

**Long-Term and Behavioral Health Committee
Agency Report
Petition to Remove the Medicare-certified Home Health
Need Determination in the 2023 State Medical Facilities Plan
and Establish a Methodology Work Group**

Petitioner:

Well Care Health, LLC

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Request:

Well Care (Well Care) Health, LLC requests removal of 12 Medicare-certified home health need determinations and the establishment of a workgroup to examine and revise the methodology.

Background Information:

Chapter Two of the *State Medical Facilities Plan (SMFP or “Plan”)* 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 annual planning process and timeline allow for submission of petitions requesting adjustments to need projections to the State Health Coordinating Council (SHCC) in the summer. Any person may submit a certificate of need (CON) application for a need determination in the Plan. The CON review could be competitive and there is no guarantee that the petitioner would be the approved applicant.

The standard methodology for determining need for a home health agency or office consists of three criteria. A county has a need determination for a Medicare-certified home health agency or office if any of the three criteria are satisfied for a county. Criterion 1 establishes a need determination for each county with no home health agency or office physically located in the county, if the county has a population of more than 20,000 people. Criterion 2 establishes a need determination for each county with no home health agency or office physically located in the county, if the county has a population of less than 20,000 people and if, after calculating the minimum driving distance (mileage) from the closest point on the county line of the county in which an existing agency is located to the county seat of the county in which there is no agency, there is no home health agency or office is located within 20 miles. Criterion 3 projects future need based on trends in historical data, including the average annual change rate in the number of home

health patients and in use rates per 1,000 population over the previous three years, and the projected population. The average annual rates of change are compiled based on Council of Governments (COG) regions. The methodology uses patient origin data, aggregated by the following four age groups: under age 18, 18-64, 65-74, and 75 and over. **The methodology does not project future need based on the number of home health agencies in any given county or the capacity of existing agencies. Rather, it projects need based on the number of patients served during the reporting years from each county within each COG region.** The threshold for a need determination is a projected unmet need of 325 patients in a given county.

Historically, the home health standard methodology has produced no more than two county need determinations each year. In response to a 2012 spring petition and based on the recommendations of its Long-Term and Behavioral Health committee (LTBH), the SHCC revised the methodology to increase the deficit threshold for a need determination for a new agency from 275 patients to 325 patients. This change was included in the 2013 SMFP. The Petitioner notes that the current determination of 12 needs in the Proposed 2023 Plan is inconsistent with need determinations in previous SMFPs. As a result, the Petitioner requests removal of all 12 needs. The Petitioner also states that these need determinations may create the potential for new entrants into the market that will increase competition for limited staff. While the Agency appreciates this concern, the Agency is not considering how need determinations may affect business decisions.

The Petitioner also requests a workgroup to evaluate the home health need determination methodology. The Agency recognizes that the methodology needs revision, but this topic is suitable for a Spring petition, not at Summer petition. However, the Chair of the SHCC may choose to establish a workgroup at any time with or without a request in a petition.

Analysis/Implications:

Based on the application of Criterion 1 and Criterion 3 of the standard methodology, the Proposed 2023 SMFP accurately identified 12 need determinations in the following counties: Brunswick, Catawba, Edgecombe Forsyth, Granville, Guilford, Montgomery, Nash, New Hanover, Onslow, Pitt and Robeson.

The Petitioner acknowledges three of the 12 county need determinations (Edgecombe, Granville and Montgomery) are based on Criterion 1. Since this is the first year that the provisions of Policy HH-3 are incorporated into the standard methodology, the Petitioner believes it is appropriate to remove the three need determinations until a workgroup has an opportunity to study and update the standard methodology. However, the incorporation of Policy HH-3 into the standard methodology is irrelevant to the need determinations in Edgecombe, Granville and Montgomery counties. Thus, these need determinations are unrelated to utilization and would still exist even if Policy HH-3 had not been incorporated into the standard methodology.

As mentioned above, needs based on Criterion 3 were calculated using the standard methodology. The calculations did not indicate anomalies that called for any adjustments. The home health methodology is complex and nuanced; it is sensitive to small changes in population and utilization. The Agency recognizes the need to evaluate this methodology, but this is not a sufficient reason to eliminate need determinations from the SMFP beforehand. As a practical matter, the Agency

has been reluctant to recommend and the SHCC has been reluctant to approve the elimination of needs produced pursuant to the standard methodology.

Finally, the Petition requests the creation of a workgroup to address the methodology. As a procedural matter, the SHCC chair has full authority regarding formation of workgroups. This decision is not part of the body of recommendations that the SHCC makes to the Governor. As indicated above, the Agency agrees that this methodology needs to be evaluated. However, the Agency declines to make a formal recommendation to the LTBH committee on this matter as part of a response to this petition. This topic will be discussed at the upcoming LTBH meeting and the committee may choose to make a formal recommendation at that time.

Agency Recommendation:

The Agency supports the standard methodologies for a Medicare-certified home health agency or office. Given available information and comments submitted by the August 10, 2022 deadline, and in consideration of factors discussed above, the Agency recommends denial of the Petition.