



# 2025 Home Health Agency Certificate of Need (CON) Review: Qualifying Jurisdictions, Types of Applications, Qualifications for Accepting a CON Application, and Qualifying Maryland Applications

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## Background

- ▶ The Home Health chapter of the State Health Plan was effective in April of 2016 (9 years old).
- ▶ The chapter includes evolving quality measures.
- ▶ Recommended quality measures were published for public comment in the Maryland Register on April 4, 2025. The comment period ended May 7, 2025. For quality metrics the impacted jurisdictions identified were Anne Arundel, Baltimore, Carroll, Charles, Frederick, Garrett, Harford, Howard, Montgomery, Prince George's, St. Mary's, Wicomico, and Baltimore City.
- ▶ There are three ways that quality metrics can be used in CON applications
  1. To determine jurisdictional need
  2. To qualify an applicant for a review cycle
  3. To determine preference, if necessary, among competing applicants



## Three Ways to Qualify (COMAR 10.24.16.04)

Home Health Agency (HHA) Chapter of the State Health Plan (COMAR 10.24.16.04) states that jurisdictions may qualify as having a need for additional HHA services based on the following:

### Insufficient Consumer Choice

Exists when any jurisdiction has two or fewer Medicare certified agencies that serve 10 or more clients each year during the most recent three-year period for which data is available.

### Insufficient Choice of Quality Performing Agencies

Exists when any jurisdiction with agencies that are serving 60% or more of its clients are not meeting the applicable quality performance requirements designated by the Commission.

### Concentrated Market

Exists when any jurisdiction has a Herfindahl-Hirschman Index (HHI) score of 0.25 or higher. Higher market concentration may result in less competition and greater power for leading enterprises in the market.



# Qualifying Jurisdictions in Two of the Three ways to Qualify

- ▶ There was no need identified under insufficient choice, however consistent with the Home Health Agency (HHA) Chapter of the State Health Plan (COMAR 10.24.16.04), multiple jurisdictions qualify as having a need for additional HHA services under the other two areas.
- ▶ Qualifying counties under a **highly concentrated market**:
  - ▶ Allegany
  - ▶ Calvert
  - ▶ Caroline
  - ▶ Cecil
  - ▶ Charles
  - ▶ Dorchester
  - ▶ Garrett
  - ▶ Kent
  - ▶ Queen Anne's
  - ▶ St. Mary's
  - ▶ Somerset
  - ▶ Talbot
  - ▶ Washington
  - ▶ Wicomico
  - ▶ Worcester
- ▶ Qualifying counties under **insufficient choice of quality performing home health agencies** (based on proposed quality metrics):
  - ▶ Anne Arundel
  - ▶ Baltimore
  - ▶ Carroll
  - ▶ Charles
  - ▶ Frederick
  - ▶ Garrett
  - ▶ Harford
  - ▶ Howard
  - ▶ Montgomery
  - ▶ Prince George's
  - ▶ St. Mary's
  - ▶ Wicomico
  - ▶ Baltimore City



## Types of Applicants

Pursuant to the Home Health Agency Chapter of the State Health Plan (COMAR 10.24.16.06B), an applicant shall fall under one of three types of applicants:

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



## Performance-Related Qualifications by Type of Applicant

- ▶ Consistent with COMAR 10.24.16.06D and COMAR 10.24.16.07, quality measures and performance levels need to be approved by the Commission at its May 15, 2025 meeting to be used for the 2025 CON review schedule of proposed HHA projects.
- ▶ Performance-related qualifications for quality necessary for accepting an application will vary by type of applicant as described in COMAR 10.24.16.07B-D.
- ▶ An applicant's performance will be determined based on the data publicly reported on the applicable CMS Care Compare websites and, for Maryland nursing homes, the Maryland-specific Nursing Home Family Experience of Care Survey.



