



MEMORANDUM

TO: Commissioners

FROM: Wynnee Hawk Chief, Certificate of Need

DATE: September 15, 2022

SUBJECT: Carroll County Home Health Agency Services Review
Adventist Home Health Services, Inc., Docket No. 22-06-2456
CareNet Health Systems and Services, Inc., Docket No. 22-06-2457

Enclosed is the staff report and recommendation for Home Health Agency (HHA) Services Review in Carroll County, which includes two applicants for a Certificate of Need (CON), Adventist Home Health Services, Inc., and CareNet Health Systems and Services, Inc., dba Lorien Health Services, Mt. Airy, Inc.

Adventist Home Health Services, Inc., (Adventist) a subsidiary of Adventist Healthcare (AHC) is a licensed home health agency currently authorized to serve eight jurisdictions and seeks to expand its service area by adding Carroll County. Adventist provides skilled nursing services, home health aide services, occupational therapy, speech/language therapy, physical therapy, and medical social services. The start-up cost of this project, inclusive of legal fees and contingencies, is estimated to be \$94,345. The applicant plans to fund project costs with cash.

CareNet Health Systems and Services, Inc., dba Lorien Health Systems–Mt. Airy (Lorien), is the other applicant in this review. Lorien qualified to be a HHA CON applicant based on its status as a Maryland nursing home currently licensed, accredited, and in good standing, and also operates a Residential Services Agency in the Baltimore area. Lorien provides skilled nursing services and has an acceptable, established quality assurance program, currently serving patients in Carroll County, where it proposes to establish a new HHA.

Lorien plans to provide skilled nursing, home health aide, occupational, speech and language therapy, physical therapy, and medical social services. The applicant projects spending \$155,000 in startup costs and \$30,000 in capital costs and \$45,000 in CON application and legal fees. The applicant plans to fund this project with cash.

Staff recommends that the Commission **APPROVE** the applications of both Adventist Home Health Services, Inc. and CareNet Maryland, L.L.C., d/b/a Lorien Home Health for a Certificate of Need authorizing the expansion or creation of home health agency services to Carroll County with the following conditions:

1. Maintain compliance with the provisions of COMAR 10.24.16.08E(1)-(4) regarding charity care, sliding fee scale, and reduced fee services;
2. Provide a level of charity care equivalent to or greater than the average level of charity care provided by home health agencies in Carroll County; and
3. Prior to its request for first use approval, provide documentation of its links with hospitals, nursing homes, continuing care retirement communities, hospice programs, assisted living providers, Adult Evaluation and Review Services, adult day care programs, the local Department of Social Services, and home-delivered meal programs located within its approved expanded service area.

And for Lorien, the additional condition that they:

4. Prior to their request for first use approval, provide documentation of their final version the proposed Charity Care Policy outlined in the application.



**IN THE MATTER OF THE
CARROLL COUNTY
HOME HEALTH AGENCY REVIEW**

**ADVENTIST HOME HEALTH
SERVICES, INC.
DOCKET NO. 22-06-2456**

**CARENET HEALTH
SYSTEMS AND SERVICES, INC.
DOCKET NO. 22-06-2457**

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**BEFORE
THE
MARYLAND
HEALTH CARE
COMMISSION**

Staff Report and Recommendation

September 15, 2022

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I. INTRODUCTION AND BACKGROUND

A. Home Health Agency Services Need Determination

The State Health Plan for Facilities and Services: Home Health Agency (HHA) Services, COMAR 10.24.16, is used as the basis for regulating the supply and distribution of HHA services in Maryland. A jurisdiction is identified as having a need for additional HHA services if it is determined that the jurisdiction has: (1) insufficient consumer choice of HHAs; (2) a highly concentrated HHA service market; or (3) insufficient choice of HHAs with acceptable quality performance.¹ (COMAR 10.24.16.04). Applying these criteria, the Commission identified the following five jurisdictions as needing additional HHA service providers: Carroll, Dorchester, Somerset, Wicomico and Worcester Counties.²

The Commission may create the opportunity for the submission of Certificate of Need (CON) applications for proposed development of new HHAs or expansion of existing HHAs into regional service areas composed of two or more contiguous jurisdictions. (COMAR 10.24.16.05). In November 2021, the Commission established two review cycles for the 2022 CON review of HHA projects in the five jurisdictions where need for additional HHAs was determined; a cycle for the single jurisdiction of Carroll County, and a second cycle for the four remaining jurisdictions configured into the multi-jurisdictional Lower Eastern Shore region. (See the *Maryland Register*, published November 19, 2021).

B. Types of Applicants

Pursuant to COMAR 10.24.16.06B, an applicant shall apply as one of three types of applicants:

- An existing Medicare-certified HHA licensed in Maryland and proposing to add one or more jurisdictions to its authorized service area;
- An existing Medicare-certified HHA service provider licensed in another state and proposing to establish a new HHA in Maryland; or
- A non-HHA service provider currently licensed and accredited, in good standing, as a hospital, a nursing home or a Maryland residential service agency (RSA) providing skilled nursing services and proposing to establish a new HHA in Maryland.

¹ Consistent with COMAR 10.24.16.04, insufficient consumer choice is considered to exist if a jurisdiction has two or fewer Medicare-certified HHAs that served 10 or more clients each year during the most recent three-year period for which data is available; a highly concentrated HHA market is considered for a jurisdiction when it has a Herfindahl-Hirschman Index (HHI) of 0.25 or higher; and, an insufficient choice of quality performing HHAs in a jurisdiction is considered when HHAs serving 60 percent or more of the clients in the jurisdiction did not meet the applicable quality performance requirements designated by the Commission.

² Carroll County had an insufficient choice of quality performing HHAs, with 68.9 percent of its clients being served by HHAs which did not meet the Commission-approved quality performance requirements for this CON review cycle. Dorchester, Somerset, Wicomico, and Worcester Counties each had highly concentrated HHA markets as defined by the Herfindahl-Hirschman Index (“HHI”) of 0.37, 0.41, 0.36, and 0.42, respectively.

C. Qualifications for Applicants

The Commission only accepts CON applications from applicants that demonstrate compliance with general qualifications required by COMAR 10.24.16.06C. An applicant:

- (1) Cannot have had a suspension of Medicare or Medicaid payments within the last 5 years;
- (2) Cannot have been convicted of Medicare or Medicaid fraud or abuse within the last 10 years;
- (3) Has received satisfactory surveys reflecting no serious adverse citations on the two most recent survey cycles;
- (4) Has fully complied with licensure, certification and accreditation requirements during the most recent three years;
- (5) Has submitted an acceptable plan of correction for any valid and serious patient-related complaint investigated over the past three years;
- (6) Has complied with all applicable federal and State quality of care reporting requirements and performance standards;
- (7) Has sufficient financial resources for the project proposed;
- (8) Has a record of serving all payer types; and
- (9) Has an absence of criminal or fraudulent behavior in its history of health care facility operations. (COMAR 10.24.16.06C).

Furthermore, in addition to meeting the qualifications in regulation .06C, certain performance-related qualifications that vary by type of applicant are also necessary for accepting an application. (COMAR 10.24.16.06D and COMAR 10.24.16.07). Because quality and performance metrics continue to evolve, the HHA Chapter has established a process for updating the quality metrics without requiring promulgation of new regulations. The Commission considers proposed quality measures and performance levels by type of applicant and that information is posted for public comment before the initiation of any given review cycle. The quality measures and performance levels used for the 2022 HHA CON review schedules were approved by the Commission at its September 23, 2021 meeting.³

D. The Applicants

Two qualifying applicants submitted applications to provide home health agency services to Carroll County residents. The CON preference rules under a comparative review defined in COMAR 10.24.16.09 are not applied, as the number of applicants does not exceed the permitted number of additional HHAs for the Carroll County region as provided in COMAR 10.24.16.10.⁴

³ Performance-related qualifications by type of applicant for the 2022 HHA CON Review are described in the Guidelines document and may be found at this link on the Commission's website https://mhcc.maryland.gov/mhcc/pages/hcfs/hcfs_homehealth/documents/2022_HHA_Guidelines.pdf

⁴ Regulations requiring gradual entry of new market entrants into a jurisdiction or multi-jurisdictional region, as provided in COMAR 10.24.16.10, promote gradual growth in the number of HHAs in the jurisdiction and are intended to avoid excessive disruption or destabilization of existing HHA operations. The Commission limits the number of new entrants authorized by CON approval for any given review cycle to no more than 40 percent of the number of existing HHAs in a jurisdiction or multi-jurisdictional region with four or more agencies and no more than one additional HHA in a jurisdiction or multi-jurisdictional region with fewer than four existing HHAs. For the Carroll County region review, the maximum number of possible new HHA entrants is four.

Adventist

Adventist Home Health Services, Inc., (Adventist) is a subsidiary of Adventist Healthcare (AHC).⁵ It is currently authorized to provide home health services in eight jurisdictions. Adventist provides skilled nursing services, home health aide services, occupational therapy, speech/language therapy, physical therapy, and medical social services.

Adventist documented that, as of the date of the CON application filing, it had a Center for Medicare and Medicaid Services (CMS) Nursing Home Compare 4.5-star quality rating as an existing home health agency. This compares with the Maryland average of 4 stars and a national average of 3.5 stars. (DI #5, p.31). The applicant states that it delivers home health care services to clients of all ages and incomes to support better health outcomes and to prevent hospital readmissions. Adventist states that they have been designated by the ABILITY ® Network as a Home Care Elite Agency. (DI #5, p.5). Adventist is one of the 18 Maryland Medicare-certified HHAs that met the required performance levels in the CMS Home Health Compare dataset, and thus qualified to apply for a CON to expand its services into Carroll County.

Lorien

CareNet Health Systems and Services, Inc., dba Lorien Health Systems–Mt. Airy (Lorien), is the other applicant in this review. Lorien qualified to be a HHA CON applicant based on its status as a Maryland nursing home currently licensed, accredited, and in good standing. Lorien provides skilled nursing services and has an acceptable, established quality assurance program, currently serving patients in Carroll County, where it proposes to establish a new HHA. Lorien also operates a residential service agency in the Baltimore area. The business address for Lorien is 705 Midway Avenue, in Mt. Airy. Lorien reports its CMS Nursing Home Compare website star rating as an overall 3-star rating⁶ (out of five), which was confirmed in the most recent quarterly ratings on the CMS website, on August 29, 2022.

Maryland Health Enterprises, Inc. dba Lorien Health Services (LHS) is a management company that provides management services to the facility. Maryland Health Enterprises, Inc. was founded in 1977 by Nicholas B. and Mary C. Mangione and is owned in equal percentages by the founders' ten adult children. The business address for LHS is 1205 York Road in Lutherville.

The business organization chart for each applicant is shown and described in Appendix 1.

⁵ AHC operates three hospitals; White Oak Medical Center in Silver Spring, Shady Grove Medical Center in Rockville, and Fort Washington Medical Center, in Prince George's County. AHC operates a freestanding medical facility in Germantown. It also operates three urgent care centers in Rockville, Takoma Park, Germantown, and Laurel, two special rehabilitation hospitals in Rockville and Silver Spring, and other diagnostic and treatment centers. (DI #5, pp.5-6).

⁶ The quality of patient care star rating summarizes eight of the 23 quality measures reported to CMS and provided on the Nursing Home Compare website:

<https://www.medicare.gov/what-medicare-covers/what-part-a-covers/compare-nursing-home-quality>

It provides a single overall indicator of a nursing home's performance compared to other nursing homes. Five stars is the highest rating.

