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August 24, 2018

VIA E-MAIL and FEDERAL EXPRESS

Michael J. O'Grady, Ph.D.
Commissioner
Maryland Health Care Commission
4160 Patterson Avenue
Baltimore, MD 21215

Re: BAYADA Hospice
Prince George's County Hospice Review
Docket No.: 16-16-2383

Dear Commissioner O'Grady:

I am writing on behalf of BAYADA Home Health Care Inc., d/b/a BAYADA Hospice ("BAYADA") in response to your letter dated July 31, 2018 identifying certain deficiencies in BAYADA's pending application for a Certificate of Need to establish a general hospice care program in Prince George's County. Enclosed please find BAYADA's response to the deficiency letter, along with Second Revised Exhibit 23, and new Exhibits 53-56.

Thank you for the opportunity to amend BAYADA's application. Please contact us if you have any questions or need any additional information.

Very Truly Yours,



Margaret M. Witherup

Enclosures:

- Second Revised Exhibit 23 – Charity Care Policy
- Exhibit 53 – Financial Hardship Policy
- Exhibit 54 – Financial Hardship Form
- Exhibit 55 – Notice of Charity Care and Reduced Fees
- Exhibit 56 – Notice of Charity Care and Reduced Fees Form

cc: Suellen Wideman, Assistant Attorney General (via email)
Sarah Pendley, Assistant Attorney General (via email)
Timothy Adelman, Esquire (via email)
Howard L. Sollins, Esquire (via email)
Marta Harding, Esquire (via email)
Paul Parker, Director, Center for Health Care Facilities Planning & Development
(via email)
Kevin McDonald, Chief, Certificate of Need (via email)
Mariama Gondo, Program Manager (via email)
Pamela Brown-Creekmur, RN, Prince George's County Health Officer (via email)

BAYADA HOME HEALTH CARE, INC.
CERTIFICATE OF NEED - PRINCE GEORGE'S COUNTY
Matter No. 16-16-2383
RESPONSE TO DEFICIENCY LETTER DATED JULY 31, 2018
August 24, 2018

Our Service Promise to You



The **BAYADA** Way[®]

*We believe our clients deserve home health care services
delivered with compassion, excellence, and reliability.*



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BAYADA HOME HEALTH CARE, INC.
CERTIFICATE OF NEED - PRINCE GEORGE'S COUNTY
Matter No. 16-16-2383
RESPONSE TO DEFICIENCY LETTER DATED JULY 31, 2018
August 24, 2018

EXHIBITS

| | |
|---------------------------|---|
| Second Revised Exhibit 23 | Charity Care Policy #0-8407 |
| Exhibit 53 | Financial Hardship Policy #0-3682 |
| Exhibit 54 | Financial Hardship Form #0-9506 |
| Exhibit 55 | Notice of Charity Care and Reduced Fees #0-9485 |
| Exhibit 56 | Client form – Notice of Charity Care and Reduced Fees #0-7657 |

1. COMAR 10.24.13.05C MINIMUM SERVICES:

Bayada . . . needs to clarify whether its employees will provide [skilled nursing care and medical social services] services in Prince George’s County if its application is approved. . . .

Bayada must clarify whether each of the above listed types of services will be provided directly or through contractual arrangements, that is whether the person(s) providing the service in each category will be employee(s) of Bayada or whether the services will be delivered by person(s) with whom it has or will establish contractual arrangements.

APPLICANT RESPONSE

If its application is approved, Bayada will provide the following services directly by BAYADA employees in Prince George’s County:

- Skilled nursing care
- Medical social services
- Counseling services

BAYADA will provide the following services directly or through contractual arrangements as indicated below:

| Service Type | Employee of BAYADA | Contractual Arrangement |
|--|--------------------|-------------------------|
| Physician Services/Medical Direction | X | X |
| Hospice aide/homemaker services | X | |
| Spiritual Services | X | |
| On-call nursing response | X | |
| Short-term Inpatient Care & Respite Care | | X |
| Personal Care | X | |
| Volunteer Services | X | |
| Bereavement Services | X | |
| Pharmacy Services | | X |
| Lab/Radiology/Chemotherapy | | X |
| Medical Supplies/Equipment | | X |
| Therapies (PT, OT, ST, Dietary) | | X |

2. COMAR 10.24.13.08J(1) DETERMINATION OF ELIGIBILITY FOR CHARITY CARE:

It is unclear how or if Bayada's process for making determination of probable eligibility differs from its process for making a final determination of eligibility for charity or reduced fee care. . . . Bayada . . . must distinguish between what is required for a determination of probable eligibility and what is required for a final determination. It must provide its financial hardship policy #0-3682, revised as necessary.

