

Public Hearing Comments

ESRD Policy Petition

Presented by David Holmes, Vice President of Business Development

Good afternoon. My name is David Holmes and I am here on behalf of Liberty Healthcare and Rehabilitation Services (“Liberty”). Liberty will be submitting a petition to request a Policy to be added to the 2024 SMFP, proposed as Policy ESRD-4, which will allow for the development or expansion of a kidney disease treatment center at a skilled nursing facility.

Background

Liberty is an experienced family-owned company that has been helping people manage their healthcare needs for more than 145 years. Our principal owners, Sandy and Ronnie McNeill, are the fourth generation of McNeill’s immersed in the healthcare industry. Over the past century, Liberty has expanded from a single retail pharmacy to now offer a broad continuum of care through its’ family of integrated products and services throughout North Carolina, South Carolina, Virginia, Tennessee, Louisiana and Florida. Today, the Liberty family owns, operates, and/or manages nursing homes, home health care and hospice agencies, independent living communities, assisted living communities, continuing care retirement communities, Liberty Medical Specialties (which provides durable medical equipment and infusion therapy services), the Liberty Medicare Advantage HMO insurance plan, and McNeill’s Pharmacy.

Reasons for the Proposed Adjustment

Liberty has determined that there are unique circumstances throughout the state, specifically in nursing homes, that necessitate the new ESRD Policy proposed. Approval of this petition will provide Liberty and other SNF’s throughout the State the opportunity to submit a Certificate of Need (CON) application to help address the needs of a growing nursing home

population. Liberty is here today to go over just some of the factors that validates the proposed new Policy, including:

- Policy addition has the potential for a statewide effect
- Agency and SHCC set precedent when creating Policy ESRD-3
- Larger dialysis organizations are reporting the need for dialysis in SNFs
- Difficulty hospitals face in finding placement for high acute residents including seniors needing dialysis services

Policy addition has the potential for a statewide effect

In 2022, Liberty presented a similar Spring Petition to the SHCC requesting a similar Policy ESRD-4. The Agency recommended denial of Liberty's Spring Petition, primarily due to the belief that the SMFP's existing summer petition process was sufficient to allow Liberty to develop the proposed services. The Acute Care Services Committee, while noting support for the notion and acknowledging that this request would be positive for North Carolina residents, voted to accept the Agency recommendation and deny the Petition. Based on the Agency's and SHCC's suggestions, Liberty moved forward with a Summer Petition in 2022 for a nursing home dialysis pilot demonstration project of six outpatient dialysis stations in Mecklenburg County. The SHCC recommended denial of Liberty's 2022 Summer Petition, and instead recommended an adjusted need determination for six outpatient dialysis facility stations in Mecklenburg County to be allocated for development within a nursing home facility or proximate to the nursing home building.

However, continuing to submit petitions in the summer for need determinations is problematic. The need for outpatient dialysis stations at nursing homes is not based on just one specific county or even a few specific counties. The troubling circumstances leading Liberty to submit this petition exist statewide in nursing homes, and not just in one facility, county or region, which necessitates a new ESRD Policy as opposed to specific county need determinations.

Agency and SHCC set precedent when creating Policy ESRD-3

A portion of the analysis of the Agency report for the Liberty 2022 Spring Petition states that “although the Petitioner requested a policy as the means to “open the door” to the provision of dialysis in nursing homes, an existing option currently available to providers is to submit a summer petition to the SHCC for an adjusted county need determination.”

However, neither the Agency nor the SHCC has taken this same position in the past in similar situations, specifically in relation to the creation of Policy ESRD-3. In 2019, UNC Hospitals filed a Summer Petition for a special need allocation for dialysis stations in Orange County. The adjusted need determination was approved, but in March of 2020, no one applied to fill that need. However, in April 2020, the SHCC still proceeded to develop a statewide Policy, Policy ESRD-3, which allows for the development of outpatient dialysis facilities on a hospital campus.

A mechanism existed in the SMFP through the summer petition process for hospitals to develop outpatient dialysis facilities on a hospital campus, and was utilized by UNC Hospitals. However, no provider ever applied for this additional need determination. Nonetheless, the Agency still moved ahead with the creation of a new Policy.

Large dialysis organizations are reporting the need for dialysis in SNF’s

NxStage, a subsidiary of Fresenius Medical Care, reports on its website “there are over 520,000 dialysis patients in the United States and approximately 65,000 of them reside in Skilled Nursing Facilities annually.¹” DaVita Kidney Care also acknowledges on its website the potential

¹ <https://www.nxstage.com/administrators/snf-facilities/>

Reference to data: DataDialysis.org. FY2017 Dialysis Facility Report Data. 3. Yang A, Lee WY, Hocking K, Xelay Acumen, Inc., Affiliated Dialysis. Survival comparison of daily home hemodialysis vs conventional dialysis in the nursing home setting. Nephrology News & Issues. February 17, 2015.

SNF-dialysis benefits, stating a patient will have “improved quality of life” and SNF’s will have “reduced care costs and readmissions”² through a dialysis SNF setting.

It is clear that large dialysis organizations see a need for dialysis in SNF’s based on their promotion of their own skilled nursing dialysis programs. However, the opposition comments filed against past Liberty petitions (and expected opposition for this petition) make clear that it is competition that these larger dialysis organizations seek to avoid, even if this Petition would provide the highest quality and best value care to dialysis patients residing in SNF’s.

Difficulty hospitals face finding placement for high acute residents

As discussed last year, Hospitals frequently struggle to find placement at outpatient centers for high acuity residents needing dialysis. Many skilled nursing communities cannot accept these higher acuity residents due to the travel demands to and cost associated with community based dialysis centers, and the outpatient centers are unable to support many patients with multiple comorbidities. Liberty has continued to receive requests from hospitals and received ample support for this Policy to be added.

Conclusion

Approval of this petition will provide Liberty and other SNF’s throughout the State the opportunity to develop or expand a kidney disease treatment center at a skilled nursing facility for the benefit of nursing home ESRD residents. Thank you for your time and I am happy to answer any questions the SHCC might have.

² <https://www.davita.com/partners/skilled-nursing-facilities>