E. The Proposed Projects

Adventist

Adventist proposes to provide HHA services to residents of Carroll County, which it states is a natural progression because it already serves the contiguous jurisdictions of Montgomery, Frederick, and Howard. Adventist plans to provide skilled nursing services for adult cardiac, diabetic, oncologic, ostomy, and infusion patients. It will provide total peritoneal nutrition, medication management, wound care and maternal and child home care and nursing services, as well as home health aide, medical social work, chaplaincy, nutrition services, and occupational, physical and speech rehabilitation therapies. The start-up cost of this project, inclusive of legal fees and contingencies, is estimated to be \$94,345. Adventist plans to fund project costs with cash. Adventist projects that it will be operational in Carroll County within one month of receiving a CON. (DI #5, p.5 and Table 1).

Lorien

Lorien proposes to establish a new HHA to serve Carroll County with the Mt. Airy office as a base of operations. (DI #7, p. 13). Lorien plans to provide the six major home health services: skilled nursing, home health aide, occupational, speech and language therapy, physical therapy, and medical social services. The applicant projects spending \$155,000 in startup costs and \$30,000 in capital costs and \$45,000 in CON application and legal fees. The applicant states that, upon CON approval, they will take the necessary steps to obtain HHA licensure and Medicare certification which is estimated to take 12 months to complete. (DI #7, p. 12). The applicant plans to fund this project with cash. (DI #7, pp. 57-58).

F. Summary of Staff Recommendation

Staff concludes that Adventist's plan to expand its HHA services into Carroll County and Lorien's proposed establishment of an HHA in Carroll County both comply with the general CON review criteria at COMAR 10.24.01.08G(3)(a)-(f), which includes the applicable CON review standards in the State Health Plan (COMAR 10.24.16).

The Commission determined the need for additional home health agency providers in the Carroll County region in accordance with COMAR 10.24.16.04, based on an insufficient choice of HHAs with higher (above-average) quality performance.⁷ The proposed projects are viable and have an acceptable impact.

For these reasons, staff recommends that the Commission **APPROVE** the applications of Adventist Home Health Services, Inc. and CareNet Health Systems and Services, Inc., dba Lorien Health Systems–Mt. Airy, with the following conditions attached to each applicant's CON:

1. Maintain compliance with the provisions of COMAR 10.24.16.08E(1)-(4) regarding charity care, sliding fee scale, and reduced fee services;

⁷ See discussion in the Background section of the recommended decision, *supra*, p. 1-2.

2. Provide a level of charity care equivalent to or greater than the average level of charity care provided by home health agencies in Carroll County; and
3. Prior to their request for first use approval, provide documentation of their links with hospitals, nursing homes, continuing care retirement communities, hospice programs, assisted living providers, Adult Evaluation and Review Services, adult day care programs, the local Department of Social Services, and home-delivered meal programs located within its approved or expanded service area.

And for CareNet Health Systems and Services, Inc., dba Lorien Health Systems – Mt. Airy, the additional condition that:

4. Prior to a request for first use approval, provide documentation of its final Charity Care Policy applicable to the provision of home health agency services.⁸

II. PROCEDURAL HISTORY

A. Record of the Review

Adventist and Lorien filed their applications on May 9, 2022. Each application required one round of completeness questions prior to docketing. Appendix 2 includes a detailed Record of the Review for each application.

B. Interested Party in the Review

No interested parties submitted comments on the applications.

C. Local Government Review and Comment

Adventist received letters of support from by Senator Justin Ready and Delegates April Rose, Susan Krebs, and Haven Shoemaker, all expressing the view that Adventist is a high-quality provider and a welcome addition to Carroll County. Lorien submitted no letters from local government agencies or individuals on their application.

D. Community Support

Adventist received a letter of support from Sun Valley Assisted Living Communities about Adventist's high-quality ratings and stating that it looks forward to partnering in the future. Lorien received several letters of support from the community included in Exhibit 7 of the application. The letters generally stated enthusiastic support for the proposed new home health agency and recognition of the excellent reputation of the existing health care services provided by Lorien.

III. REVIEW AND ANALYSIS

⁸ Lorien provided a proposed charity care policy because they are establishing a new HHA. Staff recommends that the Commission request the final policy before Lorien requests first use approval.

The Commission reviews CON applications in accordance with COMAR 10.24.01.08G(3). The first criterion concerns the standards and policies in the relevant chapter of the State Health Plan.

- A. COMAR 10.24.01.08G(3)(a) THE STATE HEALTH PLAN**
An application for a Certificate of Need shall be evaluated according to all relevant State Health Plan standards, policies, and criteria.

In this review, the State Health Plan for Facilities and Services: Home Health Agency Services, COMAR 10.24.16, is the relevant chapter of regulation.

COMAR 10.24.16.08 Certificate of Need Review Standards for Home Health Agency Services.

A. Service Area

An applicant shall:

- (1) Designate the jurisdiction or jurisdictions in which it proposes to provide home health agency services; and*
- (2) Provide an overall description of the configuration of the parent home health agency and its interrelationships, including the designation and location of its main office, each subunit, and each branch, as defined in this Chapter, or other major administrative offices recognized by Medicare.*

Applicants' Responses

Adventist

Adventist has an existing home health agency, with its main office in Silver Spring and two branch offices in Fort Washington and Rockville and seeks to expand into Carroll County. Adventist is not proposing the establishment of any branch or satellite office in Carroll County, and it will operate the new Carroll County service out of the Rockville branch office. (DI #5, p.7). The applicant has included a breakdown of its main and branch offices. (DI #5, p.4). It also included the configuration of its parent organization. (DI #5, Exh.1).

Lorien

Lorien proposes to establish a HHA that will serve Carroll County residents. Lorien plans to serve this jurisdiction through the existing main office located at 705 Midway Avenue in Mt. Airy, in Carroll County. There are no subunit or branch offices planned as the home health agency is being established. (DI #7, pp. 7-8, 11).

Staff Analysis and Findings

Staff concludes that each applicant has complied with this standard.

B. Populations and Services.

An applicant shall describe the population to be served and the specific services it will provide.

Applicants' Responses

Adventist

Adventist states that it will provide skilled nursing services, occupational, physical and speech language therapy, medical social work service, infusion, wound care, nutrition, chaplaincy, and home health aide services. Although 78.6 percent of Adventist's clients are aged 65 and older, it currently serves all ages and will continue to do so in Carroll County. (DI #5, p.8).

Lorien

Lorien states that it plans to provide skilled nursing, home health aide, occupational therapy, speech language therapy, physical therapy, and medical social services to all persons in Carroll County, with a focus on serving patients through its Mt. Airy and Taneytown locations in Carroll County. (DI #7, pp. 11-12). Lorien noted that the population age 65+ will be the primary recipients of its proposed HHA services and that the elderly population of Carroll County has experienced substantial growth within the past 10 years and is projected to continue to grow.

Staff Analysis and Findings

Both applicants described the population they will serve and the specific services they will provide and, therefore, both meet the requirements of this standard.

Standard .08C Financial Accessibility, .08D Fees and Time Payment Plan, .08H Financial Solvency, .08J Discharge Planning, and .08K Data Collection and Submission.

Among the remaining applicable standards are several that prescribe policies, staffing or service requirements that an applicant must meet, or agree to meet prior to commencement of operations; and some that require documentation or proof of compliance. The following standards require future documentation and affirmation of compliance:

- .08C Financial Accessibility,
- .08D Fees and Time Payment Plan,
- .08H Financial Solvency,
- .08J Discharge Planning, and
- .08K Data Collection and Submission.

Applicants' Responses

Adventist

Adventist is currently Medicare and Medicaid certified and agrees to maintain the certifications, and to continue to accept clients whose primary source of payment is Medicare or

Medicaid. Adventist has a charity care policy in place and policies that allow for grants of time for making payments. Adventist states that it will make its fees known at the time of the client assessment. Adventist has documented the financial resources necessary to implement their proposed expansion of service to Carroll County. Adventist has an appropriate discharge planning process and agrees to comply with all data collection requirements of MHCC, CMS, or other regulatory agencies.

Lorien

Lorien is currently Medicare and Medicaid certified as a nursing home provider, and agrees to obtain HHA certifications, to maintain these certifications, and to accept clients whose primary source of payment is Medicare or Medicaid. Lorien agrees to establish a charity care policy and a policy for payment over time. It states an intent to make its fees known at the time of the client assessment. Lorien has documented it has the financial resources necessary to implement the proposed establishment of HHA services in Carroll County. Lorien agrees to establish discharge planning guidelines, and to comply with all data collection requirements.

Staff Analysis and Findings

Staff has reviewed Adventist and Lorien's CON applications and confirmed that both applicants have provided the required information and affirmations, and both comply with this standard.

The text of these standards and the documented compliance with page number locations within the application file are attached as Appendix 3.

E. Charity Care and Sliding Fee Scale.

Each applicant for home health agency services shall have a written policy for the provision of charity care for indigent and uninsured patients to ensure access to home health agency services regardless of an individual's ability to pay and shall provide home health agency services on a charitable basis to qualified indigent and low-income persons consistent with this policy. The policy shall include provisions for, at a minimum, the following:

(1) Determination of Eligibility for Charity Care and Reduced Fees. Within two business days following a client's initial request for charity care services, application for medical assistance, or both, the home health agency shall make a determination of probable eligibility for medical assistance, charity care, and reduced fees, and communicate this probable eligibility determination to the client.

Applicants' Responses

Adventist

Adventist submitted a copy of its charity care policy, which describes the procedure for assessing eligibility for charitable service provision to low income, uninsured, underinsured, and indigent clients who may qualify for charity care or reduced fees. (DI #5, pp. 11-14 and Exh. 2). Adventist's charity care policy states that Adventist shall determine probable eligibility for Medical Assistance, charity care and reduced fees or time payments within two business days following a client's initial request and communicate this probable eligibility determination to the client. (DI #5, p. 11 and Exh. 2).

Lorien

Lorien submitted a proposed charity care policy and states that it will inform a prospective client of its determination of probable eligibility for assistance within two business days of a request for charity care, reduced fees, or application for Medicaid. Its policy describes a two-step process to determine eligibility for charity care. Lorien will initially determine probable eligibility based only on information received in an interview with the prospective client, and inform the client at that time, or within two business days. A final determination of eligibility for charity care or discounted fees requires the client to provide documentation of income and expenses. (DI #7, Exh. 1).

Staff Analysis and Findings

The charity care standard requires that a HHA determine probable eligibility within two business days of a client's request for charity or reduced fee care and communicate that determination to the client. This requirement is intended to communicate quickly to a patient the likelihood of qualification while they are compiling the required documentation. In essence, this subsection acknowledges that it may take a client some time to get all the documentation that an HHA requires before the HHA will make a *final determination* of the client's eligibility.

Each applicant's charity care and sliding fee scale policy is designed so that a determination of probable eligibility for financial assistance will be made within two business days *of an initial request* for charity care or reduced fees, as required by the standard.

Each applicant complies with this subsection of the charity care standard.

(2) Notice of Charity Care and Sliding Fee Scale Policies. Public notice and information regarding the home health agency's charity care and sliding fee scale policies shall be disseminated, on an annual basis, through methods designed to best reach the population in the HHA's service area, and in a format understandable by the service area population. Notices regarding the HHA's charity care and sliding fee scale policies shall be posted in the business office of the HHA and on the HHA's website, if such a site is maintained. Prior to the provision of HHA services, a HHA shall address clients' or clients' families concerns with payment for HHA services and provide

individual notice regarding the HHA's charity care and sliding fee scale policies to the client and family.

Applicants' Responses

Adventist

Adventist states that a notice of its charity care policy is posted annually in both the Washington Post and the Baltimore Sun. (DI #5, Exh. 3-4). Adventist also states that the notice is displayed on the agency website in both English and Spanish.⁹(DI #5, p.11). In addition, the applicant submitted photos of the charity care policy in the business office. (DI #5, Exh.12). The applicant states that, prior to the provision of services, it discusses and provides notice of payment of services, charity care, and sliding fee scales with the client and family. (DI #5, p.11).

