Comments on Competing Applications for One Medicare-Certified Home Health Agency in New Hanover County

July 31, 2023

Medicare-Certified Home Health Agency Applications

Submitted by

Five Points Healthcare of NC, LLC (Aveanna)

In accordance with N.C. GEN. STAT. § 131E-185(a1)(1), Five Points Healthcare of NC, LLC d/b/a Aveanna Home Health (Aveanna) hereby submits the following comments related to competing applications filed to develop a Medicare-certified home health agency in New Hanover County based on the need identified in the *2023 State Medical Facilities Plan* (*SMFP*). Aveanna's comments include "*discussion and argument regarding whether, in light of the material contained in the application and other relevant factual material, the application complies with the relevant review criteria, plans and standards*." *See* N.C. GEN. STAT. § 131E-185(a1)(1)(c).[1] To facilitate the Agency's ease in reviewing these comments, Aveanna has organized its discussion by issue, specifically noting the general Certificate of Need (CON) statutory review criteria and regulations creating the non-conformity relative to each issue, as they relate to competing applications. Aveanna's comments relate to the following applications proposing to develop a Medicare-certified home health agency in New Hanover County. Aveanna's comments relate to the following applications:

- Well Care Home Health of New Hanover County (Well Care), Project ID # O-12405-23
- BAYADA Home Health (BAYADA), Project ID #O-012404-23
- Healthview Capital (Healthview), Project ID # O-012394-23
- Interim HealthCare (Interim), Project ID # O-012389-23

Given that all five applicants propose to meet the need for additional home health services in New Hanover County, only one can be approved. The comments below include substantial issues that Aveanna believes render the competing applications by Well Care, BAYADA, Healthview, and Interim non-conforming with applicable statutory criteria and regulatory review criteria.

[1] Aveanna is providing comments consistent with this statute; as such, none of the comments should be interpreted as an amendment to its application filed on June 15, 2023 (Project ID # O-012401-23).

GENERAL COMMENTS

The *2023 SMFP* identifies a need for one additional Medicare-certified home health agency in New Hanover County based on the application of the home health need methodology. The following section outlines general comments related to the applications for the new Medicare-certified home health agency.

Competition

New Hanover County patients are currently served by one of the two existing Medicare-certified home health agencies located in New Hanover County or one of the 10 home health agencies located in other counties that provide home health services to New Hanover County patients. The top three agencies account for most of the volume (83.2 percent).[2] Providers serving New Hanover County home health patients include the following:

FFY 2021 Existing Agency New Hanover County Market Share

Agency Location	*Home Health Agency*	*New Hanover County Patients Served*	*FFY 2021 Market Share*
New Hanover	Well Care Home Health (HC0532)	2,051	33.0%
New Hanover	Liberty Home Care (HC0196)	657	10.6%
Agencies Located in New Hanover County		***2,708***	***43.6%***
Pender	NHRMC Home Care* (HC0532)	2,464	39.6%
Brunswick	AssistedCare Home Health (HC1500)	636	10.2%
Columbus	CenterWell Home Health (HC0492)	214	3.4%
Bladen	Advanced Home Health (HC0481)	148	2.4%
Brunswick	PruittHealth @ Home – Brunswick (HC4816)	35	0.6%
Pender	Liberty Home Care (HC1241)	4	0.1%
Onslow	Liberty Home Care (HC0316)	3	>0.1%
Brunswick	Liberty Home Care (HC0288)	2	>0.1%
Wake	Liberty Home Care (HC2562)	1	>0.1%
Wake	Well Care Home Health of the Triad, Inc. (HC0074)	1	>0.1%
Agencies Located Out of New Hanover County		***3,508***	***56.4%***
New Hanover County Total		***6,216***	***100.0%***

Source: *2023 SMFP*; Chapter 12 Home Health Data by County of Patient Origin – 2021 Data.
*New Hanover Regional Medical Center Home Care.

The applicants for a Medicare-certified home health agency in New Hanover County include one existing provider, Well Care, along with four providers that do not currently serve New Hanover County: Aveanna, BAYADA, Interim, and Healthview. As shown in the table above, Well Care serves the second-largest

[2] The top three agencies for market share of New Hanover County patients include two that are located in New Hanover County (Well Care Home Health and Liberty Home Health), and one provider outside of New Hanover County (New Hanover Regional Medical Center Home Care, located in Pender County and operated by the largest healthcare provider in New Hanover County).

number of New Hanover County patients for existing home health providers and had a 33.0 percent market share in FFY 2021. Said another way, Well Care served more than three times as many New Hanover County residents as Liberty Home Care, which served the third-most New Hanover County residents of all existing agencies in FFY 2021 (2,051 / 657 = 3.12). Clearly, New Hanover County residents already have sufficient access to home health services provided by Well Care through Well Care's Medicare-certified agency in New Hanover County.

Aveanna, BAYADA, Interim, and Healthview operate Medicare-certified home health agencies in North Carolina that do not currently serve New Hanover County or the surrounding area. The approval of a new home health provider to serve residents of New Hanover County is a more effective alternative to promote competition in the service area than approving a provider that currently serves New Hanover County through an existing home health agency. A new provider will encourage healthy competition, innovation, and diversity, which will ultimately benefit New Hanover County residents by providing cost-effective, high quality care.

