day/260 days). Yet Table VII.2 only shows 0.25 FTE ST.
    - Year 2 RN. Table IV.2 shows visits of 3,066, which requires 2.57 FTE (3,066 visits/4.58 visits/day/260 days). Yet Table VII.2 only shows 2.49 FTE RN.
    - Year 2 PT. Table IV.2 shows visits of 3,076, which requires 2.57 FTE (3,076 visits/4.58 visits/day/260 days). Yet Table VII.2 only shows 2.49 FTE PT.
    - Year 2 ST. Table IV.2 shows visits of 619, which requires 0.52 FTE (619 visits/4.58 visits/day/260 days). Yet Table VII.2 only shows 0.40 FTE PT.

Comments Specific to Criterion 13c

- The applicant projects a Medicaid payor mix much higher than the current Brunswick County average without providing any specific justification.

Comments Specific to 10A NCAC 14C .2003

- In Step 2 of its projection methodology (page 59), Gentiva projects to capture 48% of the unmet Brunswick County home health patient need during Project Year 2. This equates to 313 patients during Project Year 2; however, this is less than the deficit identified in the 2013 SMFP of 325 patients in Brunswick County. Therefore, Gentiva is nonconforming to 10A NCAC 14C .2003.

Comments Related to Comparative Review

- Gentiva proposes the lowest average visits per patient during Project Year 2 of the competing applications (9.5).

- Gentiva projects higher nursing, home health aide, social worker, and therapy charges per visit than Maxim, as shown in Section X.\

- Gentiva projects serving 15% New Hanover County patients and 5% Pender County patient origin in Project Year 2. With a focus on adjacent counties, Gentiva is a less effective alternative with respect to meeting the home health needs of Brunswick County residents.