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To: [Frisone, Martha](#); [Carraway, Shelley](#); [Bennett, Paige](#); [Brown, Elizabeth](#); DHSR.SMFP.Petitions-Comments@dhhs.nc.gov
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On behalf of Bio-Medical Applications of North Carolina Inc., and all Fresenius Medical Care related dialysis facilities (operational and planned) in our state, I would like to offer the following comments regarding the proposed 2017 SMFP.

The draft plan has modified the categories for CON applications (Chapter 3), and now includes all ESRD CON applications, except for Cost Overrun CON applications, as Category D. The plan further modifies the CON application schedule, and essentially batches all Category D applications into six reviews throughout the year.

Until this most recent draft SMFP, ESRD CON applications filed pursuant to either County Need Determination, or Facility Need Methodology, were classified as Category D applications, with reviews commencing on either April 1, or October 1 of each year.

We recommend that the language of Chapter 14 (in the draft plan) be strengthened to specifically limit CON applications filed pursuant to either County Need Determination, or Facility Need Methodology, be limited to two reviews annually, commencing on either April 1, or October 1 of each year (as in prior years SMFPs). Failure to strengthen the language opens the door to applications filed pursuant to either need methodology being filed at any of the six reviews allowed by the schedule for Category D applications.

It is important to secure the filing schedule so that all players have equal access to County Need Determinations specifically. For example, the Semiannual Dialysis report is published effective the first of January and July of each year. If perchance the July SDR included a County Need Determination, without language which clearly specifies the filing dates for such, it is conceivable that an applicant could file an application on July 15, for the review commencing on August 1. Other applicants adhering to the intent of the language in Chapter 14 would potentially file their application on September 15, for the review commencing October 1. Consequently, a process which is intended to afford applicants a competitive review is potentially impaired by the July applicant (in this example).

The language of Chapter 14 currently reads as follows:

"The schedule for publication of the North Carolina Semiannual Dialysis Reports and for receipt of certificate of need applications based on each issue of that report in 2017 shall be as follows:"

We recommend the language be modified to:

"The schedule for publication of the North Carolina Semiannual Dialysis Reports shall be as follows:

Certificate of Need applications filed pursuant to either County Need Determination or Facility Need Methodology shall be filed on the 15th of March / October of each year. Further, applications filed pursuant to County Need Determinations shall be batched for competitive review.

Thank you for your consideration of these comments.



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