WELL CARE HOME HEALTH OF NEW HANOVER COUNTY, MEDICARE-CERTIFIED HOME HEALTH AGENCY, PROJECT ID # O-012405-23

In addition to the specific comments below regarding Well Care's application in New Hanover County, the Agency recently awarded Well Care a Certificate of Need for a certified home health agency in Brunswick County.[3] Given that Well Care operates an existing certified home health agency in New Hanover County and will commence operations in Brunswick County in July 2024,[4] Aveanna believes that awarding Well Care a certificate for a second New Hanover agency will be unnecessarily duplicative. Well Care's Brunswick County application (Project ID # O-12334-23) projected volume of 1,737 patients in Project Year 3, with all of these patients residing in Brunswick County. Well Care assumes in its 2023 New Hanover application that it will not serve any patients from Brunswick County, despite Brunswick being contiguous to New Hanover and the fact that its existing certified home health agency in New Hanover County served 1,506 Brunswick County patients in 2021.[5] Only 41.7 percent of Brunswick County home health patients were served by certified home health agencies located in Brunswick County in 2021. It is reasonable to assume that a second New Hanover agency for Well Care would also serve patients from Brunswick County (like its existing agency), which it can serve with its approved Brunswick County agency. As such, the utilization assumptions included in Well Care's application are unreasonable and overstated.

1. The Well Care application reduces competition as the market leader is expected to further increase its market share of New Hanover County patients.

   Well Care's New Hanover location serves the entire southeastern portion of North Carolina and is the dominant market leader in home health for southeastern North Carolina. Well Care is the current market leader in six counties, including Pender County, and has the second-highest market share in two additional counties, including New Hanover County, as shown in the table below.

Well Care Southeastern NC Market Share by County

County	*2021 Patients*	*2021 Market Share*	*2021 Market Share Rank*
New Hanover	2,051	33.0%	2
Brunswick	1,506	32.9%	1
Onslow	1,440	46.5%	1
Columbus	893	45.8%	1
Duplin	728	42.1%	1
Pender	715	43.9%	1
Bladen	531	51.1%	1
Sampson	262	18.1%	2

Source: DHSR Chapter 12: Home Health Data by County of Patient Origin – 2021 Data

[3] See State Agency Findings, 2023 Brunswick County Home Health Agency Review, July 24, 2023.

[4] Project ID # O-012334-23, Section P, p. 126.

[5] 2021 Home Health Data by County of Patient Origin, Chapter 12, p. 3, https://info.ncdhhs.gov/dhsr/mfp/pdf/por/2022/02-Ch12PatOrig_Final.pdf

Despite its standing as the region's market leader, Well Care claims its application will promote competition. As discussed below, approving Well Care's application will result in further consolidation of its market share in New Hanover County under the same circumstances in which Well Care has not been able to meet the needs of the New Hanover County home health population. Given the market dynamics within New Hanover County, a new home health provider, such as Aveanna, should be prioritized to promote competition in the market.

In Section N.1, Well Care describes the expected effects of the proposal on competition. "The proposed project will promote competition in the service area because it will enable Well Care to **better meet the needs of its existing patient population,** and to ensure more timely provision of and convenient access to home health services for residents of New Hanover County **(emphasis added).**"[6] Well Care's focus is not on underserved patients in need of home health services, but rather on its current base of patients.

According to page 134 of its application, Well Care projects that over 71 percent of PY3 patient volume at its proposed New Hanover County agency will shift from patients already served by its existing New Hanover agency, including 1,082 existing New Hanover County patients and 346 existing Pender County patients ((1,428 / 1,998) x 100 = 71.5).

Well Care's arguments in Section 2 highlight the belief that this is not unnecessary duplication because of the operating efficiencies it will achieve by having a second location in New Hanover County. However, these arguments are self-serving (i.e., the proposed new home health agency in New Hanover County is needed to enable Well Care to better serve New Hanover County and Pender County communities in an effective and efficient manner) instead of competition enhancing. Home health applications are different from facility-based projects such as hospital beds or operating rooms because the patient does not have to travel to a home health facility; rather, the home health agency staff travels to them. The addition of a second agency office in New Hanover County will have a minimal effect on Well Care's ability to provide incremental services in the homes of patients, and according to the applicant will serve mostly existing Well Care patients. Any purported improved efficiencies for Well Care do not outweigh the need for a new provider to enhance competition in New Hanover County. This is particularly true in a county like New Hanover, which is one of the smallest in terms of geographic size in the state, as the Agency can confirm through publicly available data.

Most notably, as shown below, Well Care's market share of New Hanover County home health patients is second only to New Hanover Regional Medical Center (NHRMC) Home Care, the Pender County-based agency operated by the largest healthcare provider in New Hanover County.

[6] Project ID # O-012334-23, p. 124.

