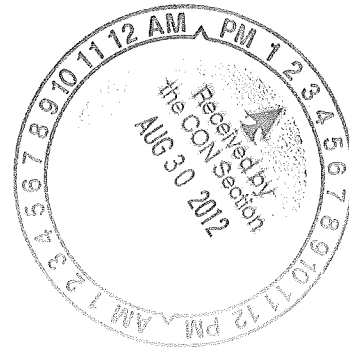


August 30, 2012



Mr. Craig Smith
Certificate of Need Section
Division of Facility Services
2704 Mail Service Center
Raleigh, NC 27699-2704

Re: Comments Regarding Mecklenburg Home Health CON Project Applications
F-10004-12 Healthy@Home Carolinas Medical Center
F-10001-12 Vizion One Inc.
F-10008-12 Emerald Care
F-10012-12 J & D Healthcare Services
F-10003-12 Maxim Healthcare Services
F-10011-12 UniHealth Home Health
F-10010-12 Continuum Home Care of Charlotte
F-10005-12 HealthKeeperz
F-10006-12 AssistedCare

Dear Mr. Smith:

The attached written comments are submitted on behalf of Well Care Home Health.

Thank you for your consideration of these comments.

Sincerely,

David French

David French
Consultant to Well Care Home Health

Comments Regarding CON Project Application # F-10004-12

Carolinas Medical Center at Home, LLC d/b/a Healthy@Home Carolinas Medical Center (H@H-CMC) proposes to establish a new Medicare-certified home health agency in Mecklenburg County. This new office would be in addition to the existing Medicare-certified home health office that is located in southern Mecklenburg. The applicant projects service to 2,871 unduplicated patients in Year 1 and 2,994 unduplicated patients in Year 2.

The CON application is nonconforming to the CON Review Criteria as follows:

- (3) *The applicant shall identify the population to be served by the proposed project, and shall demonstrate the need that this population has for the services proposed, and the extent to which all residents of the area, and, in particular, low income persons, racial and ethnic minorities, women, handicapped persons, the elderly, and other underserved groups are likely to have access to the services proposed.*

The H@H-CMC application does not conform to Criterion 3 because the methodology and assumptions for the projected numbers of patients are unreliable:

- The application fails to demonstrate that the Claritas population data for the zip codes and age groups are accurate or comparable to the population data obtained from the North Carolina Office of State Budget and Management that is the data source used in the 2012 State Medical Facilities Plan. The H@H-CMC methodology includes county use rates that are calculated in the 2012 State Medical Facilities Plan. The SMFP 18-45 population use rates are based on adjusted population figures that exclude active duty military personnel. However, the Claritas population data does not include an adjustment for military personnel in the 18-45 age groups. Therefore it is incorrect for the applicant to multiply the SMFP calculated use rate times the Claritas population data.
- The H@H-CMC methodology does not include the projected total numbers of home health patients for the north zip codes and the south zip codes. Lacking this data, the market share projections in Exhibit 20 on page 69 are unsupported.
- As seen on page 79, the application fails to provide patient origin data for 17 patients in Year 1 and 17 patients in Year 2 that will be served by the proposed new North Zone / Office. Patient origin is not identified for 18 Charlotte Zone / Office patients in Year 1 and 19 patients in Year 2. Because the applicant fails to identify the patient origin, the projections and allocation of future home health patients into either of these Zones/Offices is unreliable.
- As discussed on page 61, H@H-CMC has experienced a decline in the number of Mecklenburg County patients served by the present agency. H@H-CMC complains that the single office location and staffing constraints are a concern for the existing agency. However, the application fails to adequately explain how the agency's constraints for its existing and proposed offices will be solved if staff recruitment and turnover is the core problem.

- The projected growth of the new north office location, which far exceeds the south office growth, is unreliable given the fact that many of the newly hired staff at the north location will not have the productivity of the experienced staff remaining in the south.

(4) *Where alternative methods of meeting the needs for the proposed project exist, the applicant shall demonstrate that the least costly or most effective alternative has been proposed.*

The H@H-CMC application does not conform to Criterion 4 because the applicant fails to analyze the option of utilizing home health way stations to reduce staff travel times. Pages 36 and 37 discuss only two options: maintaining the status quo and filing a CON to open a second office. However, the application fails to explain how staffing constraints will be eliminated if the agency has two office locations instead of the present one location. The applicant does not need to obtain CON approval to open way stations in Mecklenburg County.

As discussed in the comments for Criterion 3, the methodology and assumptions are inaccurate because 1) the use rate is based on SMFP population data that excludes military and 2) the Claritas zip code data is not adjusted for the military population. With inaccurate projections, H@H-CMC fails to provide reliable projections of revenues and costs. Therefore the application fails to demonstrate that the proposed project is cost effective.

The proposed project results in continued loss from operations in Years 1 and 2 following completion of the project.

(5) *Financial and operational projections for the project shall demonstrate the availability of funds for capital and operating needs as well as the immediate and long-term financial feasibility of the proposal, based upon reasonable projections of the costs of and charges for providing health services by the person proposing the service.*

The application is nonconforming to Criterion 5 for multiple reasons:

- The H@H-CMC application and financial statements are based on inaccurate operational projections because the methodology is mathematically corrupt.
- As seen on pages 138 and 139, the existing office experienced a loss from operations of \$1,271,341 for the twelve months ending December 31, 2011.
- On pages 136 and 137 the applicant projects a loss from operations for the total agency in both Years 1 and years 2.