Lorien

Lorien provided its proposed charity care forms, notices, and information. (DI #7, pp. 19-20, Exh. 1). A summary notice entitled "Notice of Availability of Uncompensated Services" describes a summary of the policy and the income limits. It also states that such notice will be posted in all of its business offices in its service area, provided to all potential patients and their families, posted on the applicant's website, provided to the local health departments and other social services agencies in the applicant's service area, provided to local referral sources in the applicant's service area, and provided to all local nonprofits or other agencies that the applicant partners with to provide charity care. (DI #7, Exh. 1, and DI #13, pp. 2-3.).

Lorien also noted that it will publish notice of its charity care policy in the local newspaper, the Carroll County Times, twice annually. (DI #7, Exh. 1, and DI #13, p. 2). Lorien provided copies of the notices it intends to use concerning its proposed HHA charity care and sliding fee scale policies and documented how it will disseminate this information to the public.

Staff Analysis and Findings

Each applicant has met this subpart of the standard.

(3) Discounted Care Based on a Sliding Fee Scale and Time Payment Plan Policy. Each HHA's charity care policy shall include provisions for a sliding fee scale and time payment plans for low-income clients who do not qualify for full charity care, but are unable to bear the full cost of services.

Applicants' Responses

Adventist

Adventist's charity care policy includes a sliding fee schedule and time payment plan option for those who may not qualify for charity but still may require assistance and provides a copy of the policy to all clients. (DI #5, Exh.2).

⁹ <https://www.adventisthealthcare.com/patients-visitors/billing-financial/assistance/>

Lorien

Lorien’s proposed charity care policy states that charity care is available to clients whose total family income is below 200 percent of the Federal Poverty Level as determined by family size. Additionally, the proposed charity care policy describes reduced fees for low-income clients and the option of a “time payment plan” for reduced fees, for as little as \$10 per month (DI #7, Exh. 1, pp 1-3).

Staff Analysis and Findings

Both applicants provided copies of their policies, existing and proposed, that address financial assistance. Each policy complies with the subpart of the standard by providing clear and consistent information on the provisions for sliding fee scale and time payment plans for indigent clients who do not qualify for charity care but are unable to bear the full cost of services. Each applicant has met this subpart of the standard.

(4) Policy Provisions. An applicant proposing to establish a home health agency or expand home health agency services to a previously unauthorized jurisdiction shall make a commitment to, at a minimum, provide an amount of charity care equivalent to the average amount of charity care provided by home health agencies in the jurisdiction or multi-jurisdictional region it proposes to serve during the most recent year for which data is available. The applicant shall demonstrate that:

(a) Its track record in the provision of charity care services, if any, supports the credibility of its commitment; and

(b) It has a specific plan for achieving the level of charity care to which it is committed.

Applicants’ Responses

Adventist

Adventist states that it will provide at a minimum, a level of charity care equivalent to the average level of charity care provided in Carroll County by existing providers for the most recent year (2019) for which there is data provided. In Carroll County the average percent of charity care visits compared to total visits provided was 0.005 percent. (DI #5. pp. 2-3). In comparison, in the jurisdictions currently served, Adventist claims an average 0.37 percent charity care visits as shown in table IV-2 below.

Table IV-1: Adventist Home Health Services, Proportion of Total HHA Visits Provided as Charity Care Visits, 2019

Agency	County	Charity Visits	Total Visits	Percent
Adventist Home Health Services, Inc.	Anne Arundel	0	322	0.00%
Adventist Home Health Services, Inc.	Calvert	0	0	0.00%
Adventist Home Health Services, Inc.	Charles	0	8,420	0.00%
Adventist Home Health Services, Inc.	Frederick	6	622	0.96%
Adventist Home Health Services, Inc.	Howard	7	1,688	0.41%
Adventist Home Health Services, Inc.	Montgomery	361	86,409	0.42%
Adventist Home Health Services, Inc.	Prince George's	124	37,267	0.33%
Adventist Home Health Services, Inc.	St, Mary's	0	354	0.00%
Total		498	135,082	0.37%

Source: Maryland Health Care Commission, Maryland Home Health Agency Annual Survey for Fiscal Year 2019, Tables 16 and 25.

Lastly, the applicant states that charity care has its own line item on the profit and loss statement for the agency, which they monitor twice a month and compare to the budgeted goals.

Adventist states that it has been successful at achieving a high level of charity care in Montgomery County, nearly 2.5 times higher compared to its competitors, in the county in which it has the highest number of HHA visits. The applicant plans to model the Carroll County charity care program after Montgomery County. Adventist states that its care navigation team and business development team monitor this metric and disseminate information to referral sources on the availability of charity care services as needed. (DI #5, p.15).

Lorien

Lorien states that it is committed to provide a level of charity care above the average amount reported by HHAs in Carroll County in 2019, which was 0.005 percent of total HHA visits. (DI #13, p. 2).¹⁰

Table IV-2 shows the most recent reported data on the total provision of charity care by HHAs serving Carroll County in fiscal year (FY) 2019.

¹⁰ Four charity care visits out of 81,501 total visits for Carroll County. Shown in Table IV-2 below.

**Table IV-2: Charity Care Clients and Visits and Total Clients and Visits, FY 2019
Carroll County**

County	Number of HHA Providers *	HHAs Reporting Provision of Charity Care	Total Reported Charity Care HHA Clients	Total HHA Clients	Percentage of Total Clients Receiving Charity Care	Total Reported Charity Care Visits	Total HHA Visits	Percentage of Total Visits Receiving Charity Care
Carroll	14	1	2	4,224	0.047%	4	81,501	0.005%

Source: MHCC, HHA Public Use Dataset, FY 2019 Table 25.

* Total unduplicated counts of HHAs in Carroll County.

Lorien has proposed a detailed charity care policy and has a charity care goal to provide at least 0.50 percent of total visits as charity care visits, which is projected to amount to 21 visits. Lorien will provide charity care policy information to all service providers with which it establishes linkages including Carroll Hospital Center, other nursing homes, continuing care retirement communities, hospice programs, other assisted living providers and adult day care providers. The applicant’s plan includes establishing and maintaining ongoing referral relationships with leading Carroll County nonprofit organizations that serve disadvantaged and indigent populations. Additionally, applicant will share the policy with Carroll County’s Adult Evaluation and Review Services and the Carroll County Department of Social Services. (DI #13, p. 2).

Lorien is not an existing Maryland HHA, therefore, it is not required to and has no track record to report on its provision of charity care. (DI #13, p. 2).

Staff Analysis and Findings

Staff concludes that each applicant meets the standard. As an existing HHA provider proposing to add Carroll County, Adventist has a proven track record of providing charity care services and has demonstrated a commitment to the communities it serves, meeting this subpart of the standard.

Staff also concludes that Lorien, as an applicant proposing to establish HHA services, also complies with the charity care and sliding fee scale subsection of this standard.

Given each applicant’s agreement to meet or continue to conform with this standard, staff concludes that each satisfies this standard, and recommends that any approval of this project be issued with the following conditions:

1. The Applicant will maintain compliance with the provisions of COMAR 10.24.16.08E(1)-(4) regarding charity care, sliding fee scale, and reduced fee services;
2. The applicant. will provide a level of charity care equivalent to or greater than the average level of charity care provided by home health agencies in Carroll County;

Additionally, for Lorien:

3. Prior to a request for first use approval, CareNet Health Systems and Services, Inc. will provide documentation of its final Charity Care Policy applicable to the provision of home health agency services.

F. Financial Feasibility.

An applicant shall submit financial projections for its proposed project that must be accompanied by a statement containing the assumptions used to develop projections for its operating revenues and costs. Each applicant must document that:

- (1) *Utilization projections are consistent with observed historic trends of HHAs in each jurisdiction for which the applicant seeks authority to provide home health agency services;*

Applicants’ Responses

Adventist

Adventist projected the total number of unduplicated clients in Carroll County from 2023-2025, as seen in the chart below.

Table: IV-3 Population, Home Health Clients, and Use Rate/1,000 Population by Age, Carroll County

Age Groups	0-4	5-14	15-24	25-44	45-64	65-74	75-84	85+	Total
2019 Population	8,284	19,397	20,654	35,894	52,032	18,408	9,275	4,418	168,361
2019 Clients	112	15	23	128	819	1,007	1,171	949	4,224
2019 Use Rate/1,000	13.52	0.77	1.11	3.57	15.74	54.70	126.25	214.80	25.09
Population									
2023 Population	8,733	18,486	19,528	37,499	48,104	20,919	11,729	5,109	170,107
2024 Population	8,856	18,363	19,243	38,003	47,015	21,560	12,468	5,308	170,816
2025 Population	8,981	18,246	18,963	38,521	45,994	22,222	13,255	5,514	171,696
Projected Clients									
2023 Clients, Projected	118	14	22	134	757	1,144	1,481	1,097	4,768
2024 Clients, Projected	120	14	21	136	740	1,179	1,574	1,140	4,925
2025 Clients, Projected	121	14	21	137	724	1,216	1,673	1,184	5,092
Incremental Growth									
Difference, 2019-2023	6	-1	-1	6	-62	137	310	148	544
Difference, 2019-2024	8	-1	-2	8	-79	172	403	191	701
Difference, 2019-2025	9	-1	-2	9	-95	209	502	235	868

Source: Maryland Health Care Commission, Maryland Home Health Agency Annual Survey for Fiscal Year 2019, Table 15

This projection was based on a use rate of 25.1 HHA clients per thousand population derived from the MHCC Public Use files on Home Health Raw Jurisdiction Data, which looked at the use rate from 2016-2019 in Carroll County, with the assumption that the 2019 use rate would

stabilize. The use rate was applied to the projected population in the county to estimate the total number of clients in the projection period. (DI #5, p.17). The applicant notes, however, that the use rate was declining from 2016 to 2019 as shown in the table below.

Table IV-4: Carroll County Home Health Use Rates 2016 – 2019 (per 1,000 population)

Year	Population	Home Health Clients	Use Rate
2016	167,493	4,637	27.7
2017	167,608	4,680	27.9
2018	167,898	4,456	26.5
2019	168,361	4,224	25.1
Growth Rate	0.17%	-3.06%	

Based on MHCC HHA Annual Surveys from 2016 to 2019. Source: DI #5, pg. 17.

Adventist made assumptions about the share of home health clients it would serve without displacing other providers, based on its ability to market and recruit staff. The applicant assumed capturing 2.5 percent of the market in 2023, five percent in 2024 and six percent in 2025 as seen in the chart below.

Table IV-5: Adventist Projected Client Share

	2023	2024	2025
Adventist Clients, Carroll County	119	246	305
Total Projected Home Health Clients, Carroll County	4,768	4,925	5,092
Adventist Share of Projected Home Health Clients	2.5%	5.0%	6.0%
Incremental Growth, Total	544	701	868
Adventist Share of Incremental Growth	21.9%	35.1%	35.2%
Incremental Growth, Other HHA's	425	455	563

Based on MHCC HHA Annual Surveys 2019. Source: DI #5, pg. 23.

In addition, the applicant notes that from 2015 to 2020, the population aged 65 and older increased by 22.2 percent, and this population is expected to grow in Carroll County by another 22.6 percent between 2020 and 2025.¹¹ AHC notes that, since 2019, 74 percent of its home health clients were aged 65 and older and speculates that the declining use rate is an indicator that existing providers are not sufficient to meet the need. Adventist also states that MHCC's own projection of need in Carroll County validates increased utilization projections. (DI #5, p.18).

¹¹ Source: Maryland Department of Planning (MDP) population projections. (DI #5, p.9)

Lorien

Lorien based utilization projections on their organization's internal historic data regarding referrals to existing HHAs in Carroll County from the existing Lorien Mt. Airy and Lorien Taneytown nursing homes it currently operates in Carroll County. (DI #7- p. 64). The projections are based on capturing only fifty (50) percent of Lorien's existing HHA referrals. It is anticipated that full utilization will be achieved by year two, with 206 patients in the first and 264 in the second year of operation. The budget is based on 16 visits per patient, yielding 3,296 projected visits in the first year and 4,224 in the second year of operation. In the need criterion (*infra*, pp. 21-23), Lorien determined a net need between 583 to 829 additional client visits, depending on the use rate. Lorien states they are highly confident they will be able to achieve the visit volume projections. (DI #7, p 29).