FFY 2021 Existing Agency New Hanover County Market Share

Agency Location	*Home Health Agency*	*New Hanover County Patients Served*	*FFY 2021 Market Share*
New Hanover	Well Care Home Health (HC0532)	2,051	33.0%
New Hanover	Liberty Home Care (HC0196)	657	10.6%
Agencies Located in New Hanover County		***2,708***	***43.6%***
Pender	NHRMC Home Care* (HC0532)	2,464	39.6%
Brunswick	AssistedCare Home Health (HC1500)	636	10.2%
Columbus	CenterWell Home Health (HC0492)	214	3.4%
Bladen	Advanced Home Health (HC0481)	148	2.4%
Brunswick	PruittHealth @ Home – Brunswick (HC4816)	35	0.6%
Pender	Liberty Home Care (HC1241)	4	0.1%
Onslow	Liberty Home Care (HC0316)	3	>0.1%
Brunswick	Liberty Home Care (HC0288)	2	>0.1%
Wake	Liberty Home Care (HC2562)	1	>0.1%
Wake	Well Care Home Health of the Triad, Inc. (HC0074)	1	>0.1%
Agencies Located Out of New Hanover County		***3,508***	***56.4%***
New Hanover County Total		***6,216***	***100.0%***

Source: *2023 SMFP*; Chapter 12 Home Health Data by County of Patient Origin – 2021 Data.
*New Hanover Regional Medical Center Home Care.

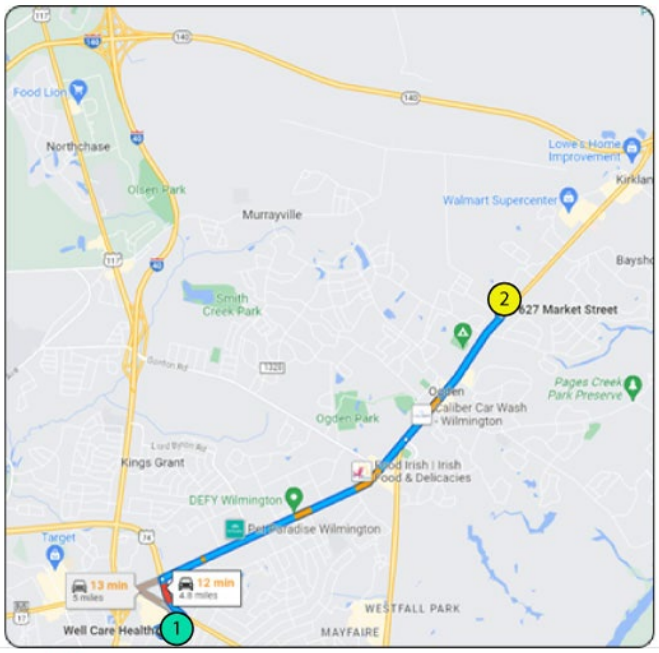
Approval of Well Care's proposed project will prevent a new entrant to the New Hanover County market and limit the choice of providers for patients and their providers, thereby reducing competition, as an existing market leader will capture additional market share from competing agencies, and no new competition will exist.

Therefore, Well Care's application is non-conforming with N.C. Gen. Stat. § 131E-183(a) (18a) as it will not enhance competition for a service for which enhanced competition would benefit patients.

2. Well Care's proposal will duplicate existing services and will not materially improve access to home health services. Well Care's proposed project is an attempt to further consolidate market share that will negatively impact competition and access.

The Well Care application claims "the proposed location in northern New Hanover County will allow enhanced access…" (p.80). As noted previously, Well Care has an existing certified agency in New Hanover County. The proposed agency office is 4.8 miles from its existing office. Moreover, as shown on the map below, its proposed office is located near fewer major roadways than its existing agency, making its existing agency more accessible to a greater number of providers. As such, there is no reason why Well Care could not simply hire more staff to support its existing New Hanover agency, which already serves more home health patients in the region than any other

home health provider. Well Care's proposed project will unnecessarily duplicate services because the new location does not establish access for other areas of New Hanover County that is meaningfully different than its existing agency. The project as proposed will require additional operating costs while having no effect on increasing access or improving quality of care and is therefore a less effective alternative. In particular, the application fails to demonstrate that it is unable to serve any part of New Hanover County through its existing office, and therefore fails to demonstrate the need of patients for the proposed project. As noted previously, the application projects to largely serve the same patient population already being served at its existing location, which demonstrates that its projected patients have access currently and have no need for the proposed project.



1 Existing Well Care New Hanover Agency

2 Proposed Well Care New Hanover Agency

Source: Google Maps

Well Care's application is thus non-conforming with N.C. Gen. Stat. § 131E-183(a) (1), (3), (4), (6), and (18a), as well as the performance standards in the CON rules, as it will negatively impact competition, does not demonstrate enhanced access for patients in New Hanover County, and fails to demonstrate need by the patients it proposes to serve.