While the application includes documentation that Carolinas Healthcare System will fund the project and continue to fund operating losses, this arrangement does not exempt the applicant from CON Review Criterion 5. Long-term financial feasibility has not been demonstrated by the H@H-CMC application because the applicant fails to demonstrate that the proposed project can ever achieve financial viability.

(7) *The applicant shall show evidence of the availability of resources, including health manpower and management personnel, for the provision of the services proposed to be provided.*

Throughout the application H@H-CMC admits that staffing capacity and recruitment challenges limit the existing agency in its ability to accept patient referrals. Page 61 of the application states that staffing constraints occurred as follows:

Average days per month closed to new RN admissions – 6.6
Average days per month closed to after-hour and weekend RN admissions – 7.1
Average days per month closed to Women's / Children's admissions- 7.5
Average days in which no new PT evaluations available – 3.25
Average days in which no new OT evaluations available – 0.25
Average days in which no new ST evaluations available – 4.35

Page 107 states that the existing agency also uses some limited contract staff.

There is no assurance that the H@H-CMC proposal to establish a second office location will entirely fix the staffing shortages in future years. It is reasonable to conclude that with two offices the agency will still have staff shortages that will limit access. For these reasons, the H@H-CMC does not conform to Criterion 7.

The applicant currently has the ability to establish way stations to reduce travel times and commuting distances. The agency can also utilize both the CHS courier service and the computer systems to reduce the need for clinical staff to travel to the central office to submit paperwork.

(18a) *The applicant shall demonstrate the expected effects of the proposed services on competition in the proposed service area, including how any enhanced competition will have a positive impact upon the cost effectiveness, quality, and access to the services proposed; and in the case of applications for services where competition between providers will not have a favorable impact on cost-effectiveness, quality, and access to the services proposed, the applicant shall demonstrate that its application is for a service on which competition will not have a favorable impact.*

The H@H-CMC proposal does not conform to Criterion 18a because the proposal lessens competition in a market that is dominated by a few existing providers. As seen in the table on the following page, H@H-CMC, Gentiva (3 offices) and Advanced Home Care currently dominate the home health market in Mecklenburg County.

The ten home health agencies located within Mecklenburg County served approximately 96 percent of all Mecklenburg home health patients. Out-of-county home health agencies served approximately 4 percent. Home health agencies located within Mecklenburg County averaged 9.6 percent market share and 1,485 patients in 2011. In 2011, North Carolina's 212 licensed home health agencies served a total of 216,165 patients for an average of 1,020 patients per agency. Home health agencies located in Mecklenburg County have a much higher average number of patients as compared to most agencies throughout the state.

The following analysis shows the market share of the agencies that served Mecklenburg patients in 2010 and 2011. The market share statistics are based on Home Health Licensure and SMFP patient data for Mecklenburg County patients.

Market Share Analysis

| Existing HH Agencies in Mecklenburg | 2010 Mecklenburg County | | 2011 Mecklenburg | |
|--|-------------------------|-------------------|------------------|-------------------|
| | 2010 # Patients | 2010 Market Share | 2011 # Patients | 2011 Market Share |
| Healthy @ Home | 4,174 | 28.1% | 4,185 | 26.97% |
| Advanced Home Care | 2,823 | 19.0% | 3,037 | 19.57% |
| Gentiva HC0787 | 2,362 | 15.9% | 2,162 | 13.93% |
| Gentiva HC0097 | 1,772 | 11.9% | 1,915 | 12.34% |
| Interim | 1,366 | 9.2% | 1,352 | 8.71% |
| Gentiva HC0138 | 851 | 5.7% | 989 | 6.37% |
| Home Health Professionals | 557 | 3.7% | 528 | 3.40% |
| Liberty | 345 | 2.3% | 456 | 2.94% |
| Hospice & Palliative Care (Acquired by Innovative in 2011) | 24 | 0.2% | 53 | 0.34% |
| Personal Home Care | 17 | 0.1% | 168 | 1.08% |
| Subtotal for HHAs within Mecklenburg | 14,291 | 96.1% | 14,845 | 95.65% |
| Existing HH Agencies outside Mecklenburg | | | | |
| Emerald Care (Gaston) | 201 | 1.4% | 212 | 1.37% |
| Advanced Home Care (Cabarrus) | 161 | 1.1% | 171 | 1.10% |
| Home Health Professionals (Gaston) | 68 | 0.5% | 83 | 0.53% |
| Lake Norman Regional (Iredell) | 66 | 0.4% | 50 | 0.32% |
| All Others | 91 | 0.6% | 159 | 1.02% |
| Subtotal for HHAs from Outside Meck. | 587 | 3.9% | 675 | 4.35% |
| Combined Totals | 14,878 | 100.0% | 15,520 | 100.00% |

The population of Mecklenburg County needs a new choice of home health provider to enhance competition and improve access.

As documented on page 61, H@H-CMC fails to provide adequate patient access to home health services due to current staffing constraints:

- Average days per month closed to new RN admissions – 6.6**
- Average days per month closed to after hour and weekend RN admissions – 7.1**
- Average days per month closed to Women’s, Children’s admissions- 7.5**
- Average days in which no new PT evaluations available – 3.25**
- Average days in which no new OT evaluations available – 0.25**
- Average days in which no new ST evaluations available – 4.35**

The applicant’s inability to provide timely service with its present office is certainly not a compelling justification to award CON approval to establish a second office.

Comments Regarding CON Project Application # F-10001-12 Vizion One Inc.

Vizion One, Inc. proposes to establish a new Medicare-certified home health agency in Mecklenburg County. The applicant projects service to 211 unduplicated patients in Year 1 and 325 unduplicated patients in Year 2.

