

BEFORE THE MARYLAND HEALTH CARE COMMISSION

**IN THE MATTER OF
THE APPLICATION OF
ADVENTIST HOME HEALTH
SERVICES, INC FOR EXPANSION
OF EXISTING HOME HEALTH
AGENCY IN FREDERICK COUNTY**

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Docket No. 17-R2-2397

**IN THE MATTER OF
THE APPLICATION OF
BAYADA HOME HEALTH
FOR EXPANSION OF EXISTING
HOME HEALTH AGENCY IN
FREDERICK, WASHINGTON
ALLEGANY AND GARRETT
COUNTIES**

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Docket No. 17-R2-2399

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**CONSOLIDATED INTERESTED PARTY COMMENTS OF
AMEDISYS HOME HEALTH**

Pursuant to COMAR §10.24.01.08F(1), Amedisys Maryland, LLC, d/b/a Amedisys Home Health (“Amedisys”) seeks interested party status in these matters and provides these consolidated comments regarding the certificate of need (CON) applications to expand an existing home health agency in Western Maryland filed by: (1) Bayada Home Health (“Bayada”); and (2) Adventist Home Health Services, Inc. (“AHHS”). Amedisys’ CON application to expand existing home health services in Frederick County (Docket No.17-R2-2398) was docketed for review along with the Bayada and AHHS CON applications. Amedisys qualifies as an “interested party” in these reviews under COMAR §10.24.01.01(b)(20)(a).

BACKGROUND

The State Health Plan for Home Health Agency Services (COMAR 10.24.16) (the “HHA Chapter”) defines need for the development and expansion of home health agency (“HHA”)

services based on ensuring consumer choice of high quality providers. Where previous chapters attempted to define the need for HHA services by focusing on rates of population demand for services and changes in population, the HHA Chapter “identifies need for new HHA service providers on whether there is reasonable consumer choice of quality performing HHA providers in a jurisdiction, and takes the position that more good quality choices should be encouraged when a market is dominated by a small number of providers.” COMAR 10.24.16.03C. It emphasizes the “importance of providing consumers with meaningful choices for obtaining high quality services, in which one HHA or a small number of HHAs do not command overwhelming dominance.” COMAR 10.24.16.03B. As noted in COMAR 10.24.16.03C, this approach benefits consumers because research indicates that quality and performance scores improve over time in more competitive markets.” Pursuant to the HHA Chapter, the Commission has determined that the Western Maryland region, including Frederick County, needs new HHA providers based on the criteria outlined in COMAR 10.24.15.04A, which include insufficient consumer choice of HHAs, a highly concentrated HHA service market, or an insufficient choice of HHAs with high quality performance.

Additionally, pursuant to COMAR 10.24.16.06D and COMAR 10.24.16.07, the Commission established quality measures and performance thresholds under which applicants must qualify in order to be eligible apply for a CON in the 2017 HHA CON review schedule. While the specific standards vary by type of applicant, the standards are all related to the applicant’s quality of care and performance record. Medicare-certified HHA applicants must meet

several performance standards from the July 2016 CMS dataset in order to be eligible to apply to expand to a jurisdiction it is not currently authorized to serve.¹

Having been identified by the Commission to be qualified to apply under these quality of care and performance standards, on May 5, 2017, Amedisys filed a CON application to expand its home health agency services (License #HH7048) into Frederick County with the establishment of a branch office in that jurisdiction.² Amedisys is a parent home health agency located in Westminster, Maryland, that has been providing home health services in Carroll, Howard and Baltimore Counties since 2007. Amedisys has a proven track record as a home health agency with exceptional quality scores and HHCAPS. Amedisys is a subsidiary of Amedisys, Inc., a leading national home health and hospice provider, providing care to patients in 36 states through more than 400 Medicare certified home health and hospice agencies (including 328 parent home health agencies, subunits and branch offices. Amedisys Application at 5-6. Amedisys and its affiliates in Maryland operate seven parent agencies and one branch agency that provide home health care in 14 Maryland jurisdictions in total. Amedisys Application at 6.

In addition to the Amedisys application, AHHS and Bayada, existing Medicare-certified HHAs, filed applications to expand into the Western Maryland service area.³ AHHS is an existing HHA serving seven Maryland counties (Montgomery, Prince George's, Charles, Calvert and St. Mary's, Anne Arundel and Howard) and seeks under its CON application to expand into Frederick County. AHHS Application at 5. Bayada is an existing HHA serving Montgomery County and

¹ The Commission's guidelines are contained in the 2017 Home Health Agency Certificate of Need (CON) Review: Multi-Jurisdictional Regions, Types of Applicants, Qualifications for Accepting a CON Application and Qualifying Maryland Applicants.

² See 2017 Home Health Agency Certificate of Need (CON) Review: Multi-Jurisdictional Regions, Types of Applicants, Qualifications for Accepting a CON Application and Qualifying Maryland Applicants, at Table 1.

³ AHHS and Bayada are also identified in the Commission's guidelines as qualifying Maryland home health agencies to apply for a CON to expand into other jurisdictions in the 2017 CON review schedule for HHA projects.

seeks to expand home health agency services into Frederick County and other Western Maryland counties. Bayada Application at 7.

The HHA Chapter (COMAR 10.24.16.10) restricts the number of new entrants that may be authorized by CON approval in any review cycle to no more than 40% of the number of existing HHAs in a jurisdiction or multi-jurisdictional region with four or more agencies. In light of the number of applicants in this review, this provision does not apply so as to preclude the approval of all of the pending applications.

COMMENTS

As discussed above, the HHA Chapter “identifies need for new HHA service providers on whether there is reasonable consumer choice of quality performing HHA providers in a jurisdiction, and takes the position that more good quality choices should be encouraged when a market is dominated by a small number of providers.” COMAR 10.24.16.03C. The Commission has determined that the Western Maryland region, including Frederick County, needs new HHA providers based on criteria that include insufficient consumer choice of HHAs, a highly concentrated HHA service market, or an insufficient choice of HHAs with high quality performance. COMAR 10.24.15.04A.

Amedisys believes that it has met or exceeded all of the requirements of the HHA Chapter for the issuance of a CON in this review to expand services into Frederick County. Amedisys’ strong performance on quality measures and its experience, as well as that of its corporate family, in providing high quality home health care in Maryland and throughout the country make the Applicant well-suited to meet the demonstrated need for additional HHAs to offer high quality, home health care services to Frederick County residents. Proposing to offer a broad range of HHA

services, and innovative evidence-based clinical programs and care transitions program to reduce avoidable hospitalizations, Amedisys believes that, from a comparative perspective, its Application is the strongest of the three Applications that are pending before the Commission.

As set forth above, however, if the Commission determines that the AHHS and Bayada applications also meet the requirements of the Chapter for approval, it may approve all three pending applications without running afoul of COMAR 10.24.16.10. The Commission has recognized that providing consumers with meaningful choices for obtaining high quality HHA services, without one HHA or a small number of HHAs commanding overwhelming dominance, “benefits consumers because research indicates that quality and performance scores improve over time in more competitive markets.” COMAR 10.24.16.03B. Accordingly, the Commission is authorized to approve all qualifying applications in this review, and doing so is consistent with the intent of the HHA Chapter.

CONCLUSION

Pursuant to COMAR §10.24.01.01(b)(20)(a), Amedisys requests that the Commission takes the foregoing comments into account in making a decision in the review of these Applications. Additionally, pursuant to COMAR 10.24.09.01A(3), Amedisys requests oral argument before a recommended decision is prepared.

Respectfully submitted,

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