Public Hearing Comments on the N.C. 2021 SMFP
Presented on March 4, 2020 by
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DaVita, Inc. and its related dialysis facilities in North Carolina respectfully petition the State Health Coordinating Council (SHCC) to adopt a policy for the addition of dialysis stations to existing or approved facilities, in lieu of a formal methodology with need determinations published in the SMFP.

Prior to 2020, End Stage Renal Disease (ESRD) data was reported twice a year in the Semiannual Data Report. The 2020 State Medical Facilities Plan (SMFP) is the first SMFP to fully incorporate ESRD data and marks a transition to annual data reporting. In transitioning to annual data reporting, it was necessary for the SCHCC to review and revise the methodologies for ESRD services.

Two need methodologies exist for End Stage Renal Disease (ESRD) services: a county methodology and a facility-specific methodology. The county need methodology was not adjusted, except to account for annual data reporting. The Acute Care Services (ACS) Committee, with support from the Agency and in collaboration with providers, spent a considerable amount of time discussing and analyzing possible adjustments to the methodology.

The need generated by the methodology is the *maximum* number of stations for which a facility may apply. The age of the ESRD data in the SMFP combined with the need generated by the methodology impose significant, and unnecessary, limits on *timely* dialysis station expansion. It was a concern raised repeatedly by providers and physicians during the Summer Public Hearings in 2019 and noted by the Agency in a report to the ACS Committee:

> *"Comments generally express concern that the methodology cannot respond to the need for new dialysis stations in a timely manner. This concern has been expressed since the beginning of the process of adjusting the methodology for full incorporation into the SMFP. For the most part, information in the comments covers issues that the ACS committee has already considered. The annual methodology is likely to produce far more need determinations than facilities can prove are actually needed."*

The Agency attempted to address this concern by twice modifying the revised methodology with an adjustment first, for "new" facilities and then for "small" facilities. The Agency recognized and acknowledged provider's concerns that the revised methodology might not work well for these two types of facilities. The revised methodology was accepted by the SHCC and implemented in the 2020 SMFP.

Given available information recently submitted by all ESRD providers to the Agency, it is clear that this issue – *the facility need methodology cannot respond to the need for new dialysis stations in a timely manner* – has not been sufficiently addressed by the revision nor the additional modifications to the methodology.

On February 7, 2020, providers submitted patient census data to the Healthcare Planning Section which provided a snapshot of our in-center hemodialysis population as of December 31, 2019. This self-reported data will be used to calculate facility need determinations for the proposed 2021 SMFP. This census data shows the limitations of the facility need methodology, specifically as it relates to the issue of responding to the need for new dialysis stations in a timely manner.

The key data used to calculate the need determination in Table 9B of the 2020 SMFP is self-reported in-center hemodialysis patient census dated December 31, 2018. The need determination published for each facility in the

2020 SMFP serves as a determinative limit on the number of dialysis stations that facilities can apply to add throughout the year. Any facility with a need determination of zero (0) dialysis stations will have to wait until 2021 to have the opportunity to apply for additional stations, even if the current growth at that facility indicates additional dialysis stations are needed.

Unfortunately, there are 38 facilities currently in that situation. The census data from December 31, 2019 show enough growth since December 31, 2018 to indicate a need for additional stations in these 38 facilities, but because they have a need determination of zero dialysis stations in the 2020 SMFP they cannot apply for additional stations in 2020. Some of these facilities will qualify for an expansion because they fall into the "new" or "small" designation, but this still highlights the gaps created by the stated need methodology. There are an additional 42 facilities that have a facility need in the 2020 SMFP and that have experienced significant growth since December 31, 2018. Significant enough that they will still have a projected need for additional stations in the 2021 SMFP, even if they applied for all the stations in their projected need in the 2020 SMFP. This is further evidence that the limiting effect of the need determination produced by the methodology negatively impacts the ability of providers to sufficiently plan for adding stations when they are needed.

Based on the current methodology (75% utilization threshold) these facilities can demonstrate a need for additional stations as of December 31, 2019, but will not have an opportunity to apply for additional stations until April 1, 2021 at the earliest. This delay between when a center shows a need and when that need may be filled will cause dialysis patients to be limited in their preferred choice of a dialysis center and/or shift, and unnecessarily limit the ability of providers and physicians to timely meet the needs of the patients to be served. Additionally, if the required utilization rate was raised to 80% - the threshold in place using the old SDR model - and applicants needed to prove projected utilization of 3.2 patients per station, 28 of the 38 facilities mentioned would still qualify to apply for additional stations based on their December 31, 2019 census.

The proposed policy is an ideal solution. The framework for demonstrating a need and meeting a projected need already exists and has worked well to allow providers to meet the needs of a growing patient population for many years. The proposed policy would ensure that the SMFP allows providers could continue to appropriately plan for growth in their facilities in a timely manner. Consider this assessment from the Agency's Discussion Paper to the Acute Care Services Committee on April 9, 2019: "The options developed by Healthcare Planning were sensitive to the providers' concerns…If the policy option is chosen instead of the methodology, those concerns would be moot."

As detailed in Chapter One of the North Carolina 2019 SMFP, "[t]he major objective of the Plan is to provide individuals, institutions, state and local government agencies, and community leadership with policies and projections of need to guide local planning for specific health care facilities and services." Considering that the significant change of semiannual data reporting of data to annual data reporting could have unintended consequences, approving this petition would provide a remedy to the identified shortcomings of the facility need methodology in the proposed plan which otherwise could negatively impact dialysis patients who rely on timely access to life-sustaining care.

Thank you for your time and I'm happy to answer any questions the SHCC might have.