3. <u>The Well Care application understates net revenue and hides its true profitability on Form F.2b.</u>

Well Care claims in its Section Q assumptions on page 150 that "Contractual Adjustments by payor are the difference between gross and net revenue for commercial payors." However, in Form F.2b, <u>the contractual adjustment is more than nine times larger than insurance gross charges</u> in PY1 and PY2 and <u>more than 12 times larger than the insurance gross charges</u> in PY3. Well Care's contractual adjustments are related to Well Care's Medicare charges, as evidenced by the fact that the figure for contractual adjustments exceeds the sum of gross revenues for all payors excluding Medicare

each year, as shown below. It is unreasonable to assume that Well Care's contractual allowances are so high as to result in negative net revenue. This error is more than a mere misstatement or typographical error; it is clearly an attempt to understate its net revenue, thereby misleadingly diminishing profitability to compare more favorably with other applicants.

Well Care Adjustments to Revenue by Project Year

	PY1	***PY2***	***PY3***
Total Gross Revenue	$883,035	$5,220,740	$8,237,791
Gross Revenue Excluding Medicare	$103,927	$558,684	$880,799
Commercial Gross Revenue	$26,958	$129,690	$204,007
Contractual Adjustments	$190,073	$1,580,886	$2,494,198
Commercial Net Revenue	-$163,115	-$1,451,196	-$2,290,191

Source: Form F.2b, p. 145

Well Care's revenue assumptions are unreasonable and unsupported. As such, the application is non-conforming with N.C. Gen. Stat. § 131E-183(a) (5) and the application should be denied. Further, the Agency should not consider Well Care's revenue projections to be more favorable than Aveanna's in the comparative analysis because of this error.

BAYADA HOME HEALTH OF NEW HANOVER COUNTY, MEDICARE-CERTIFIED HOME HEALTH AGENCY, PROJECT ID # O-012404-23

1. <u>BAYADA's patient origin incorporates patient volume already allotted in its proposed project in Brunswick County.</u>

   BAYADA projects that its proposed New Hanover agency will serve 80 patients from Brunswick County in PY3.[7] This figure represents nearly 16 percent of BAYADA's total patients, the second-highest volume of any county. BAYADA states in its assumptions that this figure was calculated based on projected *2023 SMFP* deficits, as well as referral relationships with physicians, hospitals, and other provider facilities including BAYADA home health and home care offices.[8] However, in its 2023 CON application for a Medicare-certified home health agency in Brunswick County (Project ID # O-12324-23), BAYADA also assumes that it will draw patients exclusively from Brunswick County, with volumes that greatly exceed the estimated need deficit. BAYADA assumes its proposed Brunswick agency will draw 1,045 patients from Brunswick County in Project Year 3 (SFY 2027), nearly double the *2023 SMFP* need deficit of 534 home health patients. To achieve this volume, BAYADA would need to capture more than 500 Brunswick County patients currently served by existing certified home health agencies. Patient origin for BAYADA's Brunswick County application is shown in the following table:

BAYADA Projected Patient Origin – Brunswick County Application

<Home Health>	<BAYADA Home Health Care, Inc.> *					
	1st Full FY		2nd Full FY		3rd Full FY	
	07/01/2024 to 06/30/2025		07/01/2025 to 06/30/2026		07/01/2026 to 06/30/2027	
County or other geographic area such as ZIP code	Number of Patients **	% of Total	Number of Patients **	% of Total	Number of Patients **	% of Total
Brunswick County	320	100.0%	667	100.0%	1,045	100.0%
Total	**320**	**100.0%**	**667**	**100.0%**	**1,045**	**100.0%**

Source: Project ID # O-12324-23, Projected Patient Origin, p. 39.

This aggressive market share target would be jeopardized by diverting 80 patients to its proposed New Hanover County agency. If BAYADA is awarded a CON in Brunswick County, a significant percentage of patients in its New Hanover County utilization projections would be unlikely to use the agency, given the relatively superior access to the Brunswick agency and its resources. As a result, BAYADA has not demonstrated that the population that would be served by its proposed New Hanover agency has a need for this service and is non-conforming with N.C. Gen. Stat. § 131E-183(a) (3).

If BAYADA's Brunswick CON application is not approved by the Agency, an appeal of that decision would indicate that BAYADA believes it should have been approved and could feasibly develop a certified home health agency in Brunswick that would serve the same patients included in its New Hanover application.

---

7 Project ID # O-012404-23 Section C.3, Projected Patient Origin, p. 39.

8 Ibid, p. 39.

BAYADA fails to reconcile the two applications and does not demonstrate that patients from Brunswick County have need for home health services by its proposed New Hanover agency. Accordingly, the BAYADA application should be found non-conforming with N.C. Gen. Stat. § 131E-183(a) (3) and the application should be denied.