Staff Analysis and Findings

Adventist provided an analysis of population growth and trends in the average use rate for home health services by the population. While the use rate trend has been declining, Adventist did use the lowest and most current rate in developing its projections for future volumes, and the assumptions used are reasonable.

Lorien, anticipating its volume to initially originate from its own nursing home population, examined the use rate of home care services by the nursing home population to determine its projected volume as the basis for its revenue and expense projections.

Each of the applicants has met the requirements of this subsection of the standard.

(2) Projected revenue estimates are consistent with current or anticipated charge levels, rates of reimbursement, contractual adjustments and discounts, bad debt, and charity care provision, as experienced by the applicant if an existing HHA or, if a proposed new HHA, consistent with the recent experience of other Maryland HHAs serving each proposed jurisdiction; and

Applicants' Responses

Adventist

Adventist based its financial projections on its current and anticipated charge levels, reimbursement, contractual adjustments, bad debt and charity care provision. The applicant included the assumptions it used in Exhibit five. (DI #5, Exh.5).

Lorien

Lorien projects its revenue based on the assumption it will receive the standard Medicare and Medicaid rates of reimbursement. Lorien states that it has adjusted its gross revenue projections to yield projections of net revenue by accounting for contractual adjustments, discounts, and bad debt. (DI #7, pp. 64-69, Table 4 and 5).

Staff Analysis and Findings

Each of the applicants comply with this subsection of the standard.

(3) Staffing and overall expense projections are consistent with utilization projections and are based on current expenditure levels and reasonably anticipated future staffing levels as experienced by the applicant if an existing HHA or, if a proposed new HHA, consistent with the recent experience of other Maryland HHAs serving each proposed jurisdiction.

Applicants' Responses

Adventist

Adventist's expense projections are based on the utilization shown above in Table IV-5, *supra p. 14*. The applicant states that a typical full-time employee ("FTE") can complete 5-6 visits a day. (DI #5, p.9). Adventist's staffing projections anticipate that it will need to add 0.36 FTE registered nurses, 0.39 FTE physical therapists, 0.10 FTE occupational therapists, 0.03 FTE speech therapists, 0.04 FTE home health aides, 0.02 FTE medical social workers and 0.20 FTE administrative personnel for expansion into Carroll County. (DI #5, Exh.5).

Lorien

Lorien's staffing projections are based on an average of 16 visits per 30-day billing cycle, distributed by the CMS average for each FTE professional staff position (nurse, physical therapist, occupational therapist, speech and language therapist, and medical social worker). (DI #7, p. 65). This visit assumption was used to calculate the total visits by each discipline. (DI #7, p. 66). Finally, the number of labor hours required per visit for each discipline were used to calculate the total work hours needed, and further calculate the number of FTE's needed in each discipline. (DI #7, p. 67). Lorien projects a need for 1.96 FTE registered nurses, 1.16 FTE physical therapists, 0.36 FTE occupational therapists, 0.08 FTE speech therapists, 0.25 FTE home health aides, 0.02 FTE medical social work and 1.50 FTEs for administrative personnel for Carroll County. (DI #7, p. 68, Table 5).

Staff Analysis and Findings

To assess the staffing and expense forecasts, staff examined the ratio of reported visits to reported FTEs for six major service disciplines for all HHAs in Maryland, as reflected in survey-based public use files. (Table IV-6). The projected number of visits per FTE for the applicants, as shown in the table, reflect staffing and use projections at full project implementation. This information suggests that Adventist has projected a level of efficiency that exceeds the average experience in Maryland for five of the six disciplines and the greater efficiency projected is substantial in four of the five disciplines (ranging from 14% to 37% variance in visits per FTE) but Adventist is a large HHA and its scale of operation could be expected to allow for more efficient operation than the state average. Its projections are probably aligned with its actual experience. Lorien's ratios are more closely aligned with the observed state average experience. Its proposed HHA will be small in scale, serving residents of a single jurisdiction.

Table IV-6: Projected HHA Visits per FTE Staff Projected by Applicants and the Reported Maryland Average

Applicant	Skilled Nursing	Physical Therapy	Occupational Therapy	Speech Therapy	Home Health Aide	Medical Social Services
Lorien	924	1,387	1,300	1,095	967	462
Adventist	1,321	1,574	1,624	832	1,045	593
Maryland Average FY 2019	963	1,375	1,325	1,094	964	468

Sources: Projected number of visits by discipline (Table 2B); projected number of FTEs (Table 5), from required data submitted in each respective CON applications.

Maryland Statewide Average number of HHA visits per FTE by major discipline is calculated from HHA Public Use Data, FY 2019, HHA Utilization Tables 9 and 11.

Notes: The total visits reflect projections of the applicants at full utilization in second year of operation. Skilled nursing includes registered nurses and licensed practical nurse. Physical therapy (“PT”) FTEs include PT assistants.

Staff concludes that both Adventist’s and Lorien’s financial projections can credibly be viewed as having a basis in reasonable assumptions concerning utilization, revenue, expenses, and staffing requirements. Each of the applicants have complied with this subsection of the standard and the Financial Feasibility of the standard, in its entirety.

G. Impact

An applicant shall address the impact of its proposed home health agency service on each existing home health agency authorized to serve each jurisdiction or regional service area affected by the proposed project. This shall include impact on existing HHAs’ caseloads, staffing and payor mix.

Applicants’ Responses

Adventist

Adventist states that it has an existing home health agency presence in Frederick, Howard, and Montgomery Counties, all of which are contiguous to Carroll County. Through its network in contiguous counties, Adventist has already begun to build relationships with the Carroll County health care community as evidenced by the letters of support that accompany the application. (DI #5, p.19). The applicant states that AHC has served a minimal number (76 over the last three years) of Carroll County clients in its various hospitals and states its belief that the proposed project will be able to address unmet need in the county. The applicant plans to conduct outreach to discharge planners, physicians’ offices, and facilities to grow its referral base slowly. Adventist states that it will present educational materials to referral sources on the benefits of home health for a wide range of diagnosis as well as specific programs for meeting those needs. (DI #5, p.19).

The projected growth in Carroll County home health clients is discussed in the Financial Feasibility standard *supra pp. 12-13* and shows an increase of clients through the first three years of the program. The applicant states that the population growth is especially rapid in cohorts 65 years and older, the primary users of home health services. This population growth should yield an increase in the number of home health clients in Carroll County by 2025. (DI #5, p.21). Adventist projects that it will serve 119 clients in 2023 (2.5 percent), 246 clients in 2024 (five percent), and 305 clients in 2025 (six percent of the projected total). Table IV-7 below shows the

current Carroll County home health providers market share percentage and the impact based on the predicted number of patients seen by Adventist. The projected volume increase attributed to population growth will offset the impact of any losses in market share of a new HHA provider to existing providers. The applicant assumes the impact as shown will be in the same proportion to its share of home health clients in 2019. (DI #5. p.21).

Table IV-7: Adventist Home Health Services, Projected Impact (Future Reduction of Clients) by HHA Resulting from AHHS Expansion into Carroll and FY 2019 Market Share of Carroll HHA Clients

Agency	Client Market Share FY 2019	Projected Loss of Client Volume Resulting from Entry of AHHS to Carroll County		
		AAHS Client Forecast (2023)	AAHS Client Forecast (2024)	AAHS Client Forecast (2025)
Amedisys Home Health (Westminster)	9.0%	11	22	28
Bayada Home Health Care	10.3%	12	25	31
Community Home Health of Maryland	1.2%	1	3	4
Comprehensive Home Health Services	0.2%	0	1	1
Frederick Memorial Hospital HH Services	1.7%	2	4	5
HomeCall – Westminster	9.4%	11	23	29
HomeCare Maryland, LLC	39.8%	47	98	121
HomeCentris Home Health II	0.3%	0	1	1
Johns Hopkins Home Health Services, Inc.	2.3%	3	6	7
Johns Hopkins Pediatrics at Home, Inc.	1.0%	1	2	3
Kindred at Home	1.3%	2	3	4
MedStar Health VNA – Calverton	0.4%	0	1	1
MedStar Health VNA - Baltimore	2.7%	3	7	8
SpiriTrust Lutheran Home Care & Hospice	13.1%	16	32	40
Stella Maris, Inc.	0.5%	1	1	2
Visiting Nurse Association of Maryland, LLC	6.8%	8	17	21
TOTAL	100.0%	119	246	305

Sources:
 DI #5. p.21-23 (CON Application Review Record)
 MHCC, HHA Annual Survey, FY 2019, Table 15

Adventist states that by establishing a new home health provider it will improve access to needed services. (DI #5, pp. 23-24). Adventist provided information showing growth by six percent of their projected share of home health clients by 2025, less than the projected incremental growth in the county’s age 65 and older population, which is projected to grow by 22.6 percent between 2020 and 2025. Adventist states that it will be able to recruit the required staff and, it will not have an adverse impact on the ability of the other home health agencies to meet staffing needs. (DI #5, p.23).

Adventist states that payors establish the payment rates for home health services, thus, the expansion of its HHA into Carroll County will not impact the cost of care for clients or alter the payor mix of clients in the county. Table IV-8 below shows the payor mix of the existing home health agencies in comparison to the current Adventist payor mix in the counties it already serves. (DI #5, p.24).

Table IV-8: Home Health Agency Payor Mix, Carroll County, FY 2019 and AAHS Overall Payor Mix, FY 2019

Agency	Medicare	Medicare Advantage	Maryland Medicaid	Maryland Medicaid Managed Care	Commercial Insurance**	Self-Pay/ Other
Amedisys HH (Westminster)	93.5%	0.0%	0.0%	0.0%	6.5%	0.0%
Bayada Home Health Care	72.2%	7.6%	0.5%	1.1%	14.9%	3.7%
Community Home Health of Maryland	71.2%	7.7%	3.8%	0.0%	9.6%	7.7%
Comprehensive HH Services	0.0%	0.0%	11.1%	22.2%	66.7%	0.0%
Frederick Health HH Services	62.5%	2.8%	0.0%	11.1%	23.6%	0.0%
HomeCall – Westminster	81.7%	5.3%	0.0%	0.0%	13.0%	0.0%
HomeCare Maryland, LLC	84.6%	0.0%	0.4%	0.0%	14.9%	0.1%
HomeCentris Home Health II	9.1%	18.2%	0.0%	0.0%	72.7%	0.0%
Johns Hopkins HH Services, Inc.	62.9%	4.1%	0.0%	2.1%	28.9%	2.1%
Johns Hopkins Pediatrics at Home	0.0%	0.0%	12.2%	36.6%	48.8%	2.4%
Kindred at Home	86.0%	0.0%	1.8%	0.0%	12.3%	0.0%
MedStar Health VNA – Calverton	53.3%	0.0%	0.0%	0.0%	46.7%	0.0%
MedStar Health VNA - Baltimore	43.8%	2.7%	0.0%	3.6%	49.1%	0.9%
SpiriTrust Lutheran Home Care & Hospice	19.9%	14.5%	2.5%	17.2%	45.3%	0.5%
Stella Maris, Inc.	77.3%	4.5%	4.5%	0.0%	13.6%	0.0%
VNA of Maryland	6.9%	0.3%	0.0%	0.0%	92.7%	0.0%
Total	66.6%	3.6%	0.8%	3.1%	25.2%	0.7%
Adventist Home Health Services	64.9%	3.8%	1.0%	2.0%	15.4%	13.0%

Source: Maryland Health Care Commission, Maryland Home Health Agency Annual Survey for Fiscal Year 2019, Table 14, (DI # 5, pp. 25.)

