

**Acute Care Services Committee  
Agency Report  
Petition to Replace the ESRD Facility Need Methodology  
with a Policy Approach**

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***Petitioners:***

Fresenius Medical Care and its related dialysis facilities in North Carolina

***Contact:***

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***Request:***

Fresenius Medical Care and its facilities in North Carolina petition the SHCC to adopt a Policy Approach for new dialysis stations, in lieu of the currently drafted facility need methodology.

***Background Information:***

Chapter Two of the State Medical Facilities Plan (SMFP) provides that “[a]nyone who finds that the North Carolina State Medical Facilities Plan policies or methodologies, or the results of their application, are inappropriate may petition for changes or revisions. Such petitions are of two general types: those requesting changes in basic policies and methodologies, and those requesting adjustments to the need projections.” The Proposed 2020 SMFP contains a revised need determination methodology for End Stage Renal Disease (ESRD) dialysis facilities. Normally, the SHCC would not review the current Petition during the Summer. However, because the revision to the methodology is new, the first opportunity for petitions is the Summer. Under these circumstances, the SHCC does review such petitions.

The Acute Care Services (ACS) Committee held a series of Interested Parties meetings beginning in April 2018. The impetus for the meetings was the need to fully incorporate the ESRD methodologies into the SMFP, to ensure proper review by the SHCC, public comment, and review by the Governor. The Agency recognizes that although the dialysis providers prefer the status quo, it is not an option. Therefore, the Agency sought to make changes that would both maintain the ability providers to serve patients well and comport with the requirements of the SMFP. The SHCC held Interested Parties meetings on April 13, 2018, November 14, 2018, January 16, 2019, and February 13, 2019 to obtain input regarding the transition.

Two need methodologies exist for ESRD services, a county methodology and a facility-specific methodology. The meetings involved discussion of the facility need methodology and options for the transition. The Agency prepared a modeling tool to estimate how the facility need methodology could be adjusted to accommodate an annual data reporting period, as required for full incorporation into the SMFP. The county need methodology was not adjusted, except to facilitate annual data reporting.

The Agency prepared a report for the April 9, 2019 meeting of the ACS Committee. It discussed adjustments to the methodology as well as a policy approach. At this meeting, the Committee voted to adopt the methodology. The SHCC approved the Committee's action at its May 29, 2019 meeting, and the Proposed 2020 SMFP reflects these decisions.

In general, this Petition seeks to eliminate the facility need methodology in favor of a policy approach. Several comments from ESRD providers have made a similar suggestion. The Agency has prepared a separate document to discuss this issue. The document will be presented to the ACS committee for discussion at the September 17, 2019 meeting.

### ***Analysis/Implications***

The Petitioners cite one main reason for the proposed change. They point out that the newly implemented methodology creates facility need determinations for too many dialysis stations, thus creating the appearance of unnecessary duplication of resources. The Petitioners propose to raise the minimum utilization threshold from 75% to 85% to alleviate the problem.

Over the past several years, the facility need methodology in the Semiannual Dialysis Reports (SDR) has created up to about 700 needs on an annual basis. Note that the SDR does not publish need determinations. Rather, they typically are calculated by persons wishing to submit a Certificate of Need (CON) application.

Duplication of services and excess capacity can only occur if facilities actually apply for and develop the stations in the need determinations. In a CON application, facilities may only apply for the number of stations that they can show can meet the CON performance standards. Historically, facilities have applied for about 30% of the stations calculated to be needed. In addition, only the facility that generates the need may apply to add stations. Both situations lead the Agency to conclude that having a large number of need determinations in the SMFP will not lead to excess capacity or duplication of resources. Thus no adjustment is warranted.

### ***Agency Recommendation:***

The agency supports the standard methodologies for ESRD facilities. The ACS Committee and the SHCC have approved the changes to the reporting period and the revisions to the methodologies required to transition to an annual reporting period. A separate document will address comments regarding the ESRD methodology more generally. Therefore, given available information submitted by the deadline and in consideration of factors discussed above, the agency recommends denial of the petition.