2. BAYADA's expenses are understated by $89,223 in Project Year 3 based on Form F.5.

The costs per visit on Form F.5 and the total expenses on Form F.2b are not consistent. Total operating costs are recalculated utilizing Forms C.5 and F.5 as follows:

PY3 BAYADA Total Operating Cost Recalculation

Location	*# of Visits*	*Cost per Visit*	*Total Cost*
Nursing	3,383	$154.32	$522,065
Physical Therapy	3,031	$114.72	$347,716
Speech Therapy	396	$70.56	$27,942
Occupational Therapy	1,223	$211.43	$258,579
Medical Social Work	37	$127.08	$4,702
Home Health Aide	108	$50.24	$5,426
Other (Administrative)	8,178	$90.61	$741,009
Total Cost			**$1,907,438**
Form F.2b Total Operating Costs PY3			$1,818,215
Expense Understatement on Form F.2b			**$89,223**

Source: Application Forms C.5, F.2b, and F.5

As shown in the table above, total operating costs on Form F.2b are understated by $89,223 based on Forms C.5 and F.5. This additional expense would result in an operating loss of $7,430 in Project Year 3. Thus, the BAYADA application does not demonstrate that it is financially feasible, nor that the proposed project is based on reasonable costs and charges.

Accordingly, the BAYADA application should be found non-conforming with N.C. Gen. Stat. § 131E-183(a) (5) and the application should be denied. Further, the Agency should not consider BAYADA's expense projections to be more favorable than Aveanna's in the comparative analysis because of this error.

3. BAYADA's net reimbursement is overstated.

To achieve financial feasibility, BAYADA includes large increases in reimbursement compared to the Brunswick County home health CON application it submitted in February of 2023. Given that the two proposals have identical project years, it is clear that BAYADA inflated its reimbursement to appear more profitable in its New Hanover application compared its Brunswick application. Without these increases, it would not be profitable.

BAYADA Reimbursement per Episode or Visit Comparison

Payor	*Brunswick*	*New Hanover*	*Change*
Medicare Full w/o Outliers	$3,287.44	$3,329.00	+1.0%
Medicare Full w Outliers	$1,643.72	$4,161.25	+151.2%
Medicaid (Skilled nursing and Medical Social Work)	$103.33	$113.66	+10.0%
Medicaid (PT, ST, OT)	$109.60	$120.56	+10.0%
Insurance (Skilled Nursing, PT, ST, OT)	$116.00	$191.40	+65.0%
Insurance (Medical Social Worker)	$157.50	$259.88	+65.0%

Source: Project ID # O-012324-23 and Project ID # O-12404-23, Section Q, Form F.2b Assumptions

Of note, there are no assumptions to support these changes, nor is there any explanation as to how they were calculated to be so different from an application submitted just a few months ago. Moreover, as stated previously, BAYADA is proposing to serve some of the same patient population in both its Brunswick County and New Hanover County applications; as such, this major difference in reimbursement is not attributable to distinctly different patient populations.

BAYADA fails to demonstrate that its projected revenues are based on reasonable assumptions. BAYADA is also unable to demonstrate financial feasibility and is therefore non-conforming with N.C. Gen. Stat. § 131E-183(a) (5). BAYADA's application should be denied.

4. BAYADA's payor mix, operating expenses, and revenue assumptions are unsupported.

BAYADA operates 11 Medicare-certified home health agencies in North Carolina, yet it bases its financial model assumptions for gross charges, reimbursement adjustments, and operating costs on only one of its 11 certified home health agencies, BAYADA – Guilford.[9] BAYADA offers no explanation why its other in-state agencies were not included, nor why the Guilford agency represents the best model comparison for some, but not all, of its operational assumptions. BAYADA applies an inconsistent methodology for its operational assumptions, as its staffing salary figures in Form H are based on the entire company's average starting pay (across all agencies), adjusted for the coastal North Carolina market.[10] This methodology is unreasonable and unsupported.

These inconsistent and unsupported assumptions result in a failure to demonstrate that its costs and charges are based on reasonable assumptions, and result in an inability to demonstrate financial feasibility. The BAYADA application is therefore non-conforming with N.C. Gen. Stat. § 131E-183(a) (5) and 13(c) and should be denied. Further, the Agency should not consider BAYADA's financial projections to be more favorable than Aveanna's in the comparative analysis because of this error.

9 Ibid, Section Q Assumptions, p. 112.

10 Ibid, p. 113.

HEALTHVIEW HOME HEALTH – NEW HANOVER MEDICARE-CERTIFIED HOME HEALTH AGENCY, PROJECT ID # O-012394-23

1. Healthview's payor mix is inconsistent with its policy descriptions.

   Healthview's projects to serve only Medicare and Medicaid patients.[11] However, the application repeatedly states that Healthview will provide services to **the entire population without regard to payor source**, gender, race, and ethnicity. Clearly, there is a significant contradiction between stating that it will serve the entire population yet limiting the provision of care to only two payor sources in its payor mix table in Section L.3. While the payor mix would indicate that Healthview plans to provide services for underserved groups, the statements that it will provide services to the entire population without regard to payor source brings into question the validity of its payor mix assumption that it will serve only Medicare and Medicaid patients, as well as whether its financial projections are based upon reasonable assumptions of charges. Furthermore, Healthview has not demonstrated that there is no need for home health services by patients in other payor categories. Healthview is non-conforming with N.C. Gen. Stat. § 131E-183(a) (3) because it does not project that it will serve beneficiaries not enrolled in CMS-sponsored insurance programs.

   Accordingly, the Healthview application is non-conforming with N.C. Gen. Stat. § 131E-183(a) (3), (5), and (13)(c). Further, the Agency should not consider Healthview's payor projections to be more favorable than Aveanna's in the comparative analysis because of this omission.