Lorien

Lorien states that the establishment of home health services will not have a negative impact on existing HHAs because of the projected need in Carroll County. It anticipates much of its caseload will originate from its nursing homes. Lorien projects serving 264 clients with a volume of 4,224 total visits in Carroll County in its second year of operation. Because projected population growth is greater than the volume they predict they will capture, the applicant says that its expansion will not have a material impact on any existing HHAs. In fact, Lorien further states that according to their projections, the additional need in 2025 is two to three times the number of clients it anticipates serving, therefore Lorien does not believe that existing providers will be adversely affected by Lorien entering the market. Lorien states that a new provider will increase the choice for county residents in accordance with a State Health Plan priority. (DI #7, pg. 22).

As an existing Residential Services Agency in the Baltimore area, Lorien states that it already actively recruits staff from Carroll County. Furthermore, Lorien operates two nursing home facilities in Carroll County at Mt. Airy and at Taneytown, and Lorien will expand the duties of existing staff when possible. (DI #7, pp.22-23).

Lorien claims most of its clients will come from its own facilities. For this reason, it anticipates that it will have a somewhat higher Medicare payor mix than the county as a whole and a somewhat smaller share of Blue Cross and other commercial insurance payors. Lorien projects that this is not likely to have any substantive impact on the payor mix of the other providers. (DI #7, p. 22).

Staff Analysis and Findings

Based on data provided by Adventist, the projected growth offsets the impact of its project and supports its conclusion that existing home health agencies would be minimally affected by Adventist expansion into the Carroll County market. Its modest projection of staffing requirement additions necessary for the project indicates little staffing pressure beyond that currently experienced by HHAs, which is broadly supported as a problem confronting the home care industry.

Likewise, Lorien’s states that its entry into Carroll County will have a minimal impact on existing HHA caseloads, staffing or payor mix, similarly citing projected increases in the population aged 65 and above, growth that it believes will translate into increased demand for home care services. As a nursing home and existing RSA, Lorien has an existing staff base that lends itself to the provision of home care services, and the projected marginal increase in FTEs of 4.33 additional clinical FTEs in the second year of operation, is not likely to have more than a minimal impact on existing providers. Since Lorien projects that a majority of their HHA patients will be patients coming out of its nursing homes, the impact on the payor mix will also be minimal.

The applicants’ payor mix projections in Table IV-9, below are compared to information from the Commission’s HHA Public Use Dataset on the distribution of HHA visits by payor type for Carroll County.

**Table IV-9: Payor Mix (% of total visits)
Carroll County HHA Clients, FY 2019 and
HHA Applicant Projected Payor Mix (Year 2 of Operation)**

Agency	Payers					Data Source
	Medicare	Medicaid	Blue Cross/ Commercial Insurance	Self-pay	Other	
Adventist	60.0%	3.0%	36.0%	0.0%	0.0%	DI #5, Table 4B, p. 51
Lorien	77.0%	3.0%	19.5%	0.25%	0.25%	DI #7, Table 4B, p. 61
Carroll County (2019)	70.2%	3.9%	25.2%	0.1%	0.6%	HHA Public Use Data, Table 13, FY 2019

Source: Maryland Health Care Commission, Maryland Home Health Agency Annual Survey for Fiscal Year 2019, Table 13; Applications Table 4.

The payor mix projected by each applicant is generally consistent with the experience of the existing HHA providers, depending on the source of the patients. As an existing nursing home

provider discharging skilled nursing patients obtaining rehabilitation services paid for by Medicare, Lorien anticipates a higher Medicare mix than Adventist or other existing HHA providers.

Staff concludes that the introduction of Adventist and Lorien to Carroll County is not likely to have a substantive adverse impact on existing providers or significantly disrupt the existing patterns of patient care because each applicant's projected utilization is less than the predicted growth. A hoped-for impact in this review and the basis for creation of this review cycle is the expansion of HHA providers who provide services rated as average or above-average in quality.

Each of the applicants meet the requirements of this standard

I. Linkages with Other Service Providers.

An applicant shall document its links with hospitals, nursing homes, continuing care retirement communities, hospice programs, assisted living providers, Adult Evaluation and Review Services, adult day care programs, the local Department of Social Services, and home delivered meal programs located within its proposed service area.

(1) A new home health agency shall provide this documentation when it requests first use approval.

(2) A Maryland home health agency already licensed and operating shall provide documentation of these linkages in its existing service area and document its work in forming such linkages before beginning operation in each new jurisdiction it is authorized to serve.

Applicants' Responses

Adventist

As an existing home health agency in Maryland, Adventist states that it has linkage relationships in the eight jurisdictions that it currently serves. The applicant provided a current list of these relationships in its application which includes hospitals, nursing homes and other healthcare facilities. The applicant states that it will develop comparable linkages in Carroll County. (DI #5, pp.25-27). The applicant notes that Carroll County's only hospital, Carroll Hospital is an affiliate of LifeBridge Health, which operates its own HHA, Homecare Maryland. Notwithstanding that, Adventist plans to work with the hospital to introduce itself in the market, as an HHA option. (DI #11, p.5).

Lorien

As a new home health agency, Lorien will provide documentation of linkages with other programs and service providers when it requests first use approval.

Staff Analysis and Findings

Adventist has met the standard with a condition that will allow Adventist time to further develop linkages in Carroll County. Lorien, as a new HHA will provide documentation when requesting first use. However, both applicants have stated a commitment to establish the appropriate community linkages. Any CON awarded should include an applicable condition on appropriate linkages, as shown below.

Provide documentation of its links with hospitals, nursing homes, continuing care retirement communities, hospice programs, assisted living providers, Adult Evaluation and Review Services, adult day care programs, the local Department of Social Services, and home-delivered meal programs located within the Carroll County service area prior to its request for first use approval.

COMAR 10.24.01.08G(3) Criteria for Review of an Application for Certificate of Need.

B. Need

The Commission shall consider the applicable need analysis in the State Health Plan. If no State Health Plan need analysis is applicable, the Commission shall consider whether the applicant has demonstrated unmet needs of the population to be served, and established that the proposed project meets those needs.

Introduction

As discussed in the introduction, in setting up a review schedule for HHA reviews, Commission staff applied regulatory criteria that showed Carroll County had insufficient consumer choice of quality performing HHAs, with 68.9 percent of its clients being served by HHAs which did not meet the Commission-approved quality performance requirements. In accordance with the HHA Chapter, at COMAR 10.24.16.04, the population of Carroll County was identified as needing home health agency service providers.

Applicants' Responses

Adventist

In accordance with the HHA Chapter, at COMAR 10.24.16.04, the Commission found that Carroll County qualified for consideration of new home health agency service provider in order to improve access to quality home health care. To further support this *de facto* case for need, Adventist referenced the projections of individuals 65 years and older in the proposed service area to grow by 22.2 percent from 2015 to 2020 and by another 22.6 percent between 2020 and 2025. This projected growth will create a greater need for home health service providers in the jurisdiction as this age cohort is the largest user of home health services. In the financial feasibility standard, *supra pp.*12-14, the applicant provided home health growth projections of Carroll County clients from 2019 to 2023 through 2025. Adventist's projections indicate that by 2025 there will be 868 more home health clients than receiving services in 2019, thereby illustrating need in Carroll County. (DI #5, p.21).

Table IV-10: Adventist Need Calculation

Population Trend and Need	Total
2019 Population	168,361
2025 Population Projected	171,696
2019 Clients	4,224
2025 Clients Projected	5,092
Net Need	868

From Adventist Application (DI #5, p.21).

Lorien

Lorien also relies on the Commission’s finding of need for additional HHAs in Carroll County and reinforces that finding with its own projections. In addressing need, Lorien noted that the July 2030 population projections developed by Maryland’s Department of Planning projected an elderly population in Carroll County growing faster than the total population as illustrated in Table IV-11 below.

**Table IV-11: Carroll County Population, Historic and Projected, 2010 to 2030
Percent of Total Population by Year and Age**

Year	Aged 0-19		Aged 20-64		Aged 65 and Older		Total
	Population	Percent of Total	Population	Percent of Total	Population	Percent of Total	Population
2010	33,064	19.8%	112,261	67.2%	21,809	13.0%	167,134
2015	29,457	17.6%	110,735	66.1%	27,359	16.3%	167,551
2020	27,667	16.5%	108,482	64.5%	32,036	19.0%	168,185
2025	27,227	15.9%	103,478	60.3%	40,991	23.9%	171,696
2030	28,520	16.4%	96,698	55.5%	48,934	28.1%	174,152

Source: Maryland Department of Planning, 2020 Total Population Projections, (DI #7, p.14).

The population aged 65 years and older is estimated to increase from 13.0 percent of the total population in 2010 to 16.3 percent in 2015 and is projected to increase to 28.1 percent of the total population by 2030. Between 2020 and 2030, the increase in the 65 years and older population is nearly 53 percent.

Table IV-12: Percent Change in Population by Year and Age Group

Age Group Date Range	Ages 0-19		Ages 20-64		Ages 65+		Total All Ages	
	Change	Percent Change	Change	Percent Change	Change	Percent Change	Change	Percent Change
2010-2015	-3,607	-10.9%	-1,526	-1.4%	5,550	25.4%	417	0.2%
2015-2020	-1,790	-6.1%	-2,253	-2.0%	4,677	17.1%	634	0.4%
2010-2020	-5,397	-16.3%	-3,779	-3.4%	10,227	46.9%	1,051	0.6%
2020-2025	-440	-1.6%	-5,004	-4.6%	8,955	28.0%	3,511	2.1%
2025-2030	1,293	4.5%	-6,780	-6.6%	7,943	19.4%	2,456	1.4%
2020-2030	853	3.1%	-11,784	-10.9%	16,898	52.7%	5,967	3.5%

Source: Maryland Department of Planning, 2020 Total Population Projections for Non-Hispanic White, Non-Hispanic Black, Non-Hispanic Other and Hispanic by Age and Gender, (12/03/2020) (DI #7, p. 15.)
<https://planning.maryland.gov/MSDC/Documents/popproj/HHPop-Race-Age-Gender.xlsx>

Since the Maryland Department of Planning expects the under 65 population of Carroll to decline, the need for home care in that population is also expected to decline. However, the need among the 65 and older population is projected to increase as the population ages.

Lorien calculated that there will be a net need range between 583 and 829 additional clients in 2025, using either the 2019 Carroll County use rates or the Maryland Statewide use rates. This is shown in Table IV-13 below. Lorien states that its proposed project aligns with the HHA Chapter’s need analysis.

Table IV-13: Lorien Net Need Calculation of Home Care Clients
Net Need Based on Carroll County Use Rates

	Age15-64	Age 65+	Total
2019 Clients	970	3,127	4,097
2025 Clients	925	4,001	4,926
Net Need - Clients	-45	874	829
Net Need Based on Statewide Use Rates			
2019 Clients	970	3,127	4,097
2025 Clients	760	3,920	4,680
Net Need - Clients	-210	793	583

Source: DI #7, pp. 27-28.

Staff Analysis and Findings

Need for additional HHA services in Carroll County has been identified consistent with the need determination regulations in the HHA Chapter, COMAR 10.24.16.04. Both applicants support the case for need by highlighting the growing 65+ age cohort, increasing efforts to avoid hospitalizations and readmissions, as well as providing options for persons to receive care in their own homes with advancements in technology.

Staff recommends that the Commission find that both Adventist and Lorien have reasonably addressed the need for its project as required by this criterion. However, MHCC has made this criterion superfluous by defining need in terms of market concentration, consumer choice, and availability of higher performing HHAs. This latter factor was used by MHCC to establish a need for alternative HHA choices in Carroll County.

C. Availability of More Cost-Effective Alternatives

The Commission shall compare the cost effectiveness of the proposed project with the cost effectiveness of providing the service through alternative existing facilities, or through an alternative facility that has submitted a competitive application as part of a comparative review.