The CON application is nonconforming to the CON Review Criteria as follows:

- (3) *The applicant shall identify the population to be served by the proposed project, and shall demonstrate the need that this population has for the services proposed, and the extent to which all residents of the area, and, in particular, low income persons, racial and ethnic minorities, women, handicapped persons, the elderly, and other underserved groups are likely to have access to the services proposed.*

The Vizion application fails to conform to Criterion 3 because the application lacks adequate assumptions and methodology to demonstrate that the projected numbers of unduplicated patients are reasonable. The applicant fails to adequately identify the service area population because the service area map is inconsistent with the patient origin projections.

Page 31 provides a map showing a primary service area of Mecklenburg County and a secondary service area that extends into numerous counties in a 60 mile radius. Contrary to this service area depiction, the application states that 100 percent of the patients will originate from within Mecklenburg County.

In Section IV of the application, Vizion's projected numbers of duplicated patients are overstated and unreasonable as seen in the following table.

| | Unduplicated Patients | Duplicated Patients | Ratio of Duplicated to Unduplicated Patients |
|--------|-----------------------|---------------------|--|
| Year 1 | 211 | 841 | 4.04 |
| Year 2 | 325 | 1,306 | 4.01 |

The application lacks adequate justification for the projection of 25 visits per patient because the applicant fails to provide assumptions for the number of episodes per patient.

| | Unduplicated Patients | Visits | Visits per Unduplicated Patient |
|--------|-----------------------|--------|---------------------------------|
| Year 1 | 211 | 5,281 | 25 |
| Year 2 | 325 | 8,125 | 25 |

Vizion unreasonably uses historical data for annual visits and annual number of patients to estimate monthly duplicated patients. This does not make sense because an episode of care is 60 days. Based on this error it appears that Vizion's projected number of duplicated patients is grossly overstated.

Furthermore the Patient Visits per Discipline shown on the bottom of page 108 are inconsistent with the Patient Visits per Patient on pages 110 and 111.

- (4) *Where alternative methods of meeting the needs for the proposed project exist, the applicant shall demonstrate that the least costly or most effective alternative has been proposed.*

The Vizion application does not conform to Criterion 4 because the proposed project is not cost effective. The utilization projections are unreliable due to the inaccurate duplicated patients and overstated numbers of visits per patient. Based on these unreliable statistics, Vizion fails to show that its proposal is the least costly or most effective.

- (5) *Financial and operational projections for the project shall demonstrate the availability of funds for capital and operating needs as well as the immediate and long-term financial feasibility of the proposal, based upon reasonable projections of the costs of and charges for providing health services by the person proposing the service.*

Vizion's CON application fails to provide adequate documentation regarding the availability of funds for the proposed project. The letter from Tiletta Venable on page 263 is inadequate because the operations manager is not an officer of the corporation. The \$486,857 amount referenced on page 263 does not correspond to any of the line items on the balance sheet on page 86.

The financial pro forma statements are inaccurate and unreliable:

- **The projected number of unduplicated patients is unreliable making the financial projections unreasonable.**
- **The payor mix percentages for Vizion are unreliable because the percentages are calculated based on the projected numbers of visits.**

- (14) *The applicant shall show evidence that the proposed health services accommodate the clinical needs of health professional training programs in the area, as applicable.*

The application does not conform to Criterion 14 because Vizion fails to provide correspondence to health training programs to demonstrate that the project will accommodate health professional training programs.

- (18a) *The applicant shall demonstrate the expected effects of the proposed services on competition in the proposed service area, including how any enhanced competition will have a positive impact upon the cost effectiveness, quality, and access to the services proposed; and in the case of applications for services where competition between providers will not have a favorable impact on cost-effectiveness, quality, and access to the services proposed, the applicant shall demonstrate that its application is for a service on which competition will not have a favorable impact.*

Unlike most home health agencies, Vizion states on page 72 of its application that private pay clients must undergo a credit check and may be required to provide a credit card or deposit equal to the anticipated cost of two weeks' service. This policy does not enhance competition nor does it have a positive impact on access to services.

Comments Regarding CON Project Application # F-10008-12

Emerald Care proposes to establish a new Medicare-certified home health agency in Mecklenburg County. The applicant projects service to 330 unduplicated patients in Year 1 and 476 unduplicated patients in Year 2.

The CON application is nonconforming to the CON Review Criteria as follows:

- (3) *The applicant shall identify the population to be served by the proposed project, and shall demonstrate the need that this population has for the services proposed, and the extent to which all residents of the area, and, in particular, low income persons, racial and ethnic minorities, women, handicapped persons, the elderly, and other underserved groups are likely to have access to the services proposed.*

The Emerald care application fails to conform to Criterion 3.

Emerald Care's projections are based on the flawed premise that in 2013 its existing home health agency located in Gaston County will transfer 201 patients to the proposed new home health agency in Mecklenburg County. In Year 1 (2013), the applicant projects to serve the 201 transferred patients plus an additional 129 patients. In Year 2 (2014), the applicant expects to serve the 201 transferred patients plus an additional 275 patients. Emerald Care can only transfer 201 patients in its initial year of operation; the methodology on page 44 shows the supposed transfer of patients occurring in both Years 1 and 2.

The application fails to provide the methodology and assumptions for its existing agency located in Gaston County. This is essential to evaluating the Emerald care application because the proposed project is for a branch office of the existing Gaston office.

According to its license renewal applications, Emerald Care's numbers of home health patients in its home county have decreased dramatically in recent years. In 2010, Emerald Care served 2,572 patients from Gaston County; in 2011 Emerald Care only served a total of 1,512 patients from Gaston County. The application fails to explain this huge decline.