2. Healthview's utilization methodology is unreasonable and unsupported.

   Healthview explains its entire methodology in a single paragraph in Section C.7. It states, "The assumptions made for the total number of patients in total are based on a fill-up rate average of 3 unduplicated patients per month during Years One and Two, and 1 unduplicated patient per month during Year Three; at which point the agency will be operating at a steady and efficient capacity."[12] This methodology yields 930 unduplicated patients in Project Year 3, more than double the *2023 SMFP's* projected deficit in 2024.[13] Healthview provides no data to support this volume projection and fails to demonstrate that 930 patients need home health services.

   With unsupported volume assumptions, Healthview fails to demonstrate that costs and charges are based upon reasonable assumptions and that the project does not unnecessarily duplicate existing services.

   Therefore, Healthview's application is non-conforming with N.C. Gen. Stat. § 131E-183(a)(3) (5), (6), and (18a), as well as the performance standards at 10A NCAC 14C .2003.

3. Healthview assumes Medicare certification commences upon the date of offering service, with no lag time for reimbursement.

---

11 Project ID # O-012394-23, p. 70.

12 Ibid, p. 39.

13 Ibid, Exhibit C-7.

Healthview assumes that it will receive Medicare certification on January 1, 2025, the first day services are offered. Healthview does not provide support for how it will obtain certification prior to opening. According to Palmetto GBA, home health agencies seeking Medicare certification should expect a processing time of roughly 90 to 180 days from submission of their request prior to receipt of Medicare certification.[14] Healthview underestimates the time required to receive Medicare certification, and thus, understates its initial operating expenses as it does not include the expenses incurred during this lag time for Medicare reimbursement.

Therefore, the Healthview application does not demonstrate the financial feasibility of the proposed project and is non-conforming with N.C. Gen. Stat. § 131E-183(a)(5).

4. The Healthview Home Health – New Hanover application does not provide a specific agency location.

Throughout its application, Healthview states that the home health agency will be operated out of leased office space at a site within New Hanover County that has yet to be determined. Healthview does not include a specific address for the proposed facility. According to N.C. Gen. Stat. § 131E-181(a), "A certificate of need shall be valid only for the defined scope, physical location, and person named in the application." Without a physical location, a Certificate of Need cannot be issued to Healthview Home Health – New Hanover. Moreover, without an identified site, the need for upfit/renovation cannot be determined, nor can the reasonableness of the projected lease expenses be validated.

An application without a specific site cannot be approved pursuant to N.C. Gen. Stat. § 131E-181(a). Moreover, the Healthview application fails to demonstrate that its proposed project is based on the most reasonable alternative for construction and fails to demonstrate that its projected costs are reasonable. As such, it is non-conforming with N.C. Gen. Stat. § 131E-183(a)(4), (12) and (5).

5. Healthview includes no inflation assumptions in Project Years 2-3 and thus understates expenses. It is unreasonable to assume costs will remain flat in future years.

While it is impossible to predict specific inflation rates or levels with certainty, assuming there will be no inflation over the first three project years is unreasonable based on historical patterns and recent economic trends affecting inflation.[15] By assuming zero inflation through Project Year 3, Healthview's expenses are understated, and as such the Applicant fails to demonstrate the financial feasibility of the project.

---

[14] Source: Palmetto GBA

[15] The U.S. dollar has a predicted average inflation rate of 3.10% per year between 2023 and 2028, decreasing the buying power of consumers. "US Expected Change in Inflation Rates: Next 5 Years", University of Michigan Surveys of Consumers, accessed at https://ycharts.com/indicators/us_expected_changes_in_inflation_rates_next_five_years#:~:text=US%20Expected%20Change%20in%20Inflation%20Rates%3A%20Next%205%20Years%20is,long%20term%20average%20of%203.20%25.

Because it does not provide reasonable operating expense assumptions, the Healthview application is non-conforming with N.C. Gen. Stat. § 131E-183(a) (5). Further, the Agency should not consider Healthview's expense projections to be more favorable than Aveanna's in the comparative analysis because of this error.

6. Healthview's projected volume is overstated based on the projected need for New Hanover County identified in the *2023 SMFP.*

By Project Year 3, Healthview projects to serve 856 patients residing in New Hanover County, representing more than double the unmet need of 464 patients calculated in the *2023 SMFP* and nearly triple the performance standard threshold of 325 patients. It is unrealistic to expect a new agency to capture such high volume in its initial startup period. Healthview's application significantly overstates its projected market capture throughout the first three years of its proposed project. Thus, nearly 400 of Healthview's New Hanover patients in PY3 will shift from existing home health providers to the proposed new agency. As noted previously, Healthview's application fails to demonstrate that its projected volume is based upon reasonable assumptions and does not unnecessarily duplicate existing services provided by other existing providers.