Applicants' Responses

Adventist

The applicant states that its main goals are to deliver a comprehensive range of home health services to clients in Carroll County that will result in fewer readmissions, better quality of care and improved outcomes. (DI #5, p31). The Commission determined that additional home health agencies are needed in Carroll County. This effectively established a single alternative for fulfilling MHCC's objectives.

The applicant compared the cost-effectiveness of the proposed project with care provided in nursing homes and cited a study by *JAMA Internal Medicine* that stated total Medicare payments for home health were significantly lower when compared to nursing homes. (DI #11, p.7). The applicant also considered whether it was more cost-effective to keep the status quo and not change the current HHA environment, with care being provided by existing agencies. Adventist states that although there are other home health providers in Carroll County, its existing HHA has a 4.5-star quality rating with CMS which exceeds the current 4-star average in Maryland and the 3.5-star average nationally thus offering a more effective alternative. (DI #11, p.7). Adventist noted this proposed expansion involved a minimal expense, requiring a small number of additional FTEs and an existing office in Rockville. (DI #5, p.31).

Lorien

Lorien addressed cost-effectiveness stating that it has extensive experience providing health care services to individuals in eight Nursing and Rehabilitation facilities and six Assisted Living facilities in four counties. Lorien believes that the quality of care delivered to its assisted living patients needing home health care services will improve by having its own HHA; existing staff will coordinate the delivery of care and manage the home care staff. Lorien believes this continuity of care will improve quality outcomes as compared to the existing providers. The applicant states that it currently has the infrastructure and resources necessary to provide home health services, including online service management portals, staff, clients, and a corporate office located in Carroll County. (DI #7, p. 30).

Lorien felt that their proposed project was a better option than allowing existing providers to expand or continuing to provide care to patients in its nursing facilities. Lorien stated that patient care quality should increase with the coordinated care they plan to provide. (DI #7, p. 30).

Lorien also pointed out that it proposes to expand its agency's existing services as it currently operates an RSA in the Baltimore area (DI #7, p. 22). Lorien can achieve operational efficiencies by using existing offices and tapping into shared administrative services and established infrastructure.

Staff Analysis and Findings

Adventist, an existing HHA proposing to expand its agency's existing service area, and Lorien, a non-HHA but licensed, in good standing as a nursing home and residential service agency, both reference their ability to, in effect, "tap into" existing overhead associated in their

current operations. These types of applicants expanding their services are, generally, a cost-effective approach to improving the availability of accessibility to services that spreads costs as it extends services, and provides some economy of scale in operation. Adventist and Lorien have existing offices, shared administrative services, administration and supervision with the parent organizations that can provide more choices and competition in the Carroll County region while at the same time extending the continuum of care with integrated and coordinated care, and achieving quality care at minimal cost.

Both applicants have demonstrated the cost effectiveness of developing or expanding its services as proposed.

D. Viability of the Proposal

The Commission shall consider the availability of financial and nonfinancial resources, including community support, necessary to implement the project within the time frames set forth in the Commission's performance requirements, as well as the availability of resources necessary to sustain the project.

Applicants' Responses

Adventist

The total estimated cost of this project is \$94,345 which will be funded with cash. This cost estimate consists of legal fees and a contingency allowance to address unanticipated costs. The total project budget is shown in Appendix four. The applicant has sufficient funds available to fund the project and provided evidence via its audited financial statements for 2019 and 2020 that it has the financial resources to expand its operations to Carroll County. (DI #5, Exh.7).

To support availability of resources necessary to sustain the project, Adventist provided historic and projected financial performance, shown at Table IV-14 below, which shows that the applicant is profitable, and projects continued profitability. The applicant notes that during the pandemic it faced staffing challenges which had a negative impact on its financial performance. The applicant cites physical therapy as the primary service for which it uses contractual staff. (DI #11, p.7). The applicant states that, notwithstanding the pandemic, Adventist can undertake start-up of an HHA in Carroll County and sustain the operation to a point at which the revenue generated will cover or exceed the expenditures to provide the services as shown in the table below.

Table IV-14: Adventist Home Health Services Financial Performance Historical and Projected

CY	2020	2021	2022	2023	2024	2025
Net Patient Service Revenue	\$22,602,458	\$20,969,080	\$17,845,308	\$19,361,815	\$20,523,044	\$21,572,412
Other Operating Revenue	\$131,590	\$45,402	\$14,591	\$14,591	\$14,591	\$14,591
Net Operating Revenue	\$22,734,048	\$21,014,482	\$17,859,899	\$19,376,406	\$20,537,635	\$21,587,002
Total Operating Expenses*	\$21,257,973	\$20,312,277	\$17,939,899	\$18,662,954	\$19,492,852	\$20,326,832
Income from Operation	\$1,476,075	\$702,205	(\$80,000)	\$713,451	\$1,044,783	\$1,260,171
Non-Operating Income	\$276,157	\$270,474	\$71,224	\$71,224	\$71,224	\$71,224
Net Income (Loss)	\$1,752,232	\$972,679	(\$8,776)	\$784,676	\$1,116,007	\$1,331,395

*Expenses include staffing, contractual services, depreciation, amortization, supplies, building, maintenance, and corporate allocation. (DI #5, Table 3).

The project requires a modest expenditure by the applicant and does not require any financing. The applicant states that even though the pandemic created financial challenges they still accepted all payor sources, to ensure all who need care had access. Adventist states that it only derived 60 percent of its total revenue from Medicare while most other HHAs derive closer to 70 to 90 percent because Medicare clients are more lucrative. The applicant states that in 2021, the average Medicare revenue per visit was \$237.97 compared to \$183.67 for commercial payors. (DI #5, p.34). The applicant included a list proposed charges as Exh.9 of its application.

The expansion into Carroll County will only require Adventist to add slightly more than one FTE at the client levels its projects, representing an increased cost of \$105,141. To recruit and retain staff, the applicant states that it has new, more competitive compensation rates to attract potential employees. In addition, the applicant states that current staff have already expressed a willingness to travel to Carroll County (DI #11, p.8). In terms of retention, Adventist had a turnover rate of only 24.8 percent in 2021 compared to a national turnover rate for home care of 65.2 percent (DI #5, p.33). Table IV-15 below shows Carroll County current and projected staffing needs.

Table IV-15: Adventist Home Health Services Current Staffing and Incremental Staffing (FTEs) for Carroll Expansion

Position	Current	Carroll County Addition
Administrative Personnel	28.59	0.20
Registered Nurse	23.13	0.36
Licensed Practical Nurse	6.47	0
Physical Therapist	32.06	0.39
Occupational Therapist	8.63	0.10
Speech Therapist	2.36	0.03
Home Health Aide	3.10	0.04
Medical Social Worker	1.44	0.02

Source: Adventist Application, (DI #5, p.51).

Lorien

The total estimated cost of this project is \$230,000 which will be funded with cash. Most of the estimated project (\$155,000) are startup costs and project related consultant expenses (\$45,000 in CON application and legal fees). (DI #7 pp. 57-58). Included with the application is a letter from an independent CPA noting the applicant's positive net income, net worth, and operating cash flow. The letter supports Lorien's ability to launch and sustain its project. (DI #7, pp. 57-8, and Exh. 2).

Lorien submitted its proposed charges. (DI #7, p. 32). Net income is projected to go from a slight loss of \$6,569 in the first year due to startup costs in Year One of operation to profitable operation (\$58,438) in Year Two. (DI #7, Table 4). A summary table of Lorien's historic and projected financial performance is provided below in Table IV-16 and a comparative profile of both applicants is also provided.

Table IV-16: Projected Statistical and Financial Performance, Lorien HHA Operations First Two Years of Operation and Comparative Profile

CY	Year One	Year Two
Total Visits	3,296	4,224
Total Clients	206	264
Average Visits/Client	16	16
Net Patient Service Revenue	\$516,521	\$660,326
Total Operating Expenses	\$523,090	\$601,888
Income from Operations	(\$6,569)	\$58,438

Sources: CON application; Total Clients and Visits, Table 2B; Net Revenue and Income, Table 3.

Table IV-17: Comparative Statistical and Financial Performance – Actual and Projected

Statistical Indicators	Adventist			Lorien		
	Actual	Projected		Actual	Projected	
	2022	Year One	Year Two	2022	Year One	Year Two
Total Visits	98,582	105,674	110,719	N/A	3,296	4,224
Total Clients	8,236	8,829	9,250	N/A	206	264
Average Visits/Client	12.0	12.0	12.0	N/A	16.0	16.0
Net Income (\$000s)						
Net Operating Revenue	\$17,860	\$19,376	\$20,538	N/A	\$517	\$660
Total Operating Expenses	\$17,940	\$18,663	\$19,493	N/A	\$523	\$602
Non-Operating Income	\$-80	\$713	\$1,045	N/A	\$-6	\$58
Net Income (loss)	\$-8	\$785	\$1,116	N/A	\$-6	\$58
Payer Mix (% of total Visits)						
Medicare	60%	60%	60%	N/A	77%	77%
Medicaid	4%	4%	4%	N/A	3%	3%
Blue Cross	8%	8%	8%	N/A	10%	10%
Other Commercial Insurance	27%	27%	27%	N/A	10%	10%
Self-Pay and Other ¹²	1%	1%	1%	N/A	1%	1%

Sources: CON application; Total Clients and Visits, Table 2B; Net Revenue and Income, Table 3.

Lorien included the website link and information on its ongoing staffing initiatives to recruit and retain appropriate staffing levels. See (<https://info.lorienhealth.com/workwithus/>).

Since it is not an existing HHA, there is no information to report by Lorien on position vacancy rate and staff turnover rates. The estimated total FTEs projected by Lorien to be needed to implement the project in the second year of operation is just 4.33 additional clinical FTEs.

Staff Analysis and Findings

Staff concludes that the applicants have the minimal resources necessary to implement and sustain the projects they have proposed and recommends a finding that each project is financially viable.

- E) Compliance with Conditions of Previous Certificates of Need. An applicant shall demonstrate compliance with all terms and conditions of each previous Certificate of Need granted to the applicant, and with all commitments made that earned preferences in obtaining each previous Certificate of Need, or provide the Commission with a written notice and explanation as to why the conditions or commitments were not met.***

¹² Includes PPS episodic payors.

Applicants' Responses

Adventist

Adventist provided a list of the CONs it has received since 1995, available in Appendix five.

Lorien

Lorien provided a list of the CONs it has received in the last 15 years, which are listed in Appendix five. There is only one previous CON for Carroll County, which applied to both Lorien Taneytown and Mt. Airy. Lorien Taneytown had a CON (95-06-1757), in which the project received approval of changes in 1997 to relocate 62 of its beds to a site in Mt. Airy. The applicant complied with conditions of previous CONs and implemented programs successfully.

Staff Analysis and Findings

Each applicant has a acceptable track record of complying with the terms and conditions of previous CONs.

F. Impact on Existing Providers and the Health Care Delivery System

An applicant shall provide information and analysis with respect to the impact of the proposed project on existing health care providers in the health planning region, including the impact on geographic and demographic access to services, on occupancy, on costs and charges of other providers, and on costs to the health care delivery system.

Applicants' Responses

Adventist

As discussed earlier under the Impact project review standard, Adventist states that it does not anticipate a negative impact on existing HHA providers because it expects that there will be an overall increased demand for HHA services in the coming years in Carroll County. Adventist also believes that its projected utilization is less than the projected incremental growth in total home health clients over the projection period. Existing home health agencies will have the opportunity to continue to grow their volumes even as Adventist begins to offer services in Carroll County. Access will improve with an additional HHA in the county. Adventist states costs and charges will not be impacted, as rates are set by payers, not by providers. Adventist believes that its quality of home care services exceeds most other providers, with the 4.5-star quality rating it has received from Medicare in its existing HHA

Lorien

As previously discussed under the Impact project review standard, Lorien states that it anticipates serving 264 home health clients in its second year of operation, and that 204, or over three quarters of these clients, are expected to be from assisted living residents at the two Lorien facilities in Carroll County. Lorien provided a need projection which showed additional need in Carroll County of between 583 to 829 home health clients by 2025. Lorien states that since the additional need in 2025 is two to three times the number of clients Lorien anticipates serving, they

do not believe other HHAs in Carroll County will be adversely affected by Lorien entering the marketplace.

