



October 30, 2015

Ms. Cathy Weiss
Program Manager
Center for Health Care Facilities Planning and Development
Maryland Healthcare Commission
4160 Patterson Avenue
Baltimore, MD 21215
Via e-mail: cathy.weiss@maryland.gov

RE: State Health Plan for Facilities and Services: Home Health Agency Services

Dear Ms. Weiss:

The Maryland-National Capital Homecare Association (MNCHA) is the trade association for home care providers in Maryland and the District of Columbia. Our organization represents Medicare-certified home health agencies, private duty companies and durable medical equipment suppliers. We are grateful for the opportunity to participate in the information public comment of the **State Health Plan for Facilities and Services: Home Health Agencies**.

First, MNCHA would like to thank the Commission for directly involving the home care community in this process. Our participation in the Home Health Agency Advisory Group was very beneficial in understanding the Commission's rationale for change, and the opportunities you provided to comment on proposed changes are very much appreciated. Furthermore, Commission staff members are incredibly responsive to our provider community and we are grateful for such positive working relationships and open lines of communication.

We applaud the Commission for making bold changes to the certificate of need (CON) process and for embracing the concept of enhancing access to and consumer choice of the highest quality providers. MNCHA strongly supports the momentum toward value-based purchasing in healthcare, and we appreciate the Commission's attention to quality as a major considering factor in awarding CONs. We aim to ensure that all of our members demonstrate the highest possible quality in the provision of home care services to Maryland's most vulnerable citizens.

After reviewing the entire draft document you presented, our members offer the following specific comments by page and section:

Page 11, Section .04 – Need Determination for Home Health Agency Services

- As discussed in the Advisory Group meetings, we feel there is a threshold over which there can be no significant improvement in quality by adding more providers to a county or jurisdiction already flooded with providers. For example, in Frederick County, what value will be gained by having 15 providers instead of 12 when only 10 are seeing 10 or more clients? In some of Maryland's rural areas, *we are concerned*

that the availability of clients and qualified clinical staff will be negatively impacted by the addition of new home health agencies providing traditional adult home care services through Medicare or Medicaid. We would like to work with the Commission to determine a threshold that will create a restriction based on the current number of active home health agencies in a jurisdiction for both adult and pediatric services. Thereby establishing a combination of an HHI of 0.25 and fewer than X active agencies.

Page 13, Section .06 C – Qualifications for All Applicants

- Item (2) indicates that the Commission will only accept a CON application submitted by an applicant that has not been convicted of Medicare or Medicaid fraud within the last 5 years. Our members feel strongly that *this is not an adequate qualifier and respectfully request that this be **increased to 10 years**.*
- Item (7) indicates that applicants must demonstrate a record of serving all applicable payer types, such as Medicare, Medicaid, private insurance, HMOs and self-pay patients. It is not clear how Maryland Residential Service Agencies providing home care services will be able to demonstrate experience with Medicare as they would not have held a CON in order to provide these services, and we are seeking further clarification from the Commission on this point. Furthermore, page 17, section .08 C Financial Accessibility indicates that applicants must only “agree to become licensed to maintain Medicare and Medicaid certification” which appears to be an inconsistency in the chapter.

Page 15, Section .07 Establishment of HHA Quality Measures and Performance Levels for Applicants

- In section B – Quality Measures for Maryland Medicare-certified HHAs, the Commission states that an applicant must demonstrate that it has *maintained or improved its level of performance on the selected process measures during the most three-year reporting period*. In effect, this could eliminate some of Maryland’s most highly-qualified agencies from expanding into new territories. For example, if an agency moves from a perfect score to one point less than a perfect score (still in an excellent range), that agency will not meet this “maintain or improve” standard. We suggest that the Commission strike this from the health plan and instead establish a range of qualifying quality indicators without the maintenance requirement.
- Also in this section, a great deal of concern was expressed by our membership about the ambiguity of the quality standards that will be used and the potential of repeated variations in the quality standards as various jurisdictions are opened. This one factor is our biggest concern – that this “moving target” greatly inhibits an agency’s ability to prepare or plan for future expansion with ever-changing qualification requirements. It is our hope that the Commission can establish best practices that can be standardized throughout the process in order to avoid an “impossible to navigate” marketplace and we are happy to assist with development those standards.

Page 21, Section .10 Gradual Entry of New Market Entrants

We appreciate the recognition by the Commission that gradual entry of agencies is the right approach. The Commission categorizes agencies in Table 1 of the Annual Home Health Agency Survey, FY 2013 report as Parent Agencies Authorized to Serve, Parent Agencies Actually Serving at Least 1 Client, and Parent Agencies Actually Serving at Least 10 Clients. In this section, which of these three categories are referred to as “existing HHAs”? This is important in determining how the current market situation is

defined and how many agencies the Commission will be considering to add to the various jurisdictions.

MNCHA members thank you for the opportunity to comment on this early draft of the new home health chapter. If you have any questions or wish to discuss these comments further, please do not hesitate to contact me at ahorton@mncha.org.

Sincerely,

A handwritten signature in black ink, appearing to read "Ann Horton", with a long horizontal flourish extending to the right.

Ann Horton, M.S.
Executive Director
Maryland-National Capital Homecare Association
ahorton@mncha.org