APPLICANT RESPONSE

BAYADA has amended its Charity Care Policy to clarify the distinction between a determination for probable eligibility and a final determination. A copy of the revised policy is attached as Second Revised Exhibit 23.¹ A copy of BAYADA's financial hardship policy #0-3682 is provided as Exhibit 53 and a copy of its Financial Hardship form is provided as Exhibit 54.²

¹ To avoid confusion, BAYADA is keeping the same Exhibit numbers as in its original application and responses to completeness questions. Exhibit 23 to the original application was BAYADA's Charity Care policy #0-8407, adopted on Oct. 4, 2016. In response to completeness questions, BAYADA submitted a revised Charity Care policy (adopted Jan. 11, 2017) as Revised Exhibit 23. The enclosed Second Revised Exhibit 23 reflects BAYADA's further revised Charity Care Policy (last revised May 10, 2018) and should be substituted for the previous Exhibit 23.

² Exhibits 1-52 were previously submitted with BAYADA's original application and in response to completeness questions.

3. COMAR 10.24.13.08J(1) DETERMINATION OF ELIGIBILITY FOR CHARITY CARE:

The procedures in Bayada's Policy 0-8407 . . . indicate that a patient approved for full (or, apparently, partial) charity care will be classified as private pay by Bayada's "Billing and Collections Office." (Id. at para 2.1.2). This implies that a patient may be billed for charity or reduced fee care, which should be an up-front determination that the patient does not have means to pay (or can only partially pay) for hospice care. . . . Bayada must correct this policy so that charity and reduced fee care are not equated with private pay or bad debt.

APPLICANT RESPONSE

BAYADA is not equating charity and reduced fee care with private pay or with bad debt and will not bill patients who qualify for charity or reduced fee care beyond their determined ability to pay. The classification as "private pay" is only for BAYADA's internal accounting classification purposes. For example, if a patient qualifies for a 100% discount, he or she would be entered into the accounting system as in the "private pay" category but the rate would be set at \$0.

4. COMAR 10.24.13.08J(2) NOTICE OF CHARITY CARE POLICY:

Bayada must revise its notice(s) and its website as necessary to comply with the Charity Care and Sliding Fee Scale standard. The notice(s) should state that Bayada will make a determination of probable eligibility within two business days of request for charity or reduced fee care, application for Medicaid, or both.

APPLICANT RESPONSE

BAYADA's revised Charity Care Policy is attached as Second Revised Exhibit 23. The Notice of Charity Care and Reduced Fees provided in hard copy and posted on Bayada's website is provided as Exhibit 55.

5. COMAR 10.24.13.08J(4) CHARITY CARE POLICY PROVISIONS AND PLAN FOR ACHIEVING:

Bayada . . . did not provide the specific plan required by Paragraph 4(b) for achieving this committed level of charity care. . . . Bayada needs to provide its specific strategy for recruiting patients who will need charity care and, ideally, describe local connections it has made within Prince George's County.

In addition, Bayada must provide copies of all applicable (existing or revised) forms, notices, and information that are designed to comply with or implement the Charity Care and Sliding Fee Scale standard. . . .

APPLICANT RESPONSE

Notice of BAYADA's Charity Care Policy will be posted in a conspicuous place in the reception area of its Prince George's County office and on its website. Hard copies of the policy will be available at BAYADA's office to any person who wants a copy. BAYADA will include the policy with information provided to all prospective patients and/or their families about BAYADA's hospice program and hospice services (such as BAYADA's admission booklet).