Most of Lorien's clients will come from its own facilities, and the payor mix will reflect the nursing home payor mix. Lorien states that the small number of its anticipated clients relative to the county totals is not likely to have any impact on the payor mix of the other providers.

Lorien states that the proposed HHA is not expected to have a negative impact on the cost and charges for similar services provided by other home health agencies in Carroll County, since the MHCC has found a need for an additional, new home health agency in Carroll County, and Lorien is initially only anticipating serving patients discharged from the two Lorien nursing homes.

Staff Analysis and Findings

This criterion requires an applicant to address not only impact on existing home health agencies in the health planning region, as is required by the HHA Chapter's Impact standard, COMAR 10.24.16.08G, but to also address the proposed project's impact on health care providers, on access to services, and on costs to the health care delivery system.

The applicants' compliance with the impact standard, COMAR 10.24.16.08G,¹³ was reviewed earlier in this report. Meeting the goals of the 2016 HHA Chapter, which includes providing more consumer choice of HHAs and fostering more competitive HHA markets, is, generally, likely to reduce the growth potential of existing providers. In the analysis of the impact standard, there is likely to be sufficient growth in the market to minimize the impact of these projects on existing HHAs, and staff does not recommend a finding that impact of the project is a basis for denying either of these projects or both projects. Staff notes that all HHAs have a very limited ability to set their own prices, so there will be little to no impact on charges. Lastly these projects will not have a significant impact on existing HHAs staffing resources, case volume, or payor mix.

For these reasons the impact of these applications on the health care delivery system and on persons in need of HHA services is positive.

V. STAFF RECOMMENDATION

Based on its review of the proposed applications of Adventist and Lorien's compliance with the Certificate of Need review criteria in COMAR 10.24.01.08G(3) and the applicable standards in COMAR 10.24.16.08, the Home Health Agency Services Chapter of the State Health Plan, Commission staff recommends that the Commission approve both applications. They each comply with the applicable State Health Plan standards, are needed, provide cost-effective approaches to meeting the Commission's objectives, are viable, and will have a positive impact on the delivery of home health services without adversely affecting costs and charges for these services.

¹³ See discussion, *supra*, at pp. 15-19.

Staff recommends that the Commission **APPROVE** the applications of both Adventist Home Health Services, Inc. and CareNet Maryland, L.L.C., d/b/a Lorien Home Health for a Certificate of Need authorizing the expansion or creation of home health agency services to Carroll County with the following conditions:

1. Maintain compliance with the provisions of COMAR 10.24.16.08E(1)-(4) regarding charity care, sliding fee scale, and reduced fee services;
2. Provide a level of charity care equivalent to or greater than the average level of charity care provided by home health agencies in Carroll County; and
3. Prior to its request for first use approval, provide documentation of its links with hospitals, nursing homes, continuing care retirement communities, hospice programs, assisted living providers, Adult Evaluation and Review Services, adult day care programs, the local Department of Social Services, and home-delivered meal programs located within its approved expanded service area.

And for Lorien, the additional condition that they:

4. Prior to their request for first use approval, provide documentation of their final version the proposed Charity Care Policy outlined in the application.

**IN THE MATTER OF THE
CARROLL COUNTY
HOME HEALTH AGENCY REVIEW

CARENET HEALTH
SYSTEMS AND SERVICES, INC
DOCKET NO. 22-06-2457**

*** BEFORE
*
* THE
*
* MARYLAND
*
* HEALTH CARE
*
* COMMISSION**

FINAL ORDER

Based on the analysis and findings in the staff report, it is this 15th day of September, 2022,
ORDERED:

That the application of CareNet Health Systems and Services, Inc. dba Lorien Health Systems–Mt. Airy (Lorien) for a Certificate of Need to establish a home health agency with an authorized service area of Carroll County is **APPROVED**, with the following conditions:

1. CareNet Health Systems and Services, Inc. will maintain compliance with the provisions of COMAR 10.24.16.08E(1)-(4) regarding charity care, sliding fee scale, and reduced fee services;
2. CareNet Health Systems and Services, Inc. will provide a level of charity care equivalent to or greater than the average level of charity care provided by home health agencies in Carroll County;
3. Prior to its request for first use approval, CareNet Health Systems and Services, Inc. will provide documentation of its links with hospitals, nursing homes, continuing care retirement communities, hospice programs, assisted living providers, Adult Evaluation and Review Services, adult day care programs, the local Department of Social Services, and home-delivered meal programs located within its approved expanded service area; and
4. Prior to a request for first use approval, CareNet Health Systems and Services, Inc. will provide documentation of its final Charity Care Policy applicable to the provision of home health agency services.

**IN THE MATTER OF THE
CARROLL COUNTY
HOME HEALTH AGENCY REVIEW**

**ADVENTIST HOME HEALTH
SERVICES, INC.
DOCKET NO. 22-06-2456**

*** BEFORE
*
* THE
*
* MARYLAND
*
* HEALTH CARE
*
* COMMISSION**

FINAL ORDER

Based on the analysis and findings in the staff report, it is this 15th day of September, 2022,
ORDERED:

That the application of Adventist Home Health Services, Inc. for a Certificate of Need to expand its home health agency services to Carroll County is **APPROVED**, with the following conditions:

1. Adventist Home Health Services, Inc. will maintain compliance with the provisions of COMAR 10.24.16.08E(1)-(4) regarding charity care, sliding fee scale, and reduced fee services;
2. Adventist Home Health Services, Inc. will provide a level of charity care equivalent to or greater than the average level of charity care provided by home health agencies in Carroll County; and
3. Prior to its request for first use approval, Adventist Home Health Services, Inc. will provide documentation of its links with hospitals, nursing homes, continuing care retirement communities, hospice programs, assisted living providers, Adult Evaluation and Review Services, adult day care programs, the local Department of Social Services, and home-delivered meal programs located within its approved expanded service area.

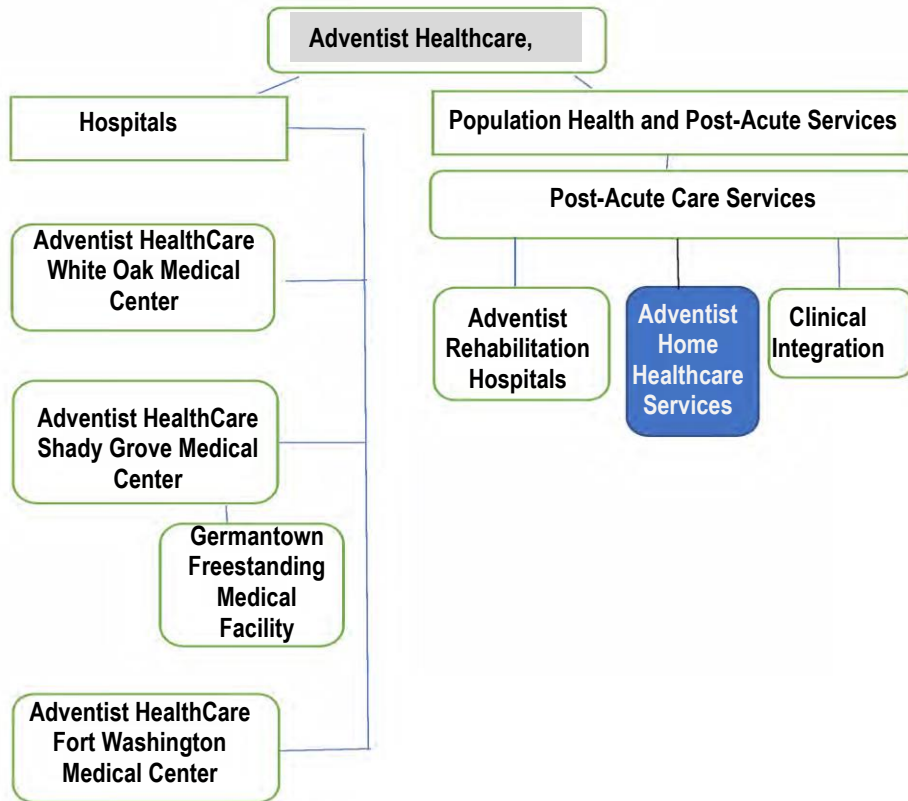
MARYLAND HEALTH CARE COMMISSION

APPENDIX 1

Organization Charts and Descriptions

Adventist Organization Structure

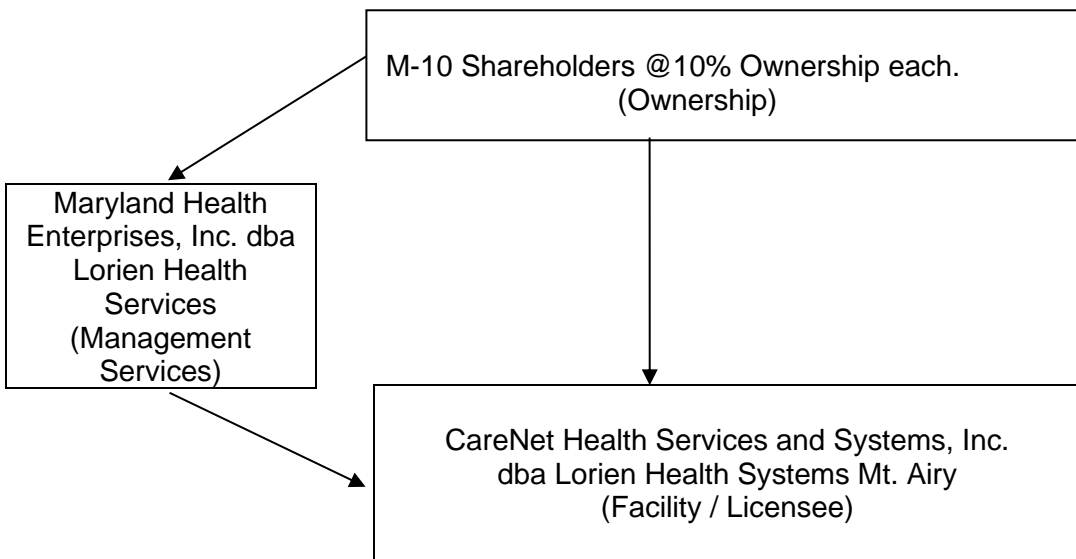
Adventist is a faith-based, not for profit home health agency established in 1973 as part of the Adventist HealthCare (AHC) system. Adventist currently serves home care patients in Montgomery, Prince George's, Charles, Calvert, St. Mary's, Howard, Frederick, and Anne Arundel counties. With an established branch located at 9711 Medical Center Drive, Suite 111, in Rockville, Maryland, extending our services into Carroll County, which borders Frederick and Howard Counties, would be a natural expansion of the existing service area.



Lorien HHA Ownership Structure

A local family owned, and operated company has controlling ownership of the applicant. The corporate owner is CareNet Health Services and Systems, Inc. dba Lorien Health Systems Mt. Airy, and it owns the facility. The 10 adult children of the founders, Nicholas B. and Mary C. Mangione, are collectively referred to as “M-10”, and each sibling has a 10% ownership interest in the corporation.

In 1977 Nicholas B. and Mary C. Mangione founded a separate management company, Maryland Health Enterprises, Inc. dba Lorien Health Services. It provides the management services to the facility, and Louis G. Grimmel is the CEO. Each of the M-10 siblings also has a 10% ownership interest in the management company.