Emerald Care also fails to explain the basis for the variance in visits per patient in Year 2 as seen on page 48 of the application. The following table shows the large percentage change in the visits.

| | Yr 1 | Yr 2 | % Change |
|-----------------|------|------|----------|
| Medicare | 25.2 | 29.5 | 17.06% |
| Medicaid | 11.7 | 12.8 | 9.40% |
| Commercial | 28.8 | 32.2 | 11.81% |
| Charity / Other | 19.3 | 20.4 | 5.70% |

No assumptions are provided to demonstrate the average Year 2 visits per patient for each payer category.

The information contained in Exhibit 31 of the application includes the utilization for the "Total Agency Gastonia + Charlotte (Proposed) Offices" and is unreliable because Emerald Care failed to provide a methodology and assumptions that support these projections. No patient origin data is provided to identify the patients that will be served by these two agencies together. If the Gaston office transfers 201 patients to the proposed Mecklenburg office, from where will the additional patients originate to support the growth of the Emerald Care Gaston office?

| Year 1 | Patients | % of Total | Patient Origin |
|------------------------------|----------|------------|----------------------|
| Proposed Mecklenburg Office | 330 | 16.0% | Mecklenburg patients |
| Existing Emerald Care Office | 1728 | 84.0% | Not identified |
| Total Combined | 2058 | 100.0% | |
| Year 2 | | | |
| Proposed Mecklenburg Office | 476 | 20.9% | Mecklenburg patients |
| Existing Emerald Care Office | 1797 | 79.1% | Not identified |
| Total Combined | 2273 | | |

The application fails to demonstrate that it is reasonable for Emerald Care to transfer 201 patients to the new Mecklenburg office and simultaneously achieve a gain in the total number of patients served by its existing Gaston County office.

- (4) *Where alternative methods of meeting the needs for the proposed project exist, the applicant shall demonstrate that the least costly or most effective alternative has been proposed.*

Emerald Care fails to demonstrate that the application conforms to Criterion 4 because the financial projections are not based on reasonable and complete utilization assumptions.

- (5) *Financial and operational projections for the project shall demonstrate the availability of funds for capital and operating needs as well as the immediate and long-term financial feasibility of the proposal, based upon reasonable projections of the costs of and charges for providing health services by the person proposing the service.*

The Emerald Care application does not conform to Criterion 5 because the financial pro forma statements do not contain sufficient assumptions for the projected numbers of patients and visits for the combined Gaston and Mecklenburg offices. As explained in the comments regarding Criterion 3, it is unreasonable to assume that Emerald Care can transfer 201 patients from Gaston to the new Mecklenburg office and simultaneously increase its numbers of patients in the Gaston office.

In 2010, Emerald Care served 2,572 patients from Gaston County. But in 2011, Emerald Care only served a total of 1,512 patients from Gaston County. The projected patient and visit volumes in Exhibit 31 for the existing Gaston Emerald Care office are unreasonable and overstated due to this extreme decline in patient volumes in the applicant's home county.

(18a) The applicant shall demonstrate the expected effects of the proposed services on competition in the proposed service area, including how any enhanced competition will have a positive impact upon the cost effectiveness, quality, and access to the services proposed; and in the case of applications for services where competition between providers will not have a favorable impact on cost-effectiveness, quality, and access to the services proposed, the applicant shall demonstrate that its application is for a service on which competition will not have a favorable impact.

The Emerald Care application fails to conform to Criterion 18a because the initial focus of the proposed project is to shift the care of current home health patients from the existing Emerald Care office to the proposed new office. The applicant fails to demonstrate that this arrangement will enhance competition or access because Emerald Care has an existing office in Gaston and can easily continue to serve patients in Mecklenburg County.

While Emerald Care currently has the opportunity to serve patients in Mecklenburg County it has historically provided services to no Mecklenburg pediatric patients in 2009, 2010 and 2011. In Gaston County, Emerald Care rarely provides pediatric home health services. Based on this data, Emerald Care fails to demonstrate that its proposed project will enhance competition and improve access for pediatric home health patients.

Comments Regarding CON Project Application # F-10012-12

J & D Healthcare Services proposes to establish a new Medicare-certified home health agency in Mecklenburg County.

The CON application is nonconforming to the CON Review Criteria as follows:

- (3) *The applicant shall identify the population to be served by the proposed project, and shall demonstrate the need that this population has for the services proposed, and the extent to which all residents of the area, and, in particular, low income persons, racial and ethnic minorities, women, handicapped persons, the elderly, and other underserved groups are likely to have access to the services proposed.*

The J&D application does not conform with Criterion 3 because the application fails to provide patient origin percentages for the proposed project. Page 17 of the application states that most of the patients are projected to come from Mecklenburg County. However, this response does not provide percentages or numbers of patients. This omission is incurable and causes the application to be nonconforming to Criterion 3.

The applicant projects service to 50 unduplicated patients in Year 1 and 92 unduplicated patients in Year 2. However, the application provides no methodology and assumptions in support of the utilization projections. No assumptions are provided for how the numbers of duplicated patients and patient visits are calculated.

- (4) *Where alternative methods of meeting the needs for the proposed project exist, the applicant shall demonstrate that the least costly or most effective alternative has been proposed.*

The J & D application fails to demonstrate that the application conforms to Criterion 4 because the financial projections are not based on reasonable and complete utilization assumptions.

- (5) *Financial and operational projections for the project shall demonstrate the availability of funds for capital and operating needs as well as the immediate and long-term financial feasibility of the proposal, based upon reasonable projections of the costs of and charges for providing health services by the person proposing the service.*

The J & D application does not conform to Criterion 5 due to multiple errors and inconsistencies.