Healthview's New Hanover County Projected Deficit and Deficit Capture

Location	***CY2025 (PY1)***	***CY2026 (PY2)***	***CY2027 (PY3)***
2023 SMFP Projected Need Deficit	(464)	(464)	(464)
Healthview Expected New Hanover Patients	210	610	856
Healthview's % of Need Deficit	45.2%	131.5%	184.5%
Market Capture in Addition to Need Deficit (# of Patients)	--	146	392

Source: Application C.3b, p.29.

Healthview's proposed project will therefore have a negative impact on competition because the growth in patients served will come at the expense of existing home health agencies currently serving New Hanover County. Healthview has not provided a reasonable explanation for why patients served by existing agencies will switch to a new provider. If Healthview were to achieve the utilization it projects for Project Year 3, it would represent the second-highest market share of any existing home health provider serving New Hanover County.[16] This patient volume is clearly not realistic and is unsupported.

Therefore, the Healthview application is non-conforming with N.C. Gen. Stat. § 131E-183(a)(3), (6), and (18a), as well as the performance standards in the rules for home health services.

[16] Market share estimate calculated by adding the New Hanover need deficit of 464 patients to the total New Hanover County home health patients served in the *2023 SMFP* Chapter 12: Home Health Data by County of Patient Origin table to estimate the total number of home health patients (464 + 6,216 = 6,680). Healthview's PY3 New Hanover utilization of 856 patients represents 12.8 percent of this total: 856 / 6,680 = 12.8%.

1. Interim's projected volume is overstated based on the projected need for New Hanover County identified in the *2023 SMFP.*

Despite being a new entrant into the market, Interim projects to serve 673 patients in New Hanover County by Project Year 3, representing more than double the 325-patient performance standard threshold. It is unrealistic to expect a new agency to capture such high volume in its initial startup period, particularly without sufficient supporting documentation, and indeed Interim assumes that it will serve more patients in its first year operation than the entire *2023 SMFP* projected need deficit of 464 patients. Interim's application significantly overstates its projected market capture throughout the first three years of its proposed project. In PY3, Interim assumes more than 200 patients will shift from existing home health providers to the proposed new agency. Since more than 30 percent of Interim's projected patients are already served by existing home health agencies, this is a duplicative proposal that will negatively impact other providers in the service area. The total volume of Interim's patients in PY3 represents a 10.1 percent market share, which would rank Interim as the third-highest agency in terms of market share for New Hanover patients, and ahead of one of New Hanover County's two existing certified home health agencies. Interim's application fails to demonstrate that its projected volume is based upon reasonable assumptions, and it will not unnecessarily duplicate existing services provided by other existing providers.

Interim's New Hanover County Projected Deficit and Deficit Capture

Location	***CY2025 (PY1)***	***CY2026 (PY2)***	***CY2027 (PY3)***
2023 SMFP Projected Need Deficit	(464)	(464)	(464)
Interim Expected New Hanover Patients	479	578	673
Interim's % of Need Deficit	103.2%	124.6%	145.0%
Market Capture in Addition to Need Deficit	15	1114	209

Source: Application C.3b, p.56.

Therefore, Interim is non-conforming with N.C. Gen. Stat. § 131E-183(a)(3), (6), and (18a), as well as the performance standards in the rules for home health services.

2. Interim's projected patient origin is unreasonable and unsupported.

Interim projects that 100 percent of its patients will reside in New Hanover County,[17] which is unreasonable based on utilization patterns of existing New Hanover County providers. As shown in the table below, in FY 2021, only 30.5 percent of all home health patients served by New Hanover County Medicare-certified home health agencies were residents of New Hanover County. Interim's percentage of in-county patients is overstated, particularly given that it operates a home care agency in Brunswick County that would likely be a referral source for home health patients.

[17] Project ID # O-012389-23, C.3b, pp. 55-56.

It is unrealistic and unreasonable to assume that 100 percent of the patient population Interim projects to serve will be New Hanover County residents.

New Hanover County Agency FY 2021 Patient Origin Percentages

Agency Name	*In-County*	*Out-Of-County*	*Total Patients*	*In-County Percentage*
Liberty Home Care	657	18	675	97.3%
Well Care Home Health	2,051	6,148	8,199	25.0%
Total	2,708	6,166	8,874	30.5%

Source: *2023 SMFP*, Table 12A Inventory of Licensed Medicare-Certified Home Health Agencies.

In addition to applying an unsupported assumption for this methodology, Interim's patient origin will have a direct impact on a comparative analysis with other applications. The Agency has historically included a comparative factor evaluating access by service area residents in its review of competitive applications. This factor can be based on either the count of patients or percentage of patients from the county where the agency is located. Interim's omission of out-of-county patients directly impacts this comparative factor, as this unrealistic assumption for patient origin will improve its ranking regarding its percentage of New Hanover County patients.

Based on this issue, the Interim application is non-conforming with N.C. Gen. Stat. § 131E-183(a)(3), and its unreasonable projected patient origin should not be considered more favorably than Aveanna's in the comparative analysis.