APPENDIX 2

Record of the Review

Record of the Review

Adventist Home Health Services, Inc. (Adventist of Maryland)

Docket Item #	Description	Date
1	MHCC receives Letter of Intent	2/7/22
2	MHCC sends information on how to document its qualifications.	2/10/22
3	MHCC acknowledges emails for an extension request for s Certificate of Need Application; and requests more specific explanation	3/4/22
4	MHCC acknowledges extension to file until 5/9/22	3/9/22
5	Applicant files Certificate of Need Application.	5/9/22
6	MHCC acknowledges receipt of application.	5/18/22
7	MHCC staff requests notice to publish receipt of application in Baltimore Sun.	5/18/22
8	MHCC staff requests notice to publish receipt of application in Register .	5/18/22
9	MHCC staff - notice of receipt published in Baltimore Sun.	5/19/22
10	MHCC staff sends request for additional completeness information.	5/19/22
11	Applicant provides response to request for completeness information.	6/3/22
12	MHCC request Maryland Register to publish notice of formal start of review.	6/27/22
13	MHCC notifies applicant start of review will be 7/15/22	6/28/22
14	MHCC request Baltimore Sun publish notice of formal start of review	6/29/22
15	MHCC sends FORM – Request LHP Comments	6/29/22
16	MHCC Published notice of formal start of review in the Baltimore Sun	6/30/22

CareNet Health Systems and Services Inc., dba Lorien Health Systems (Lorien)

Docket Item #	Description	Date
1	MHCC receives Letter of Intent	2/7/22
2	MHCC sends information on how to document its qualifications.	2/10/22
3	Applicant submits documents on its qualifications to submit CON application	2/28/22
4	MHCC acknowledges emails for an extension request for s Certificate of Need Application; and requests more specific explanation	3/4/22
5	MHCC notifies applicant it meets qualifications to file CON application	3/7/22
6	MHCC acknowledges extension to file until 5/9/22	3/9/22
7	Applicant files Certificate of Need Application.	5/9/22
8	MHCC acknowledges receipt of application.	5/18/22
9	MHCC staff requests notice to publish receipt of application in Baltimore Sun.	5/18/22
10	MHCC staff requests notice to publish receipt of application in Register.	5/18/22
11	MHCC staff - notice of receipt published in Baltimore Sun.	5/19/22
12	MHCC staff sends request for additional completeness information.	5/19/22
13	Applicant provides response to request for completeness information.	6/3/22
14	MHCC request Maryland Register to publish notice of formal start of review.	6/27/22
15	MHCC notifies applicant start of review will be 7/15/22	6/28/22
16	MHCC request Baltimore Sun publish notice of formal start of review	6/29/22
17	MHCC sends FORM – Request LHP Comments	6/29/22
18	MHCC Published notice of formal start of review in the Baltimore Sun	6/30/22

APPENDIX 3

Excerpted CON Standards for Home Health Services

From the State Health Plan Chapter 10.24.16

Excerpted CON standards for Home Health Services in State Health Plan Chapter 10.24.16

Each of these standards prescribes policies, staffing, services, or documentation necessary for CON approval that MHCC staff have determined the applicant has met. Bolding added for emphasis. Also included are references to where in the application or completeness correspondence the documentation can be found.

<u>STANDARD</u>	<u>Lorien</u> <u>Docket Item #</u>	<u>Adventist</u> <u>Docket Item #</u>
<p><u>.08C. Financial Accessibility.</u> An applicant shall be or agree to become licensed and Medicare- and Medicaid-certified and agree to maintain Medicare and Medicaid certification and to accept clients whose expected primary source of payment is either or both of these programs.</p>	DI #7, pp. 15=16	DI #5. p.10 and DI #11 Exhibit 11
<p><u>.08D. Fees and Time Payment Plan.</u> An applicant shall make its fees known to prospective clients and their families at time of patient assessment before services are provided and shall:</p> <ol style="list-style-type: none"> (1) Describe its special time payment plans for an individual who is unable to make full payment at the time services are rendered; and (2) Submit to the Commission and to each client a written copy of its policy detailing time payment options and mechanisms for clients to arrange for time payment. 	DI #7, exh. 1. Lorien will comply with this standard.	DI #5, pp.10- 11
<p><u>.08H. Financial Solvency.</u> An applicant shall document the availability of financial resources necessary to sustain the project. Documentation shall demonstrate an applicant’s ability to comply with the capital reserve and other solvency requirements specified by CMS for a Medicare-certified home health agency.</p>	DI #7, pp. 22 and exh. 2, DI #13, completeness p. 3	DI #5, pp.24- 25
<p><u>.08J. Discharge Planning.</u> An applicant shall document that it has a formal discharge planning process including the ability to provide appropriate referrals to maintain continuity of care. It will identify all the valid reasons upon which it may discharge clients or transfer clients to another health care facility or program.</p>	DI #7, p. 23 and exh. 3	DI #5, p.27 and DI #11 Exhibit 13
<p><u>.08K. Data Collection and Submission.</u> An applicant shall demonstrate ongoing compliance or ability to comply with all applicable federal and State data collection and reporting requirements including, but not limited to, the Commission’s Home Health Agency Annual Survey, CMS’ Outcome and Assessment Information Set (OASIS), and CMS’ Home Health Consumer Assessment of Healthcare Providers (HCAHPS).</p>	DI #7, p. 23	DI #5, pp.27- 28

APPENDIX 4

Project Budget

A. USE OF FUNDS	Lorien	Adventist
1. CAPITAL COSTS (if applicable):		
a. New Construction		
a. SUBTOTAL New Construction	\$0	\$0
b. Renovations		
b. SUBTOTAL Renovations	\$0	\$0
c. Other Capital Costs		
1) Movable Equipment	\$25,000	
2) Contingency Allowance	\$5,000	\$11,870
3) Gross Interest During Construction		
4) Other (Specify)		
c. SUBTOTAL Other Capital Cost	\$30,000	\$11,870
TOTAL CURRENT CAPITAL COSTS (sum of a - c)	\$30,000	\$11,870
Non-Current Capital Cost		
d. Land Purchase Cost or Value of Donated Land		
e. Inflation (state all assumptions, including time period and rate)		
TOTAL PROPOSED CAPITAL COSTS (sum of a - e)	\$30,000	\$11,870
2. FINANCING COST AND OTHER CASH REQUIREMENTS		
a. Loan Placement Fees		
b. Bond Discount		
c. CON Application Assistance	\$27,500	
c1. Legal Fees	\$15,000	\$ 47,475
c2 Other (marketing, collateral, advertising, community events)		\$35,000
d. Non-CON Consulting Fees		
d1. Legal Fees		
d2. Other (Specify and add lines as needed)	\$2,500	
e. Debt Service Reserve Fund		
f. Other (Specify)		
TOTAL (a - e)	\$45,000	\$82,475
3. WORKING CAPITAL STARTUP COSTS	\$155,000	\$94,345
TOTAL USES OF FUNDS (sum of 1 - 3)	\$230,000	\$94,345
B. SOURCES OF FUNDS FOR PROJECT		
1. Cash	\$230,000	\$94,345

Lorien: Application Part IV, DI #7 pp. 57-58

Adventist: Application Exhibit 1 Budget and DI #5, p.8

APPENDIX 5

Complete List of CONs by Applicant

Appendix 5

Complete List of Adventist CONs

Number	Date	Docket Number	Description
1	14-Apr-95	91-15-1673	Adventist HealthCare, Inc. was issued a CON by the Commission to build a rehabilitation hospital.
2	10-Sep-96	95-15-1772	Adventist Health Care, Inc. was issued a CON by the Commission to create the Shady Grove Adventist Hospital Neonatal Intensive Care Unit (NICU).
3	12-Nov-96		Adventist HealthCare, Inc. was issued a CON by the Commission to establish a 20-bed hospital-based subacute care unit.
4	20-Feb-03	04-15-2129 Emergency CON	Adventist HealthCare, Inc. was issued a CON by the Commission to consolidate and relocate 15 of the 20 comprehensive care beds operated at Care-Link at Washington Adventist Hospital.
5	19-Jun-03		Adventist HealthCare, Inc. was issued a CON by the Commission for 22 rehabilitation beds.
6	16-Feb-05	04-15-2138	Adventist HealthCare, Inc. was issued a CON to expand the patient tower at Shady Grove Adventist Hospital.
7	18-Nov-05	04-15-2152	Washington Adventist Hospital was issued a CON to establish the Washington Adventist Surgery Center. The CON was relinquished on August 18, 2006.
8	17-Dec-15	13-15-2349	Adventist HealthCare, Inc. was issued a CON to relocate Washington Adventist Hospital from Takoma Park to Silver Spring. There is an ongoing change to a condition on this project.
9	21-Mar-19	18-15-2428	Adventist Rehabilitation Hospital of Maryland was issued a CON to relocate 42 inpatient rehabilitation beds to expanded building space within the replacement of AHC Washington Adventist Hospital in White Oak, MD.
10	4-Apr-20	EM-H20-15-009	Adventist HealthCare White Oak Medical Center was issued an Emergency CON to establish additional inpatient bed capacity. This E-CON was extended through April 30, 2023.
11	17-Apr-20	EM-H20-16-029	Adventist HealthCare, Inc. d/b/a Adventist HealthCare Fort Washington Medical Center was issued an Emergency Certificate of Need to establish additional inpatient bed capacity. This E-CON was extended through April 30, 2023.
12	20-May-20	EM-H20-15-036	Adventist HealthCare White Oak Medical Center was issued an Emergency CON to establish additional inpatient bed capacity. This E-CON was extended through April 30, 2023 on April 18, 2022.
13	10-Jan-21	EM-H21-15-041	Adventist HealthCare, Inc. d/b/a Adventist HealthCare White Oak Medical Center was issued an Emergency CON to establish an intensive care unit (ICU). This E-CON was extended through April 30, 2023.
14	15-Apr-21	20-15-2443	Adventist HealthCare Shady Grove Medical Center was issued a CON to modernize the hospital. This project is in progress.

Complete List of Lorien CONs

Number	Date	Docket Number	Description
1	Feb-96	95-06-1757	Lorien Nursing & Rehabilitation Center – Taneytown was issued a CON and originally approved as a 125-bed nursing facility. This project received modification approval on July 8, 1997 to relocate 62 of its beds to a site in Mt. Airy.
2	Jun-02	01-12-2085	Lorien Nursing & Rehabilitation Center – Belair was issued a CON which authorized a 22-bed expansion of a previously approved 40 bed Nursing Facility (with a 56-unit non-CON regulated assisted living facility (ALF)).
3	2002	01-13-2084	Lorien Encore at Turf Valley was issued a CON which approved a 63 bed Nursing Facility.
4	2004	04-03-2143	Lorien Mays Chapel was issued a CON for the construction of a 70-bed freestanding Nursing Facility.
5	Nov-05	05-03-2168	Lorien Mays Chapel was issued a second CON for the relocation of 15 purchased beds increasing the total beds to 85.
6	2006	05-13-2159	Lorien Encore at Turf Valley was issued a CON which approved a site change.
7	Sep-07	06-13-2185	Lorien Elkridge was issued a CON which authorized the establishment of a 60-bed nursing facility.
8	Apr-09	08-12-2288	Lorien Bulle Rock in Harford County was approved in April 2009 authorizing construction of a 78 bed Nursing Facility.
9	Feb-09	08-13-2246	Lorien Elkridge was issued a CON which authorized an additional 4 beds bringing the total to 64 beds. An additional 6 ‘creep beds’ were added in 2014 bringing the bed complement to the current 70 beds.
10	Feb-14	13-12-2345	Lorien Nursing & Rehabilitation Center – Belair was issued a CON which approved 21 for a total of 48 beds at the facility.
11	Jul-15	15-12-2358	Lorien Nursing & Rehabilitation Center – Belair voided the previous CON and approved a 48 bed facility.
12	Jun-15	15-12-2359	Lorien Forest Hill, Harford County was approved in June 2015 for a 70-bed freestanding Nursing Facility. However, the CON was relinquished by letter dated February 25, 2016.
13	Sep-15	15-13-2365	Encore at Turf Valley Encore was issued a third CON for a 28-bed extension.