The application provides inconsistent information regarding the source of funding for the \$60,000 start-up and initial operating expenses. Page 33 states that the source of funds will be the accounts receivable of J & D Health Care Services. However, the financing letter from Ogandinma Akagha, dated July 5th, specifies account balances with \$103,232.00 with the statement "This money will be available to fund the capital cost, start up costs and other costs associated with the proposed home health agency in Charlotte, NC." The funding letter does not provide the specific amounts for the capital cost, start-up cost and other costs.

The funding letter does not state that these funds are available for initial operating expenses.

As discussed in the comments in Criterion 3, the application does not provide adequate assumptions to support the operational projections. Consequently the financial projections are unreliable.

The Table X.1 Cost per Visit by Year of Operation and Table X.2 Charges per Visit by Year of Operation are incorrect because the costs and charges are not divided by the projected numbers of visits.

The financial statements are unreliable because the revenue projections do not correspond to patient visits, episodes of care or the visits by payor percentages. Page 25 of the application states that 89 percent of the projected visits will be provided to Medicare patients. Form B shows Medicaid revenue is 98 percent in Year 1 and 93 percent in Year 2.

The staffing tables on page 21 of the application do not correspond to the Form B staffing expenses.

- (7) *The applicant shall show evidence of the availability of resources, including health manpower and management personnel, for the provision of the services proposed to be provided.*

The application does not conform to Criterion 7 because the staffing tables on page 21 of the application do not correspond to the Form B staffing expenses. For example, the staffing table VII.2 shows 4.66 FTE for physical therapist positions and a salary figure of \$203,826. Based on these projections the physical therapy extended salary would be \$949,829. However Form B shows \$307,094.68 for Year 1 and \$366,458.64 for Year 2.

- (14) *The applicant shall show evidence that the proposed health services accommodate the clinical needs of health professional training programs in the area, as applicable.*

The J & D application fails to conform to Criterion 14 because the applicant did not provide copies of any correspondence to or from clinical training programs. The application includes no record of existing clinical training agreements.

- (18a) *The applicant shall demonstrate the expected effects of the proposed services on competition in the proposed service area, including how any enhanced competition will have a positive impact upon the cost effectiveness, quality, and access to the services proposed; and in the case of applications for services where competition between providers will not have a favorable impact on cost-effectiveness, quality, and access to the services proposed, the applicant shall demonstrate that its application is for a service on which competition will not have a favorable impact.*

The J & D application is nonconforming to Criterion 18a due to the numerous errors in the application which cast doubt on the applicant's ability to meet the Medicare conditions of participation and provide a full scope of Medicare-certified home health services.

Comments Regarding CON Project Application # F-10003-12

Maxim Healthcare Services proposes to establish a new Medicare-certified home health agency in Mecklenburg County. The applicant projects service to 426 unduplicated patients in Year 1 and 503 unduplicated patients in Year 2.

The CON application is nonconforming to the CON Review Criteria as follows:

- (3) *The applicant shall identify the population to be served by the proposed project, and shall demonstrate the need that this population has for the services proposed, and the extent to which all residents of the area, and, in particular, low income persons, racial and ethnic minorities, women, handicapped persons, the elderly, and other underserved groups are likely to have access to the services proposed.*

The Maxim application does not conform to Criterion 3 because the methodology unreasonably predicts that all 426 patients in Year 1 and all 504 patients in Year 2 will be from Mecklenburg County. These projections are based on expected admissions and market share projections for the Mecklenburg population. The Maxim application states that it expects to obtain patient referrals from its existing home care office. However, Maxim's existing home care patients do not all originate from within Mecklenburg County. As seen in Exhibit 8 the 2011 patient origin for Maxim's home care patients served by its Charlotte office include other counties.

| Maxim 2011 Home Care | # Patients | % |
|-----------------------------|-------------------|----------------|
| Mecklenburg | 186 | 95.38% |
| Union | 6 | 3.08% |
| Gaston | 2 | 1.03% |
| Anson | 1 | 0.51% |
| Total | 195 | 100.00% |

In 2011, approximately 4.6 percent of Maxim's home care patients served by the Charlotte office were from other counties. The Maxim application fails to explain the discrepancy between its historical patient origin percentages for home care and its projected future patient origin for the Medicare-certified home health agency.

- (4) *Where alternative methods of meeting the needs for the proposed project exist, the applicant shall demonstrate that the least costly or most effective alternative has been proposed.*

The Maxim application fails to conform to Criterion 4 because the financial projections are unreliable. Many essential expenses are omitted from the financial pro forma, causing the application to not be cost effective.

- (5) *Financial and operational projections for the project shall demonstrate the availability of funds for capital and operating needs as well as the immediate and long-term financial feasibility of the proposal, based upon reasonable projections of the costs of and charges for providing health services by the person proposing the service.*

The Maxim application fails to conform to Criterion 5 because the form B expenses are inaccurate due to the omission of specific costs. Omitted from the Form B are the following expenses:

Amortization of \$225,000 in start-up costs equals \$45,000 per year and is omitted
 Licensure / dues / subscriptions expenses are omitted
 Supplies costs for all clinical positions are omitted

Many direct and indirect expenses that have actually been incurred by the existing home care office as seen in Form C are omitted from the Form B proforma.