BAYADA will provide information about its hospice to physicians and facilities with which BAYADA has developed or will develop relationships through its residential service agency and home health programs in Maryland, and this information will include a copy of BAYADA's Charity Care Policy. In addition, BAYADA will disseminate information about its hospice program to the senior information and assistance offices listed below, which will include a copy of BAYADA's Charity Care Policy. BAYADA will contact the following organizations, at a minimum:

Prince George's County Dept. of Family Services
Aging and Disabilities Division
6420 Allentown Road
Camp Springs, MD 20748

Dimensions Specialty Care Center (as a member of the Health Enterprise Zone 20743)
4725 Marlboro Pike
Capitol Heights, MD 20743

Prince George's Senior Provider Network
9701 Apollo Road, Suite 297
Largo, MD 20774

Senior Activities Centers in Camp Springs/Brentwood/Hyattsville/Capitol Heights

Copies of all applicable forms and notices are attached as Exhibits 53 -56. The chart below identifies each form and notice and indicates the manner in which each is provided to the public.

| Exhibit # | Description | How Provided |
|-------------------|--|---|
| Second Revised 23 | Charity Care Policy | Internal to BAYADA, but can be provided upon request |
| 53 | Financial Hardship Policy (#0-3682) | Internal to BAYADA, but can be provided on request |
| 54 | Financial Hardship Form (#0-9506) | Provided to all clients who wish to apply for charity care |
| 55 | Notice of Charity Care and Reduced Fees (#0-9485) | Provided on website & Facebook page; hard copy posted in reception area; hard copy provided to prospective clients, referral sources, local government agencies, and senior care centers; also disseminated via annual publication in newspapers in BAYADA's service area |
| 56 | Notice of Charity Care and Reduced Fees form (#0-7657) | Provided to all new and prospective clients with initial paperwork and notices |

BAYADA will evaluate the level of charity care it is providing at least annually and if it is not meeting its target goal, will look for additional measures to identify and attract charity care clients.

I hereby declare and affirm under the penalties of perjury that the facts stated in this BAYADA Home Health Care, Inc. Response to Deficiency Letter dated July 24, 2018, and its attachments are true and correct to the best of my knowledge, information, and belief.

RL Brown

Randolph L. Brown
Division Director

8/24/18

Date

SECOND REVISED EXHIBIT 23



0-8407 CHARITY CARE - MARYLAND HOME HEALTH AND HOSPICE

This policy was adopted on Jan. 11, 2017 and last revised May. 10, 2018.

Our Standard:

We believe our clients come first.

Our Policy:

BAYADA Home Health Care provides charity care or reduced fees to our clients with financial hardship in accordance with Maryland regulation.

Our Procedure:

- 1.0 BAYADA ensures access to services regardless of an individual's ability to pay.
- 2.0 The [MARYLAND CHARITY CARE AND REDUCED FEE PUBLIC NOTICE, #0-9485](#) is visibly published for public view and for prospective clients on BAYADA's Website, service office Facebook pages and conspicuously posted in the service office. This public notice is also disseminated via annual publication in newspapers in the service area regarding BAYADA Charity Care, the sliding fee pay scale and time payment plans for reduced fees of \$25 per month. [MARYLAND NOTICE OF CHARITY CARE AND REDUCED FEES, #0-7657](#) is provided to all prospective clients prior to provision of services. Both notices include how determination of charity care and reduced fees are made per sections 3.0 and 4.0 below.
- 3.0 Upon receiving a request for charity care free of charge or reduced fees, BAYADA will make a determination of probable eligibility and communicate to the client within two (2) business days of a request for services or an application for Medical Assistance (Medicaid).
- 4.0 BAYADA uses a two-step process to determine eligibility of charity care or reduced fees as follows:
 - 4.1 An interview with the prospective client/representative will be conducted to review family size, insurance, income, and medical bills. The information is documented on a [MARYLAND FINANCIAL HARDSHIP FORM, #0-9506](#). BAYADA will communicate its determination of probable eligibility to the prospective client/representative within two (2) business days.
 - 4.2 Final determination for eligibility for charity care or reduced fees is based on a completed [MARYLAND FINANCIAL HARDSHIP FORM, #0-9506](#) (application) by the prospective client/representative with required documentation and proof of household income and outstanding medical bills.
- 5.0 Prior to provision of care, prospective clients who qualify are informed of the rates using the following guidelines.
 - 5.1 Based on the interview, the client will be granted a financial write-off if:
 - a. the total family income is at or below 300% of the [Federal Poverty Guidelines](#) (as

- published in the Federal Register) for their family size; or
- b. the client's total yearly medical bills after all applicable insurance reimbursement are greater than 50% of their total yearly income.