3. Interim understates its initial operating expenses, and its availability of funds is not supported.

Interim estimates it will incur initial operating expenses (IOE) of $265,000 and require working capital of $436,000.[18] These amounts are insufficient to cover actual operating expenses for the initial operating period. Interim's initial operating period is from 1/2/2024 to 12/31/2024. On page 98 of its application, Interim describes its methodology for calculating initial operating costs: "Take the first year of business starting 01/02/2024 and assume revenue will not be generated until 10/01/2024 when billing can begin after Medicare certification." Interim therefore assumes that it will not be paid for the first nine months of operation. In Form F.3b, Interim calculates its operating expenses for Project Year 1 at $998,645. Assuming it is not being reimbursed for the first nine months, Interim would incur approximately nine-twelfths (or three-fourths, 75%) of the PY1 total operating expenses without revenue to offset the expenses. The pro-rated PY1 operating expenses are $748,984.[19] This is substantially higher than the IOE estimate of $265,000 that Interim uses. Even if the working capital figure is added to the IOE expense, the total of $701,000 is still less than the amount required during the startup phase while revenue is not being collected.

Interim's financial methodology is further obscured by listing inconsistent amounts in the Sources of Financing question in its application (Section F.3f). Interim states it will require $979,790 for

[18] Ibid, Section F.3, p. 98.

[19] $998,645 * .75 = $748,984.

working capital, a difference of $543,790 from the total working capital figure in F.3d. Interim provides no explanation for this variance.

Interim also does not provide sufficient evidence for its source of funds for the project. The application states that the project will be financed with cash or accumulated reserves. Interim is required to identify the entities that will contribute cash or cash equivalents, document that the entities are willing to commit these funds, and document that the required funds are available. Interim fails to do so. Exhibit F.5 of the application includes three letters (two from Truist Bank and one from First Bank) confirming the current account balances but does not commit these funds for project IOE costs. In particular, while the bank letters provide available deposits as of the time of the letters, it is not clear that the funds are being held or otherwise set aside for the proposed project. In addition, the responses to F.2a, F.2.c, and F.3f refer to "Donna L. Byrd" as the "applicant" or "legal entity that will provide" funding for the project; however, Ms. Byrd is not named as an applicant.

Therefore, Interim's application is non-conforming with N.C. Gen. Stat. § 131E-183(a)(5) because its initial operating expenses are understated, and it has failed to demonstrate the availability of funds for the proposed project.

4. Interim assumes it will receive Medicare certification after two months of offering service.

Interim assumes that it will receive Medicare certification on October 1, 2024, just 60 days after home health services are offered.[20] Interim does not provide support for how it will obtain certification this quickly. As shown in the table below, Interim's assumptions regarding its licensure and Medicare certification occur before the start of service date (August 1, 2024) and erroneously list dates that have already occurred in 2023. In addition, Interim's 855a approval timeline does not align with what is reported in Section P. Interim underestimates the time required to receive Medicare certification, and thus overstates revenue in Project Year 1 as it does not include the lag time for Medicare reimbursement approval.

Assumptions–these are best estimations based on knowledge of licensing and accreditation timelines.

Milestone	Date
Certificate of Need Issued	01/02/2024
Building/Space occupied –already onsite existing home care office	01/02/2024
Apply for NC home health licensure-allow 90 days (about 3 months) to obtain	01/15/2024
Receive home health licensure	04/15/2023
Apply for 855a (provider enrollment) Allowing 90 days (about 3 months) for Palmetto GBA approval-NC licensure needed before applying	04/15/2024
Receive 855a approval	07/15/2023
Services offered-to coincide with fiscal year	08/01/2023
Joint Commission Accreditation should by executed w/in 120 days (about 4 months)	10/15/2024

IHEC will be using JACHO for both Accreditation and Medicare Certification

[20] Ibid, Section F.3, p. 98.

Furthermore, Interim's financial projections for PY 1 assume that Medicare revenue will be collected upon start of service, with no delay in reimbursement. On page 171 of the application, the monthly income statement shows Medicare revenue beginning in Month 1. It is unreasonable to assume that a new service will have already received its CMS inspection and been approved to bill for Medicare services at the date of offering service.

Therefore, the Interim application does not demonstrate the financial feasibility of the proposed project and is non-conforming with N.C. Gen. Stat. § 131E-183(a)(5).

5. Interim applies unreasonable salary assumptions in its Form H staffing summary.

According to the salary range information provided in Section Q, the average starting salary for RNs and LPNs in PY 1 is 90 percent of the median for Wilmington, NC.[21] Interim's inclusion of salaries that are significantly higher than the market average suggests an attempt to improve its relative ranking for the Comparative Factor regarding average clinical salaries, rather than basing its assumptions on reasonable market assumptions.

Interim also does not include any inflation factor in Project Years 2 and 3 for salary expenses.[22] Salary figures are identical in Project Years 1-3. It is unrealistic to freeze salaries over this period, given the tight labor market and competitiveness for qualified clinical staff. Interim's erroneous assumption thus understates its operating expenses in future years, while raising doubt about its ability to retain staff.

Therefore, Interim's application is non-conforming with N.C. Gen. Stat. § 131E-183(a)(5) and (7).

[21] Ibid, Section Q Methodologies and Assumptions, pp. 202-212.

[22] Ibid, Section Q Form H, p. 201.