| | | | Maxim Proposed |
|----------|--------------------------|-----------------|------------------------|
| | Maxim Existing Home Care | | Home Health Agency |
| | Form C Descriptions | Form C Expenses | Form B |
| Direct | G/P Liability Expense | 40,307.55 | Not included in Form B |
| Direct | Medical Waste | 1,856.84 | Not included in Form B |
| Indirect | Equipment Rental | 2,568.80 | Not included in Form B |
| Indirect | Overnight Mail | 5,481.16 | Not included in Form B |
| Indirect | Nurse Recruitment | 396.73 | Not included in Form B |
| Indirect | Relocation Expense | 10,341.00 | Not included in Form B |
| Indirect | Internet Recruitment | 2,034.20 | Not included in Form B |
| Indirect | Commissions | 69,688.11 | Not included in Form B |
| Indirect | P/R Services | 9,097.35 | Not included in Form B |
| Indirect | Software Support | 3,375.00 | Not included in Form B |
| Indirect | Taxes and Licenses | 3,493.54 | Not included in Form B |
| Indirect | Dues and Subscriptions | 617.48 | Not included in Form B |
| Indirect | Background Checks | 17,373.30 | Not included in Form B |

The Maxim application states that many home care patients served by the present home care office are likely to be referred to the proposed Medicare-certified home health office. Since these patients will be common to both the home care and home health, one would expect that many of the indirect costs would be shared or allocated to the proposed agency. However, the Maxim application lacks any explanation for why so many expense line items are omitted from Form B.

- (7) *The applicant shall show evidence of the availability of resources, including health manpower and management personnel, for the provision of the services proposed to be provided.*

Maxim's application lacks adequate staffing for Administrator (0.33 FTE) and Branch Manager (0.50 FTE). Even if combined, these are less than one full time manager. If these positions are existing positions that will be shared, then the allocation of these portions of shared FTEs is not adequately explained in the application. Also, the staffing table on page 99 includes no existing branch manager position. It is unreasonable to assume that Maxim can achieve its projected volumes when it does not have full-time on-site leadership.

- (18a) *The applicant shall demonstrate the expected effects of the proposed services on competition in the proposed service area, including how any enhanced competition will have a positive impact upon the cost effectiveness, quality, and access to the services proposed; and in the case of applications for services where competition between providers will not have a favorable impact on cost-effectiveness, quality, and access to the services proposed, the applicant shall demonstrate that its application is for a service on which competition will not have a favorable impact.*

Unreasonable operational projections and an inaccurate financial pro forma make the Maxim application nonconforming to Criterion 18a. The applicant has no Medicare-certified home health agencies in North Carolina. Maxim's proposal to provide cost effective and quality care is undermined by substandard leadership staffing as discussed in the comments regarding Criterion 7.

Comments Regarding CON Project Application # F-1011-12

United Home Care Inc., d/b/a UniHealth Home Health, Inc. d/b/a/ UniHealth Home Health (UHC) proposes to establish a new Medicare-certified home health agency in Mecklenburg County. The applicant projects service to 204 unduplicated patients in Year 1 and 548 unduplicated patients in Year 2.

The CON application is nonconforming to the CON Review Criteria as follows:

- (3) *The applicant shall identify the population to be served by the proposed project, and shall demonstrate the need that this population has for the services proposed, and the extent to which all residents of the area, and, in particular, low income persons, racial and ethnic minorities, women, handicapped persons, the elderly, and other underserved groups are likely to have access to the services proposed.*

The UHC application does not meet Criterion 3 because the methodology for projecting unduplicated patients is based on unreasonable assumptions:

It is unreasonable for the applicant to assume that in Year 1 its proposed new office will serve 100 percent of its patients from Mecklenburg County; then, in the following years, the applicant projects that 90 percent will be from Mecklenburg and 10 percent from Union/Cabarrus/Iredell/ Lincoln. If UHC declines referrals based on geographic location in Year 1 (only serving 204 Mecklenburg patients), then it will be more difficult to build strong referral relationships to reach 548 unduplicated patients in Year 2 (with 493 patients from Mecklenburg and 55 patients from the other counties). UHC failed to consider that a second new home health agency is likely to obtain CON approval and have the opportunity to gain market share in Mecklenburg and surrounding counties.

Page 151 predicts that Union County will have an unmet need for 376 home health patients in 2015 and 538 home health patients in 2016. However, this deficit would trigger a need determination in the SMFP which would support a new Medicare-certified agency in Union County. UHC failed to consider that a proposed new competing home health agency in Union County would reduce the unmet need.

The application is unreasonable because the ratios of duplicated to unduplicated patients and average number of visits per patient are inconsistent in Years 1 and 2.

The following table provides the analysis of the UHC projections from pages 156 and 157 of the application.

| | Unduplicated | Duplicated | Ratio of Duplicated to Unduplicated | Visits | Visits / Unduplicated Patient |
|--------|--------------|------------|-------------------------------------|--------|-------------------------------|
| Year 1 | 204 | 1,289 | 6.32 | 3,730 | 18.28 |
| Year 2 | 548 | 3,628 | 6.62 | 11,527 | 21.03 |

In Year 2, the applicant predicts an average of 21.03 visits per patient, which is a 15 percent increase from the 18.28 average in Year 1. The applicant fails to

explain and provide the assumption for these changes in the patient utilization statistics.

- (4) *Where alternative methods of meeting the needs for the proposed project exist, the applicant shall demonstrate that the least costly or most effective alternative has been proposed.*

The UHC application fails to conform to Criterion 4 because the financial projections are unreliable. Expenses are understated or omitted from the financial pro forma, causing the application to not be cost effective.

- (5) *Financial and operational projections for the project shall demonstrate the availability of funds for capital and operating needs as well as the immediate and long-term financial feasibility of the proposal, based upon reasonable projections of the costs of and charges for providing health services by the person proposing the service.*

The UHC application fails to conform to Criterion 5 because the Form B expenses are inaccurate due to the omission of specific costs. Omitted from the Form B are the following expenses:

Amortization of \$171,554 in start-up costs equals \$34,319 per year omitted from Form B.

