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HOME HEALTH

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Medical Facilities  
PLANNING SECTION

**Comments in Opposition to the Petition from  
Bayada Nurses, Inc.  
July 31, 2009**

AssistedCare is hereby providing comments on the petition filed by Bayada Nurses, Inc. for an adjustment to the 2010 SMFP need methodology to include a need determination for an additional home health agency in Brunswick County. Our comments are organized to concisely provide the background and context for review of the petition and our specific rationale for opposing approval of the petition. AssistedCare opposes the petition based on reasons discussed in the comments below and recommends that the petition be denied.

***Background Facts Relating to the Home Health Need Methodology***

In September 2007, the State Health Coordinating Council authorized a Home Health Task Force to review and make recommendations for revisions to the home health need methodology in the 2009 *State Medical Facilities Plan*. The seven-member Task Force included members of the Council as well as representatives of Medicare-certified home health agencies, home care agencies (not Medicare-certified) and the medical community. Members of the public were invited and attended the Task Force meetings.

The Task Force presented three recommendations, which were approved by the Long-Term and Behavioral Health Committee and the State Health Coordinating Council.

1. Revise the methodology to lower the deficit threshold for a need determination and the "placeholder" adjustment for a new agency from 400 patients to 275;
2. Add an item "d" to item 8 of the Basic Assumptions of the Methodology to read, "address special needs populations;" and,
3. Review the need determination threshold for home health in five years.

The third recommendation was revised by the Committee and approved by the Council to be reviewed in **three** years rather than five years.

### *Specific Rationale for Denial of the Petition*

Bayada states on page 2 of its petition that the standard methodology projects a deficit of 90 patients in Brunswick County in 2011, which is correct. Bayada further states that "a much greater number than 90 patients will not be adequately served if a third Medicare-certified home health agency is not allocated to Brunswick County." However, Bayada does not explain who those additional patients are, where they live, and why they will not be adequately served by the existing home health agencies serving Brunswick County.

Bayada's case for an adjustment to the standard methodology is based on the geographic area of Brunswick County and the "tremendous growth in the overall Brunswick County population, particularly in the 65 and older population..." AssistedCare challenges some arguments made by Bayada in support of these "special needs" in Brunswick County, as discussed below.

#### Geographic Expanse

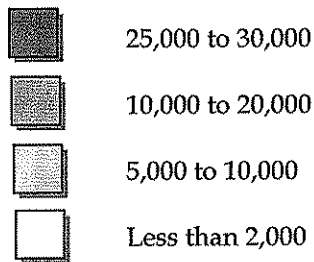
First, while Brunswick County is one of the larger counties in North Carolina in terms of square miles, it is not the largest and is, in fact, the sixth largest county in the state behind Robeson, Sampson, Columbus, Bladen and Pender counties. Each of these larger counties has only two home health agencies located in the county with the exception of the largest, Robeson County, which has five agencies.

Second, the total geographic expanse of Brunswick County's reported 847 square miles is not inhabitable in that approximately 23 percent of the county is water. Thus, if the 847 square miles were recalculated to include only the inhabitable geographic area, the total square miles in Brunswick County would be approximately 658 rather than 847 square miles. This more accurate measure of square miles reduces the area that must be covered by home health staff.

At present home health services are provided to Brunswick County residents by the two agencies located in Brunswick County (AssistedCare and Liberty Home Care), two agencies located in New Hanover County (Well Care Home Health and Liberty Home Care), one agency located in Pender County (Pender Home Health) and one agency located in Hoke County (Liberty Home Care). On page 10 of its petition, Bayada states that CMS limits home health agencies to 60 miles driving time from the location of the home health agency as "services provided beyond that distance from the agency office cannot be properly supervised." Disregarding the fact that the inhabitable land mass in the county includes only 658 square miles, the entirety of Brunswick County (all reported 847 square miles) is well within the 60 mile radius from any point in the

county (i.e. the location of either of the existing county home health agencies), as required by CMS. In fact, any agency in Wilmington and specific agencies in other adjacent counties can appropriately serve any location in Brunswick County and remain within the 60 mile limit. Therefore, the location of the agency, either inside or outside the county, is not a deterrent to providing home health care nor do these in-county or out-of-county locations compromise care in any way simply because of the agency location. Furthermore, because patients are served in the home and not in the agency office, the location of home health agency has no impact on access to service by the county residents.

Bayada implies on page 7 of its petition that because Brunswick County has a large number of patients served from agencies outside the county, care is compromised because the staff are traveling "much farther to serve Brunswick County patients." What Bayada fails to mention is that a greater percentage (23 percent) of the residents of Brunswick County live in the zip code area of Leland (across the river from Wilmington) than live in any other single zip code area in the county (see the map below). According to Claritas population projections, this distribution of Brunswick County residents is not expected to change during the next five years. For this reason, agencies located in Wilmington travel a shorter distance to reach these Brunswick County patients than they would travel to reach patients in other parts of their own county, New Hanover County. In fact, agencies located in Wilmington can more easily travel to patients in northern Brunswick County than could an agency located in southern Brunswick County. Largely for this reason, AssistedCare, initially located in Southport, relocated when it found that there were efficiencies to be gained by being located in Leland. Furthermore, the distances traveled from New Hanover County agency offices to the northern areas of Brunswick County remain well within the 60 miles radius guidelines set by CMS. Because New Hanover County is a very small county (192 square miles), serving patients outside the county is not unreasonable or unusual and is common practice for home health providers throughout the state as evidenced by Table 12A in the 2009 *SMFP*.



