

## Use of Regional Service Areas in CON Regulation of Home Health Agencies

### **For Discussion of Agenda Item #4 April 14, 2015 Meeting of the HHA Advisory Group**

#### Background

- CON regulation of home health agencies (HHAs) involves authorization of a service area, defined as a jurisdiction or jurisdictions, and thus a potential service area population, i.e., the total population of the jurisdiction or jurisdictions authorized to serve.
- The freestanding, non-specialized HHAs currently operating in Maryland have large potential service area populations. The total population (2015 estimate by MDP) of the jurisdictions authorized for these HHAs, on average, is **2.1 million**. The median potential service area population of these HHAs is **1.87 million**.
- CON regulation has historically used the jurisdiction as the geographic unit for need projection and CON approval. An applicant seeking to establish a new HHA is given the opportunity to serve a single jurisdiction. An existing HHA seeking to expand is given an opportunity to expand into a single jurisdiction.
- The largest jurisdiction in Maryland (Montgomery County) has an estimated population of **1.036 million**, smaller than the current potential service area population commanded by the average Maryland HHA or the HHA at the median of the potential service population distribution. The population of Montgomery County is smaller than the potential service area population of 62% of Maryland's existing freestanding, non-specialized HHAs.
- Only five jurisdictions in Maryland have a population in excess of 500,000. The average population of Maryland's 24 jurisdictions is **250,423**, approximately 12% of the potential service area population of the average HHA in Maryland. The median population of a Maryland jurisdiction is **108,750**, approximately 6% of the potential service area population of the median HHA in Maryland.

These facts illustrate the problem with creating a "level playing field" in CON regulation for new market entrants, i.e., persons seeking to establish new HHAs in Maryland. If all such persons are limited to establishing new agencies, at least initially, to a single jurisdiction, they are confronted with a market potential that is severely restricted, relative to competing existing agencies. In most cases, it seems likely that creating opportunities for new agency development in the very small markets that many Maryland jurisdictions represent will be futile, because they will not present attractive opportunities that will draw applicants.

Discussion Questions:

- Should the HHA Chapter provide for creation of multi-jurisdictional regions<sup>1</sup> for purposes of CON review scheduling, when such regions conform with the jurisdictional qualifying criteria, and, when aggregated, create a potential service area population that may provide a more viable option for potential applicants?
- Should multi-jurisdictional regions also be used in consideration of expansion proposals by existing HHAs, i.e., allowing these applicants to propose expanding into more than a single jurisdiction?
- Should a new applicant be permitted to apply simultaneously in more than one jurisdiction when those jurisdictions have been qualified for new agencies?

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