Licensure dues and subscriptions at \$8.00 per year are understated because the cost to license a Medicare-certified home health office in North Carolina is hundreds of dollars.

Postage expense is understated and inaccurate because the Year 2 annual budget of \$98 dollars is insufficient postage to send correspondence to anticipated referrals sources.

Legal and Accounting expenses are understated because the Year 2 annual budget of \$453 is not sufficient for an engagement of these professionals.

- (18a) *The applicant shall demonstrate the expected effects of the proposed services on competition in the proposed service area, including how any enhanced competition will have a positive impact upon the cost effectiveness, quality, and access to the services proposed; and in the case of applications for services where competition between providers will not have a favorable impact on cost-effectiveness, quality, and access to the services proposed, the applicant shall demonstrate that its application is for a service on which competition will not have a favorable impact.*

UHC fails to adequately demonstrate that its proposal will enhance competition because the application predicts that in Year 1 the agency will decline to accept referrals of patients living outside of Mecklenburg County. This diminished volume in Year 1 limits access to services and may delay patient hospital discharges.

The 2012 State Medical Facilities Plan shows a need determination for two Medicare-certified home health agencies in Mecklenburg County as well as home health deficits in adjacent counties.

Home health agencies located in Mecklenburg County often provide home health services in adjoining counties. The table below shows that five of the home health agencies in Mecklenburg County actively serve patients in adjacent counties. Personal Home Care served patients in all six contiguous counties with 38 percent of its patients originating from outside of Mecklenburg. Liberty, Healthy@Home and Advanced Home Care range between 17 and 20 percent of their patients living outside Mecklenburg County.

| 2011 Home Health Data | Meck. | Cabarrus | Iredell | Lincoln | Gaston | Union | Other | Outside of Mecklenburg Totals | % Out of Meck. |
|---------------------------|--------|----------|---------|---------|--------|-------|-------|-------------------------------|----------------|
| Healthy @ Home | 4,185 | 668 | 3 | - | 112 | 45 | 8 | 836 | 19.98% |
| Advanced Home Care | 3,037 | 16 | 4 | - | 13 | 577 | 1 | 611 | 20.12% |
| Gentiva HC0787 | 2,162 | 2 | - | - | - | - | - | 2 | 0.09% |
| Gentiva HC0097 | 1,915 | - | - | - | - | - | - | - | 0.00% |
| Interim | 1,352 | - | 31 | - | - | 85 | - | 116 | 8.58% |
| Gentiva HC0138 | 989 | - | - | - | - | - | - | - | 0.00% |
| Home Health Professionals | 528 | - | - | - | - | 3 | - | 3 | 0.57% |
| Liberty | 456 | 25 | 8 | 1 | 11 | 35 | - | 80 | 17.54% |
| HPC (Innovative) | 53 | - | - | - | - | - | - | - | 0.00% |
| Personal Home Care | 168 | 1 | 1 | 17 | 20 | 20 | 5 | 64 | 38.10% |
| Combined | 14,845 | 712 | 47 | 18 | 156 | 765 | 14 | 1,712 | 11.53% |

UHC failed to consider that if the agency declines referrals based on geographic location in Year 1 (only serving 204 Mecklenburg patients), then it will be more difficult to build referral relationships to reach 548 unduplicated patients in Year 2.

Comments Regarding CON Project Application # F-10010-12

Continuum II Home Care and Hospice, Inc. d/b/a Continuum Home Care of Charlotte proposes to establish a new Medicare-certified home health agency in Mecklenburg County. The applicant projects service to 74 unduplicated patients in Year 1 and 492 unduplicated patients in Year 2.

The CON application is nonconforming to the CON Review Criteria as follows:

- (3) *The applicant shall identify the population to be served by the proposed project, and shall demonstrate the need that this population has for the services proposed, and the extent to which all residents of the area, and, in particular, low income persons, racial and ethnic minorities, women, handicapped persons, the elderly, and other underserved groups are likely to have access to the services proposed.*

The application fails to conform to Criterion 3 because the methodology is unreasonable and Continuum makes inconsistent statements regarding the numbers of unduplicated patients.

Continuum projects to serve a meager 74 unduplicated patients in Year 1 because the applicant expects that State Licensure and Medicare certification will take at least nine months. The patient origin information on page 68 indicates that in Year 1, 100 percent of the patients will originate from Mecklenburg County. In Year 2, the applicant projects to serve 457 patients from Mecklenburg County and 35 patients from Union County for a total of 492 patients. This change in patient origin in Year 2 demonstrates that Continuum will be declining referrals to serve patients from outside of Mecklenburg County in Year 1.

The Year 2 projection of 492 patients represents a 565 percent increase. This large percentage increase in Year 2 is questionable because in Year 1 Continuum is purposely restricting access to services. If a new provider enters a market and declines to accept referrals during its first year of operation, physicians and hospitals will be reluctant to establish referral relationships.

Continuum makes inconsistent statements regarding the number of Mecklenburg patients it will serve in Year 2. Page 46 of the Continuum application includes a table with Year 1 Need -297 Patients and Year 2 Need -457 Patients. Pages 46 and 47 of the application state that in Year 2 "we will be able to meet the full 483 person need." The Year 2 Need -457 patients on page 46 is inconsistent with the 483 person need on page 47. Page 59 indicates that the projected home health need in 2014 for Mecklenburg County is 483.

The Continuum methodology is also inconsistent with the SMFP methodology because on pages 43 to 46 Continuum fails to include an adjustment factor for the active duty military personnel.

