



2025 Home Health Agency Certificate of Need (CON) Review

Qualifying Jurisdictions, Types of Applications, Qualifications for Accepting a CON Application, and Qualifying Maryland Applications

June 12, 2025



MARYLAND
Health Care
Commission

May 12th
Commission Meeting
Presentation Highlights

Background



- ▶ One of the roles of the Commission is to assess whether there is unmet need in any jurisdiction for any regulated health care facilities and services, including Medicare-certified home health agency (HHA) services
- ▶ Every year, MHCC surveys the Medicare-certified HHAs in Maryland for the purpose of health planning. The most recent data (covering services provided in 2022) demonstrates need for additional home health services in multiple Maryland jurisdictions (Appendix slides 16 and 17)
- ▶ The State Health Plan (SHP) chapter for HHA services requires the Commission to establish what quality metrics will be used in a CON review
- ▶ In addition to quality metrics approved by the Commission, the SHP requires CON applicants to meet other standards related to quality, service area/population review, and charity care. Applicants must also meet the general CON criteria--Need, Alternatives to the Project, Impact, Financial Feasibility and Project Viability, Compliance with Previous CONs, Character and Competence, and Health Equity

Background *(Continued)*



- ▶ Recommended quality measures were published for public comment in the Maryland Register on April 4, 2025, and ended May 7, 2025

- ▶ The proposed quality metrics show need in the following jurisdictions: Anne Arundel, Baltimore, Carroll, Charles, Frederick, Garrett, Harford, Howard, Montgomery, Prince George's, St. Mary's, Wicomico, and Baltimore City

- ▶ Three ways that quality metrics can be used in CON applications
 - To determine jurisdictional need

 - To qualify an applicant for a review cycle

 - To determine preference, if necessary, among competing applicants



Types of Applicants

- ▶ Pursuant to the Home Health Agency Chapter of the SHP (COMAR 10.24.16.06B), an applicant shall fall under one of three types
 - 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
 - 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



Review of Quality Metrics

- ▶ Previous quality thresholds recommended were at the state level and would impact home health agencies, hospitals, and nursing homes
 - Home health: 3.5 overall star; 4 HHCAHPS
 - Hospitals: 3 overall star; 3 HCAHPS
 - Nursing homes: 3 overall star; 7.5 (CY2021), 7.2 (CY2022), 7.3 (CY2023)
- ▶ Residential service agencies are not impacted



Comparison Table – State and National Averages

	State				National			
Measure	Home Health	Hospital	Nursing Home	Residential Service Agency	Home Health	Hospital	Nursing Home	Residential Service Agency
Star Rating	3.5/5	3/5	3/5	N/A	3/5	3/5	3/5	N/A
Consumer Assessment of Healthcare Providers & Systems (CAHPS)	4/5	3/5	7.3/10	N/A	4/5	3/5	N/A	N/A
Qualified applicants	15 /55	10/42	57/219	N/A	21/55	10/42	57/219	N/A
% of current providers who can apply	30%	24%	26%	N/A	38%	24%	26%	N/A

The jurisdictional need does not change when using state vs. national measures



Comparison Table – Above Average

	Above Average			
Measure	Home Health	Hospital	Nursing Home	Residential Service Agency
Star Rating	4/5	4/5	4/5	N/A
Consumer Assessment of Healthcare Providers & Systems (CAHPS)	4/5	4/5	8/10	N/A
Qualified Applicants	11/55	3/42	24/219	N/A
% of current providers who can apply	20%	7%	11%	N/A

Using the above average measures adds one jurisdiction (Allegany County) based on need for quality services and would require recalculating bed need

Commission Action



- ▶ Staff requests that the Commission approve one set of quality measures to be used in the upcoming CON review: state, national, or above average quality measures
 - ▣ Staff recommends the approval of State quality metrics; the standards are higher than the national standards but still maintain a large applicant pool
- ▶ Following Commission approval, staff will publish the approved quality and performance measures and a list of jurisdictions showing need based on those measures
- ▶ The Commission will also publish an appendix to the CON review schedule on its website and in the Maryland Register



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End



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Appendix

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 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

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 June 12, 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 using 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
 - Quality of Patient Care (QOPC) Overall star rating equal to or better than the Maryland State average of 3.5 stars
 - 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
- ▶ 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 (2022, 2023, and 2024)
 - 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
 - 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
 - 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, using the most recent three consecutive years (2022, 2023, and 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) using the three most recent surveys (2021, 2022, and 2023); a Maryland nursing home must score as follows
 - 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

 - 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

Nursing Home Applicants *(Continued)*



- ❑ 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
- ❑ On average, nursing homes with common ownership with the applicant must achieve the same standards
- ❑ Non-Maryland nursing homes must achieve the same standards, except for the EOC

Maryland Residential Service Agency (RSA) Applicants



- ▶ 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 achieved by
 - ❑ Documenting that it has operated and provided skilled nursing services for at least three years
 - ❑ Has established a system for collecting data that includes systematic collection of process, outcome and experience of care measures
 - ❑ 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 MHCC to document ability to monitor the required quality measures and performance levels