5.1.1

| Poverty Level | % Discount |
|---------------|------------|
| 100% | 100% |
| 200% | 100% |
| 225% | 80% |
| 250% | 60% |
| 275% | 40% |
| 300% | 20% |
| 325% | 0% |

- 6.0 Prior to provision of care, prospective clients who do not qualify for charity care or reduced fees are informed, and BAYADA assists with seeking an alternative payment arrangement.
- 7.0 The director will submit a Biller Information Coordination Note to the Billing and Collections Office indicating the client's payor source as private pay and billing rate as based on the sliding scale.
- 8.0 The provision of charity care is tracked in order to demonstrate commitment to achieving a planned annual level of charity care.
- 9.0 RELATED POLICIES.
- a. [ADMISSION CRITERIA AND PROCEDURE - MEDICARE CERTIFIED OFFICES, #0-672](#)

0-8407 - CHARITY CARE - MARYLAND HOME HEALTH AND HOSPICE

Version: 36.0 (18432)

Author(s): JOY STOVER (2016); KIM CUNNINGHAM (2018)

Owner:

Manual, Section: MARYLAND, MEDICARE CERTIFIED POLICIES

References: MD Hospice and Home Health CON Application requirement for Charity Care.

Revisions: [May. 10, 2018](#), [Apr. 06, 2018](#), [Jun. 13, 2017](#), [Jun. 13, 2017](#), [Jan. 11, 2017](#),

Comments:

EXHIBIT 53



0-3682 FINANCIAL HARDSHIP POLICY

This policy was adopted on Feb. 18, 2008.

Our Policy:

BAYADA Home Health Care does not routinely waive insurance deductibles or co-payments, but may do so due to extreme financial hardship.

Our Procedure:

- 1.0 BAYADA recognizes that occasionally a client may not be able to meet their financial obligation due to extreme financial hardship. If a client states that they are unable to satisfy their obligation due to a financial hardship, the following procedure will be initiated.
- 1.1 Client or guardian will be requested to complete [policy 0-3683].
- 1.2 The client must provide the total family income and the number of family members.
- 1.3 If the client is declaring a financial hardship due to excessive medical bills, the client must provide a complete listing of their current medical bills.
- 1.4 The client must provide documentation of their monthly income and/or their medical expenses.
- 1.5 The client will be granted a financial hardship write off if:
 - a. the total family income is below 200% of the [Federal Poverty Guidelines](#) (as published in the Federal Register) for their family size, or
 - b. the client's total yearly medical bills after all applicable insurance reimbursement are greater than 50% of their total yearly income.
- 1.6 Should the client qualify for a Financial Hardship write off under this policy, the collection office will prepare an Accounts Receivable Adjustment Form according to [policy 0-407] and will forward it to the appropriate parties for approval. A copy of the Financial Hardship Documentation form will be attached.
- 1.7 The existence of an approved Financial Hardship will be documented in the collection notes of the client file.

2.0 **STATE SPECIFIC AMENDMENT.**

Maryland.

In Maryland, the client will be granted a financial hardship write off if the total family income is below 300% of the [Federal Poverty Guidelines](#) (as published in the Federal Register) for their family size. See [policy 0-8407] for details.

0-3682 - FINANCIAL HARDSHIP POLICY

Version: 5.0 (2560)

Author(s): STEPHEN FLANNERY (2008) (2009)

Owner:

Manual, Section: ADMINISTRATIVE , GOVERNANCE AND MANAGEMENT

References:

Revisions: [Feb. 18, 2008;](#)

Comments:

EXHIBIT 54

FINANCIAL HARDSHIP FORM - MARYLAND



Please complete the top section and return to the Director of your service office.

Date: _____

Client Name: _____ Client Number: _____

Client Address: _____

Number of family members residing in the household: _____

| | | |
|-------------------|---------------------|--|
| Household Income* | Client Salary | |
| | Spouse Salary | |
| | Disability Payments | |
| | Other Income | |
| | Total Income | |

| Outstanding Medical Bills* | Facility | Amount | Insurance Payment | Balance due from Client |
|----------------------------|----------|--------|-------------------|-------------------------|
| | | | | |
| | | | | |
| | | | | |
| | | | | |
| | Total | | | |

I understand that the information provided above is required by law and will be used by BAYADA Home Health Care solely to determine my ability to pay a co-payment or deductible. I certify that the above information is true, complete, and correct as of the date written above. If any of the above information changes I will notify BAYADA immediately.