## Medicare-Certified HHA Applicants

**Medicare-Certified HHA Applicants** may qualify to apply for a CON by achieving both of the following performance levels from the October 2024 CMS Home Health Care Compare data set which reflects the approximate time period July 1, 2023 to June 30, 2024

- (1) Quality of Patient Care (QOPC) Overall star rating equal to or better than the Maryland State average of 3.5 stars; and
- (2) Home Health Consumer Assessment of Health Care Providers and Systems (HHCAHPS®) Survey Summary Overall star rating equal to or better than the Maryland State average of 4.0 stars.
- (3) The same quality measures apply to both Maryland and non-Maryland HHAs and any HHAs with which the applicant shares common ownership.



## Hospital Applicants

**Hospital Applicants** may qualify to apply for a CON to establish an HHA in Maryland by scoring at least the Maryland state average on both CMS Hospital Overall star ratings for the most recent three October Hospital General Information datasets: 2022, 2023, and 2024. The data represents the years 2021 to 2024 approximately, but some measures vary. Note that mortality and readmission measures contributing to the overall star rating cover a three-year span.

- (1) Quality of Patient Care (QOPC) Overall star rating equal to or better than the Maryland State average of 3.0 stars for all three years
- (2) Hospital Consumer Assessment of Health Care Providers and Systems (HCAHPS®) Survey Summary star rating equal to or better than the Maryland State average of 3.0 stars, for all three years.
- (3) The same minimum CMS star ratings are used for both Maryland and non-Maryland hospital applicants. However, for non-Maryland applicants, all hospitals with which the applicant has any common ownership must have achieved and maintained, on average, the minimum Hospital Overall star ratings.



## Nursing Home Applicants

**Nursing Home Applicants** may qualify to apply for a CON by achieving specific performance levels from the CMS Nursing Home Care Compare data set. The most recent three consecutive CMS October data sets were analyzed: 2022, 2023, and 2024 reflecting approximately July 1, 2021 to June 30, 2024. A Maryland nursing home is also required to achieve and maintain the Maryland average rating on the Maryland-specific Nursing Home Family Experience of Care (EOC) Survey for the measure which asks respondents to rate the nursing home on a scale of 1 to 10 (with 10 being the most satisfied). The three most recent surveys were 2021, 2022, and 2023. A Maryland nursing home must score as follows:

- (1) Equal to or greater than the Maryland average of 3.0 on the CMS Care Compare Nursing Home Overall star rating for each of the three consecutive October datasets.
- (2) Equal to or greater than the Maryland State average on the EOC as follows: 7.5 in CY 2021; 7.2 in CY 2022; and 7.3 in CY 2023.
- (3) A nursing home cited by CMS for resident abuse has been excluded from the list of qualifying nursing homes, as that nursing home received an adverse citation for the resident abuse and thus did not meet the performance-related qualifications.
- (4) On average, nursing homes with common ownership with the applicant must achieve the same standards.
- (5) Non-Maryland nursing homes must achieve the same standards, except for the EOC.



# Maryland Residential Service Agency (RSA) Applicants

**Residential Service Agency (RSA) Applicants** may qualify to apply for a CON to establish an HHA in Maryland by demonstrating a track record of providing good quality of care. This is achieved by

- (1) Documenting that it has operated and provided skilled nursing services for at least three years,
  - (2) Has established a system for collecting data that includes systematic collection of process, outcome and experience of care measures, and
  - (3) Has maintained accreditation through a deeming authority recognized by the Maryland Department of Health for at least the three most recent years of operation, consistent with COMAR 10.24.16.07D(1).
- ▶ RSA applicants must submit data to the Commission to document ability to monitor the required quality measures and performance levels.



## Public Comments Received

The Proposed Quality Metrics were published in the Maryland Register on April 4, 2025 for 30 days.

Comments Received:

Discuss any comments and responses



## Approval of Measures

- ▶ Staff requests that the Commission approve the recommended quality measures to be used in the upcoming CON review.
- ▶ Following Commission approval, a list of qualifying applicants will be published on the Commission website along with the approved quality and performance measures.
- ▶ The CON review schedule will also be posted on the Commissions website and published in the Maryland Register.



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# Questions

END OF PRESENTATION