

**PETITION OF BAYADA NURSES, INC. TO ADJUST THE NEED
DETERMINATION TO ALLOCATE AN ADDITIONAL HOME HEALTH
AGENCY IN BRUNSWICK COUNTY**

Bayada Nurses, Inc. (“Bayada”) files this Petition in support of its request that the need determination for home health agencies be adjusted for Brunswick County to allocate an additional home health agency in the 2010 State Medical Facilities Plan.

The Petitioner

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Established in 1975, Bayada has become one of the largest home health care providers nationwide, offering a full range of home care services from skilled nursing and personal care to rehabilitation and therapies for pediatric, adult, and geriatric clients. Throughout the country, Bayada Nurses has a special purpose – to help people have a safe home life with comfort, independence and dignity. This sense of purpose defines the Bayada Way and emphasizes the core values of compassion, excellence, and reliability.

Bayada has established numerous home care offices throughout North Carolina and has recently opened a CON approved Medicare-certified home health

agency in Raleigh. Additional information about Bayada is available at www.bayada.com.

Requested Adjustment

The draft State Medical Facilities Plan for 2010 indicates that after applying the standard methodology, there is not a need for an additional home health agency in Brunswick County for the year 2011. Bayada requests that this determination be adjusted to allocate the need for one additional Medicare-certified home health agency in Brunswick County.

Reasons for the Proposed Change

The State Medical Facilities Plan recognizes that there should be an adjustment to the need determinations that result from applying the standard methodology when unique and special circumstances exist. In the case of Brunswick County, there are unique and special circumstances that support allocating another Medicare-certified home health agency. The standard methodology shows that there will be a projected deficit of 90 patients in Brunswick County, which is less than the 275 patients that would trigger the need for another home health agency under the standard methodology. However, a much greater number than 90 patients will not be adequately served if a third Medicare-certified home health agency is not allocated to Brunswick County. This

is because of the unique and special circumstances in Brunswick County, which include the following:

- Brunswick County has only two Medicare-certified home health agencies to serve a very large geographic area. This number is not sufficient as shown by several factors, including a comparison with other counties. The lack of a sufficient number of Medicare-certified home health agencies in Brunswick County also results in an increasing percentage of Brunswick home health patients being served by out-of-county home health agencies.
- There has been and will be tremendous growth in the overall Brunswick County population, particularly in the 65 and older population which are the primary users of home health care.
- An unusually large and growing percentage of Brunswick County home health patients are being served by out-of-county home health agencies which is not a positive trend. Particularly because of the relatively large size of Brunswick County, sufficient resources need to be located within the county to cut down on travel times and provide the most cost effective, quality services.

A. *A Comparison Of Brunswick County With Similar Counties Supports This Special Allocation.*

Brunswick County is similar in population size to Henderson County. However, Henderson County has three Medicare-certified home health agencies within the county, even though the geographic size of the county is less than one-half the size of Brunswick County and the projected population growth is substantially less. Here is a comparison of Brunswick County with Henderson County, as well as Wayne and Nash Counties. Although Wayne and Nash Counties have only two Medicare-certified home health agencies and are similar to Brunswick in total population, their geographic size and projected population growth is substantially less than Brunswick County.

Here is the comparison:

Counties	Number of Medicare-certified Agencies Within the County	2010 Total Population	2019 Total Population	Growth in Total Population Between 2010 and 2019	Geographic Area Square Miles
Brunswick	2	110,293	143,662	30.25%	855
Henderson	3	107,402	123,279	14.89%	373
Wayne	2	116,760	118,041	1.1%	553
Nash	2	97,432	107,849	10.7%	540

Source: NC Office of State Management and Budget; Home Health Inventory in Draft 2010 SMFP; U.S. Census Bureau.

B. Tremendous Growth For Brunswick County And Particularly In The 65 And Older Age Group Supports This Special Allocation.

In a report prepared by the Division of Aging and Adult Services of DHHS in April of 2008 titled "Aging Study of Brunswick County," Brunswick County was described as one of only six counties in the State that currently have, or are projected to have by 2030, the largest numbers of individuals aged 60 and older when compared to individuals age 17 and younger. As stated in the report: "Brunswick County demographics indicate a significant increase in the number of older adults in the coming years. By 2030, the number of older adults 65 through 84 is expected to increase by 130% and older adults 85 plus by 340%." (Page 5). Because of this exceptional growth in the elderly population, the report also noted "... an increased demand for home and community based services."

Our General Assembly recognized this extraordinary growth in the elderly population of Brunswick County when it directed that this study be conducted. (Section 1 of S.L. 2007-355). The extraordinary growth of the elderly is a unique and special circumstance which supports a third Medicare-certified home health agency because those who are 65 years of age and older are the primary users of home health services.

In comparing Brunswick with Wayne and Nash Counties, all of which have two Medicare-certified home health agencies, a significantly greater percentage of Brunswick County's population is comprised of the 65 and older age group.

Brunswick County is more similar to Henderson County, which has three home health agencies, in the percentage of 65 and older. Here is the comparison:

County	Total 2011 Population	2011 Population 65 and Over	2011 Population % 65 Years and Older
Brunswick	114,000	19,843	17.4%
Henderson	109,171	20,729	19.0%
Wayne	117,100	14,847	12.7%
Nash	97,702	12,603	12.9%

Source: NC Office of State Management and Budget

Brunswick County's 17.4% substantially exceeds the State percentage of population 65 and older of 7.86%. (*N.C. Office of State Management and Budget, July 1, 2011 population projections by county and age groups.*) As the Aging Study of Brunswick County noted, the older adult care populations 60 plus will increase by 18.1% between 2008 and 2012 as compared to 11.1% statewide. (Page 11). The large percentage of 65 and older and tremendous growth in this age group is a very special and unique circumstance of Brunswick County supporting the need for a third Medicare-certified home health agency.