Client Signature: _____ Date: _____

POA Signature (if client unable to sign): _____ Date: _____

For BAYADA Use Only

Upon approval of the Office Director, the client is eligible for a Hardship write-off if their total household income is less than 300% of the Federal Poverty level for the size of the household, OR their outstanding medical bills are greater than 50% of their yearly income.

| | | |
|--|---------------|--|
| Total household income multiplied by .50 | | |
| Federal Poverty level for Household size** | Multiply by 2 | |

* Documentation must be provided for these amounts

** as published by the Federal Government (<http://aspe.hhs.gov/poverty/07poverty.shtml>)

Director Signature: _____ Date: _____

EXHIBIT 55

BAYADA Home Health Care— Maryland Notice of Charity Care and Reduced Fees

BAYADA Home Health Care provides charity care or reduced fees to our prospective clients with financial hardship and in accordance with Maryland regulation. BAYADA ensures access to services regardless of an individual's ability to pay.

All prospective clients are provided this notice prior to provision of services.

How the charity care and reduced fee scale works:

Upon receiving a request for charity care free of charge or reduced fees, BAYADA uses a two-step process to determine eligibility of charity care or reduced fees. BAYADA will interview the prospective client/representative to review family size, insurance, income, and medical bills. BAYADA will communicate its determination of probable eligibility to the prospective client/representative within two (2) business days of the request for charity care, reduced fees, or an application for medical assistance (Medicaid).

Final determination for eligibility for charity care or reduced fees is based on a completed application with required documentation, proof of household income and outstanding medical bills. Prior to provision of services, clients who qualify are informed of the rates as per current Federal Poverty Guidelines with a sliding fee scale. Those that qualify for reduced fees will be offered a time payment plan. Those who do not qualify for charity care or reduced fees will be assisted in seeking alternative payment arrangements.

Based on the interview, the prospective client will be granted a financial write-off if:

- a. the total family income is below 300% of the Federal Poverty Guidelines (as published in the Federal Register) for their family size; or
- b. the client's total yearly medical bills after all applicable insurance reimbursement are greater than 50% of their total yearly income.

| Poverty Level | % Discount |
|----------------------|-------------------|
| 100% | 100% |
| 200% | 100% |
| 225% | 80% |
| 250% | 60% |
| 275% | 40% |
| 300% | 20% |
| 325% | 0% |

This public notice is also disseminated via annual publication in newspapers in the service area regarding BAYADA Charity Care, the sliding fee pay scale and time payment plans for reduced fees of \$25 per month.

For more information or questions on BAYADA's Charity Care or Financial Hardship policies, contact your local BAYADA office.



EXHIBIT 56

BAYADA HOME HEALTH CARE– MARYLAND NOTICE OF CHARITY CARE AND REDUCED FEES



Client Name: _____

Client # _____

BAYADA Home Health Care provides charity care or reduced fees to our clients with financial hardship and in accordance with Maryland regulation. BAYADA ensures access to services regardless of an individual's ability to pay.

All prospective clients are provided this notice prior to provision of services.

How the charity care and reduced fee scale works:

Upon receiving a request for charity care free of charge or reduced fees, BAYADA uses a two-step process to determine eligibility of charity care or reduced fees. BAYADA will interview the prospective client/representative to review family size, insurance, income, medical bills. BAYADA will communicate its determination of probable eligibility to the prospective client/representative within two (2) business days of the request for charity care, reduced fees, or an application for medical assistance (Medicaid).

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| Poverty Level | % Discount |
|---------------|------------|
| 100% | 100% |
| 200% | 100% |
| 225% | 80% |
| 250% | 60% |
| 275% | 40% |
| 300% | 20% |
| 325% | 0% |

I acknowledge BAYADA has given me information about charity care or reduced fees.

Signature of Client

Date

Witness

Representative, Relationship & Reason Client Unable to Sign

Date

Witness