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April 29, 2019

**VIA ELECTRONIC MAIL
AND HAND DELIVERY**

Ruby Potter, Administrator
Maryland Health Care Commission
Center for Health Care Facilities
Planning & Development
4160 Patterson Avenue
Baltimore, MD 21215

Re: In the Matter of the Application of Bayada Home Health for Expansion of
Existing Home Health Agency in Cecil County – Docket No. 18-R1-2425

In the Matter of the Application of Optimal Health Care, Inc. to Expand an
Existing Residential Services Agency in Caroline, Cecil, Kent, Queen Anne's
and Talbot Counties – Docket No. 18-R1-2426

Dear Ms. Potter:

Enclosed are six copies of Consolidated Interested Party Comments of Amedisys Home
Health.

Thank you for your attention to this matter.

Sincerely,



Marta D. Harting

MDH:rlh
Enclosures

BEFORE THE MARYLAND HEALTH CARE COMMISSION

**IN THE MATTER OF
THE APPLICATION OF
BAYADA HOME HEALTH
FOR EXPANSION OF EXISTING
HOME HEALTH AGENCY IN
CECIL COUNTY**

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Docket No. 18-R1-2425

**IN THE MATTER OF
THE APPLICATION OF
OPTIMAL HEALTH CARE, INC.
TO EXPAND AN EXISTING
RESIDENTIAL SERVICES
AGENCY IN CAROLINE, CECIL,
KENT, QUEEN ANNE'S
AND TALBOT COUNTIES**

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Docket No. 18-R1-2426

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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 filed by (1) Bayada Home Health (“Bayada”) to expand an existing home health agency into Cecil County, and (2) Optimal Health Care, Inc., (“OHC”) to expand an existing residential services agency into providing home health agency services in Caroline, Cecil, Kent, Queen Anne’s and Talbot Counties. Both applications were filed as part of the Commission’s review of home health agency CON applications in the Upper Eastern Shore region published on October 13, 2017 and March 30, 2018.

Amedisys filed a CON application to expand existing home health services into the Upper Eastern Shore counties of Caroline, Kent and Queen Anne’s Counties on July 6, 2018 (Docket No. 18-R1-2424) in the same scheduled review, which was docketed for review along with the Bayada

and OHC CON applications. Accordingly, Amedisys qualifies as an “interested party” in these reviews as an applicant 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 determined that 15 jurisdictions in the State qualified as having a need for additional HHA services, based on the criteria outlined in COMAR 10.24.15.04A that include insufficient consumer choice of HHAs, a highly concentrated HHA service market, or an insufficient choice of HHAs with high quality performance. It configured these 15 jurisdictions into four regions, including the Upper Eastern Shore region (the counties of Caroline, Cecil, Kent, Queen Anne’s and Talbot). The Commission published the schedule for

this review of HHA applications to serve the Upper Eastern Shore region on October 13, 2017 and again on March 30, 2018.

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 this review. 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 A residential service agency (RSA) applicant must demonstrate that it has operated and provided skilled nursing services for at least three years, has established a system for collecting data including systematic collection of process, outcome and experience of care measures, has been accredited for at least the last three years of operation, and must submit data to document the ability to monitor the required quality measures and performance levels.

Amedisys is an existing parent HHA (License #HH7111) located in Salisbury, Maryland, that has been providing home health services in Dorchester, Somerset, Talbot, Wicomico and Worcester Counties since 2008. Amedisys also operates a branch office in Cambridge, Maryland. The Commission identified Amedisys as qualified to apply to expand HHA services into the Upper Eastern Shore region under the quality of care and performance standards in the State Health Plan Chapter and guidelines described above.² Accordingly, on July 6, 2018, Amedisys filed a CON application to expand its home health agency services into Caroline, Kent and Queen Anne's

¹ The Commission's guidelines are contained in the Home Health Agency Certificate of Need (CON) Review for Re-opened Upper Eastern Shore: Types of Applicants, Qualifications for Accepting a CON Application and Qualifying Maryland Applicants.

² See Home Health Agency Certificate of Need (CON) Review for Re-opened Upper Eastern Shore: Types of Applicants, Qualifications for Accepting a CON Application and Qualifying Maryland Applicants, at Table 1.

Counties. As demonstrated in its Application, 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 over 300 parent home health agencies, subunits and branch offices. Amedisys Application at 8. 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 8. Additionally, the Amedisys HHA parent located in Westminster (HH#70148) was recently granted a CON by the MHCC to expand into Frederick County (see Docket No. 17-R2-2398).

In addition to the Amedisys application, Bayada and OPC filed applications in this review to expand into one or more Upper Eastern Shore counties. Bayada is an existing HHA that seeks to expand into Cecil County from its existing branch office in Harford County.³ Bayada Application at 6. OHC is an existing RSA providing skilled nursing services, and seeks to expand into providing home health agency services in all five Upper Eastern Shore counties. OHC Application at 12.

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

³ Bayada is also identified in the Commission’s guidelines as qualifying Maryland home health agencies to apply for a CON to expand into the Upper Eastern Shore.

has determined that Caroline, Kent and Queen Anne's Counties need 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.

Only two of the three applicants in this review seek expansion of HHA services into Caroline, Kent and Queen Anne's Counties – Amedisys and OHC. 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 HHA services in these counties. As an existing HHA, 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 Amedisys a proven, high quality HHA that is well-suited to meet the need for additional HHAs to offer high quality, home health care services to residents of these counties. Further, Amedisys proposes to serve these additional counties from its existing branch office in Cambridge, making expansion an efficient use of existing resources.

Further, as shown in Amedisys' response to the comparative review criteria in its CON Application (at pages 27-29; Table 17), its Star Ratings exceeds the State average on every metric but one, and it has either maintained or improved its performance on all the required quality metrics in the most recent three year period. Amedisys also proposes to offer a broad range of HHA services, and proven, innovative evidence-based clinical programs and care transitions program to reduce avoidable hospitalizations. Accordingly, Amedisys believes that, from a comparative perspective, its Application to expand HHA services into the Upper Eastern Shore, including to Caroline, Kent and Queen Anne's Counties is the strongest application.

However, if the Commission determines that OHC has satisfied the State Health Plan standards and review criteria and that approval of both pending applications to expand HHA services to Caroline, Kent and Queen Anne's Counties does not run afoul of COMAR 10.24.16.10⁴, Amedisys does not object to the approval of the OHC application to serve these counties as well. 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.

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.

⁴The 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.

Respectfully submitted,

Marta D. Harting

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Counsel for Amedisys Home Health

AFFIRMATION

I hereby declare and affirm under the penalties of perjury that the facts stated in the foregoing Consolidated Interested Party Comments of Amedisys Home Health are true and correct to the best of my knowledge, information and belief.

Date: 4/29/19



Geoffrey Abraskin, Vice President of Operations