C. A Very Large Percentage Of Brunswick County Home Health Patients Are Served By Out-Of-County Home Health Agencies.

A large percentage of Brunswick County home health patients are served by out-of-county home health agencies. Again comparing Brunswick County with three other counties of similar population size, Brunswick County has the lowest

percentage of home health patients served by home health agencies located within the county. Here is the comparison:

2008 Data (from Proposed 2010 Plan)	Total HH Patients Served for the County	Total HH Patients Served by HHAs within the County	Total HH Patients Served by Outside HHAs	% of HH Patients Served by Home County HHAs
Brunswick	3021	1801	1220	59.62%
Henderson	2505	1733	772	69.18%
Wayne	2544	2381	163	93.59%
Nash	1989	1724	265	86.68%

Source: Table 12A Home Health Data By County, Draft 2010 SMFP.

This comparison is particularly compelling when one considers that the geographic area of Brunswick County is substantially greater than the three other counties. This means that out-of-county home health agencies are having to travel, on average, much further to serve Brunswick County patients. The two out-of-county home health agencies that served by far the greatest number of Brunswick County patients are located in New Hanover County. (38.7% of total Brunswick County patients served). Because of the travel distances, home health agencies based in New Hanover County are not effective to serve all of Brunswick County, especially the southern areas.

Not only is Brunswick County a large county (855 square miles), it also should be noted that unlike most other counties in the State, Brunswick County has fewer contiguous counties from which out-of-county home health agencies can

provide services to Brunswick County patients. The south and southeast side of Brunswick County is the ocean and the southwest side of Brunswick County is South Carolina. South Carolina home health agencies cannot serve Brunswick County patients.

This very significant percentage of home health patients served by out-of-county home health agencies is strong support for an adjustment to the need determination. Especially because of the large size of Brunswick County and its location in the corner of the State, it is very important to have a sufficient number of home health agencies located within the county available to serve the needs of Brunswick County patients. Three Medicare-certified home health agencies are needed in Brunswick County.

D. The Percentage Of Service To Brunswick County Home Health Patients By Out-Of-County Agencies Is Increasing.

The percentage of home health patients served by Brunswick County home health agencies have been declining over the last three years which is a very negative trend.

County	Total HH Patients Served for the County	Total HH Patients Served by the HHAs within the County	Total HH Patients Served by Outside HHAs	% of HH Patients Served by Home County HHAs
2006 Data				
Brunswick County	2581	1639	942	63.5%
2007 Data				
Brunswick County	2873	1775	1098	61.8%
2008 Data				
Brunswick County	3021	1801	1220	59.62%

Source: Table 12A of 2008, 2009, and Draft 2010 SMFPs.

Based upon an average decline of 1.94% per year in percentage of patients served by Brunswick County home health agencies, by 2013 Brunswick County will have fewer patients served by providers in Brunswick County than providers located outside Brunswick County. The special allocation of a third Medicare-certified home health agency in Brunswick County would change the negative trend of a steady decline in service by Brunswick County home health agencies.

E. Other Alternatives Are Not Feasible.

Before submitting this Petition, Bayada considered continuation of the status quo in Brunswick County but determined that this was not a feasible alternative for the reasons set forth above. The status quo of only two Medicare-certified home health agencies in Brunswick County would not address the negative trend of

decreasing service to Brunswick County patients by home health agencies located within the county. Because out-of-county home health agencies are increasing their level of service in Brunswick County, it is unlikely that the standard methodology will generate the need for a third home health agency in the next few years. Only an adjustment to the need determination can address this negative trend.

For all of the reasons set forth above, a third Medicare-certified home health agency in Brunswick County will not result in unnecessary duplication of health resources in the area.

F. The Requested Adjustment Is Consistent With Safety And Quality, Access And Value.

The Centers of Medicare and Medicaid Services ("CMS") has determined that home health agencies should limit their service areas to approximately one hour's driving time or 60 miles from the location of the home health agency. The reason for this limitation on service area is a determination that services provided beyond that distance from the agency office cannot be properly supervised. Because Brunswick County is such a large geographic area and it is surrounded on the south side by the ocean and the southwest side by another state whose home health agencies cannot serve North Carolina, it is particularly important that

Brunswick County have an adequate number of home health agencies located within the county.

In enacting the Certificate of Need law, our General Assembly made the specific finding that access to health care services is critical to the welfare of rural North Carolinians and the continued viability of rural communities. N.C.G.S. § 131E-175(3a). Brunswick County is primarily rural with 59% of its population living in rural areas as compared with the State average of 41%. (*N.C. Office of State Management and Budget*). Even a greater percentage of older adults live in rural areas – 66.4% for Brunswick County as compared to 43.5% for the State. (*Aging Study of Brunswick County, page 10*). Allocation of this third home health agency is consistent with the goals of the Certificate of Need law to improve access for rural North Carolinians. A third Medicare-certified home health agency in Brunswick County is consistent with safety and quality and provides the necessary access to services that are vitally important to the residents of Brunswick County.

Conclusion

The allocation of an additional Medicare-certified home health agency to Brunswick County would promote competition, substantially improve access, and reverse the negative trend of patients in Brunswick County increasingly being served by agencies located outside the county. The allocation would promote the

stated goals of the Certificate of Need law to improve access to health care services for rural North Carolinians.

Bayada request that the Long Term Care Committee and the North Carolina State Health Coordinating Council approve an adjustment to the 2010 State Medical Facilities Plan to allocate one additional Medicare-certified home health agency to Brunswick County.