

Pace of Change in the Supply and Distribution of HHAs:
Limiting the Potential Negative Impact of Change

For Discussion of Agenda Item # 5
April 14, 2015 Meeting of the HHA Advisory Group

Background

In general, the types of changes in CON regulation of HHAs outlined in the White Paper and raised by staff in Advisory Group meetings are intended to allow for greater opportunities for expansion of HHAs when their performance has been good and to create better conditions for new market entrants to Maryland to succeed and perform well. If implemented correctly, these changes also have the potential to significantly streamline the regulatory process.

However, staff also believes that changes in the supply and distribution of HHAs in Maryland should not be dramatic or sweeping. They should occur at a pace that allows existing providers, markets, and regulators to adjust and absorb changes in an orderly fashion.

One direct governor on the pace of change has already been discussed; jurisdictions would not be targeted if they have new HHAs in operation (less than three years). Additionally, requiring certain types of qualifications on applicants (performance thresholds, health care background, a minimum number of years of operation or since last expansion) can substantially limit the potential applicant pool. What other policies should be incorporated in the new HHA Chapter of the State Health Plan?

Discussion Questions:

- In another discussion piece developed for this meeting (refer to Agenda Item #4), the question was posed, “Should multi-jurisdictional regions¹ be used in consideration of expansion proposals by existing HHAs, i.e., allowing these applicants to propose expanding into more than a single jurisdiction?” Rejecting this notion, and limiting expansion by existing HHAs, for example, to a single contiguous jurisdiction every three years, could clearly slow the pace of change and, when combined with a performance threshold, would require HHAs to maintain high performance, in order to expand over time. Obviously, there are trade-offs here. What is the best balance?
- Should potential impact on an existing agency’s caseload be used as a limiting factor in the number of new competitors allowed in any given review cycle? For example, if five qualifying applicants sought to expand into the same jurisdiction or multi-jurisdictional region, a policy stating that the potential impact on existing agency caseloads could not

¹ For discussion purposes, multi-jurisdictional regions refer to combining certain jurisdictions which meet qualifying factors.

exceed a given level would establish a maximum number of applications that could be approved.

- A caseload impact standard would require a set of preference rules to be established in the HHA Chapter so that applicants could be reasonably and fairly ranked. If the caseload impact standard said only two applications should be approved, only the two top-ranked applicants would receive a CON. This is challenging, given that staff has also discussed applicant qualifying criteria in structuring project review, with the objective of producing a consistent pool of reasonably qualified applicants. What preferences make sense for use in a process of this type?
- Should MHCC be concerned about impact on poor performing HHAs? Staff has suggested poor performance by the dominant HHAs in a jurisdiction as a basis for allowing consideration of additional competition. Thus, it would be consistent to give more weight to impact on high performing HHAs.
- Are there other ideas on how to integrate the two key objectives in the regulatory process; 1) a process that will allow high performing HHAs to reach more people; and 2) a process that will result in only gradual increases in the number of licensed HHAs operating in Maryland and a regulated pace of new competition entering markets, from new or existing HHAs.