In regards to Bayada's contention that staff must travel long distances to serve patients in Brunswick County, AssistedCare would like to point out that much of AssistedCare's labor force actually lives in northern New Brunswick County and the Wilmington area of New Hanover County from which they serve the large number of residents living in the northern area of Brunswick County. To further support the fact that staff are not required to travel as much today as in past years, AssistedCare would like clarify that most home health agencies make use of advanced technology in caring for patients. For example, patient documenting by staff is completed on laptops at the patient's home (no paper records) and the information is uploaded to the office via the internet rather than staff returning to the office to submit their documentation. Most non-routine medical supplies required by the patient are drop-shipped directly to the patient's home rather than bring delivered by the home health staff. These technological advances allow the home health staff to spend more clinical time with the patient rather

than having to deliver supplies to various homes or returning multiple times to the home health office to return patient records.

Population Growth & Aging

In its petition, Bayada compared Brunswick County to Henderson, Wayne and Nash counties, counties which have no similarities to Brunswick County other than population numbers. In order to make a fair comparison of Brunswick County to other similar counties, particularly related to aging factors, AssistedCare compared the counties identified in the 2008 Aging Study conducted by the Division of Aging and Adult Studies (DAAS) cited in Bayada’s petition. As stated in the DAAS study, these counties are expected to have the largest number of aging residents in the state and while they vary in size, they have a similar percentage of residents over the age of 65, “the primary users of home health services,” as stated by Bayada.

<i>County</i>	<i>2020 Pop</i>	<i>Pop.65+</i>	<i>% of Total Pop 65+</i>	<i># Sq. Miles in County</i>	<i># HH Agencies in County</i>
Brunswick	147,370	25,215	17%	847/658*	2
Buncombe	262,660	47,752	18%	656	2
Gaston	259,438	38,298	15%	356	5
Henderson	125,032	23,408	19%	373	3
Moore	103,877	19,392	19%	698	2
New Hanover	223,889	37,362	17%	192	2

\*847 total square miles/658 inhabitable square miles

Population and square mile/county data: NC Office of State Budget & Management

Home Health Agencies per county: 2009 SMFP

As noted in the table, with the exception of Gaston County, Brunswick County has a similar number of home health agencies as the other counties included in the aging study. While Henderson County has three home health agencies, it also has the highest percentage of the population over the age of 65, along with Moore County. Certainly if Bayada’s special need petition is approved based on the needs of the aging and size of the county, several of the other counties in the study have grounds for a special needs petition for their county as well.

Projections used by Bayada in its petition were based on the county population in 2020 and 2030, ten and 20 years from the *Proposed 2010 SMFP*, the object of its challenge. AssistedCare acknowledges that in the ensuing years between 2010 and 2020 or 2030, Brunswick County may indeed have a need for additional home health agencies; however, because the home health need methodology is population based,

AssistedCare is confident that the standard methodology will be sufficient to provide any additional home health agencies needed in Brunswick County in the foreseeable future. Furthermore, as noted in the introductory comments on page one of this response, the Long-Term Care and Behavioral Health Committee of the State Health Coordinating Council will review the need methodology and make recommendations for revisions, if necessary, for the 2012 SMFP.

***Implications if Bayada's Petition is Approved***

AssistedCare has concerns that an approval of the Bayada petition will encourage others throughout the state to submit special need petitions for additional home health agencies. For example, there are several counties that are similar in geography and population size to Brunswick that have two or fewer home health agencies located in the county. As shown in the table below, four counties that are larger than Brunswick all have only two home health agencies located in the county. Of the four counties with fewer square miles than Brunswick, one has three agencies in the county, two have two agencies in the county and one has only one home health agency located in the county.

<i>County</i>	<i># Sq. Miles in County</i>	<i># HH Agencies in County</i>
Sampson	945	2
Columbus	937	2
Bladen	874	2
Pender	870	2
<b>Brunswick</b>	<b>847</b>	<b>2</b>
Beaufort	827	2
Duplin	815	1
Onslow	764	3
Wilkes	755	2

NOTE: There are many other counties in the state that have only two home health agencies operating in the county; however, AssistedCare chose to limit the number to eight to illustrate its point.

Furthermore, approving the special needs petition and allowing an additional home health agency to be located in the county will inevitably draw patients from the two existing agencies in the county, resulting in a duplication of services.

In conclusion, AssistedCare opposes the Bayada petition for an adjustment in the SMFP need methodology related to a home health agency need for Brunswick County based on our reasons outlined above. We believe the process initiated by the Home Health Task Force and approved by the Long-Term Care and Behavioral Health Committee and the State Health Coordinating Council needs to be followed to its conclusion.

Moreover, Bayada did not provide sufficient evidence that a special situation exists in Brunswick County that would warrant a special adjustment to the standard methodology.