- (4) *Where alternative methods of meeting the needs for the proposed project exist, the applicant shall demonstrate that the least costly or most effective alternative has been proposed.*

The application does not conform to Criterion 4 because the utilization projections are unreliable due to inconsistent projections for the numbers of unduplicated

patients. With inconsistent projections, it is impossible to demonstrate that the project is the least costly alternative or the most effective option.

- (5) *Financial and operational projections for the project shall demonstrate the availability of funds for capital and operating needs as well as the immediate and long-term financial feasibility of the proposal, based upon reasonable projections of the costs of and charges for providing health services by the person proposing the service.*

The Continuum application fails to conform to Criterion 7 because the financial pro forma statements are inaccurate and unreliable:

- The projected numbers of unduplicated patients are unreliable making the financial projections unreasonable.
- The Year 1 staffing table is omitted causing the Year 1 salary projections in Form B to be unsupported.
- Nursing salary positions in Year 1 are unreasonable because the RN position appears to be part-time and the LPN position shows no salary expenses in Form B.

- (7) *The applicant shall show evidence of the availability of resources, including health manpower and management personnel, for the provision of the services proposed to be provided.*

The application does not conform to Criterion 7 because Continuum appears to have omitted page 87 from its application which means that the Year 1 staffing is not provided. The salary expenses in Form B show no LPN will be employed by the agency in Year 1. It is unreasonable to assume that the part-time RN position (with a total annual salary of \$48,484) can provide the projected number of nursing visits and take on-call responsibilities for evenings and weekends. Even if the supervisor and the part-time RN position both provide nursing visits, the application fails to demonstrate 24 hour 7 day coverage for nursing services in Year 1.

- (18a) *The applicant shall demonstrate the expected effects of the proposed services on competition in the proposed service area, including how any enhanced competition will have a positive impact upon the cost effectiveness, quality, and access to the services proposed; and in the case of applications for services where competition between providers will not have a favorable impact on cost-effectiveness, quality, and access to the services proposed, the applicant shall demonstrate that its application is for a service on which competition will not have a favorable impact.*

Continuum fails to adequately demonstrate that its proposal will enhance competition because the application predicts that in Year 1 the agency will reject referrals of patients living outside of Mecklenburg County. This diminished volume in Year 1 limits access to services and makes the Year 2 projections unrealistic and unachievable. The application provides only minimal nursing staff in Year 1 which could diminish quality of care and nursing response times.

Comments Regarding CON Project Application # F-10005-12

HKZ Group LLC also known as HealthKeeperz, proposes to establish a new Medicare-certified home health agency in Mecklenburg County. The applicant projects service to 282 unduplicated patients in Year 1 and 395 unduplicated patients in Year 2.

The CON application is nonconforming to the CON Review Criteria as follows:

- (3) *The applicant shall identify the population to be served by the proposed project, and shall demonstrate the need that this population has for the services proposed, and the extent to which all residents of the area, and, in particular, low income persons, racial and ethnic minorities, women, handicapped persons, the elderly, and other underserved groups are likely to have access to the services proposed.*

The Healthkeeperz application fails to conform to Criterion 3 because the projection on page 50 that the proposed agency will serve up to 50 patients per year from Union County (12 to 13 percent of the applicant's total unduplicated patients) lacks adequate support. Only two of the ten existing home health agencies, Advanced Home Care and Interim, located in Mecklenburg County, served 50 or more patients in Union County in 2011. Both of these agencies have been in operation for many years and serve a much higher total volume of home health patients as compared to HealthKeeperz. The HealthKeeperz application fails to list the specific referral sources to account for 50 home health patients per year from Union County. HealthKeeperz' projections for total duplicated patients and visits are unreliable because the numbers of unduplicated patients are overstated.

- (4) *Where alternative methods of meeting the needs for the proposed project exist, the applicant shall demonstrate that the least costly or most effective alternative has been proposed.*

HealthKeeperz fails to conform to Criterion 4 because the proposed project is not a cost effective alternative. As discussed previously, the utilization projections are flawed causing the financial projections to be erroneous.

The proposed location is not an effective option because the office will be located in Matthews in southeastern Mecklenburg. This location is distant from the high growth areas of north Mecklenburg County and will likely increase staff driving times and costs.

The application fails to identify contract providers for medical social worker, physical therapist, occupational therapist and speech therapist. The cost of these services has not been provided in a contract proposal or correspondence from the providers. Therefore it is impossible to demonstrate that this project will be cost effective.

- (5) *Financial and operational projections for the project shall demonstrate the availability of funds for capital and operating needs as well as the immediate and long-term financial feasibility of the proposal, based upon reasonable projections of the costs of and charges for providing health services by the person proposing the service.*

The Healthkeeperz application fails to conform to Criterion 5 because the financial projections are based on unreasonable operational projections. The numbers of duplicated patients are overstated causing the projected visits to also be unreasonable.

HealthKeeperz fails to identify the contract providers for medical social worker, physical therapists, occupational therapists and speech therapist services. The contract fee hourly amounts provided in the tables on page 91 are not based on quotes or cost estimates from the service providers. Therefore the projected costs provided in the financial pro forma statements are unreliable.

- (7) *The applicant shall show evidence of the availability of resources, including health manpower and management personnel, for the provision of the services proposed to be provided.*

The application fails to conform to Criterion 7 because no documentation is included in the application that any contract service providers are willing to provide medical social workers, physical therapists, occupational therapists and speech therapist services to HealthKeeperz. Lacking these contracts or contract proposals, the hourly rates for the contract services contained in the application are totally unsubstantiated.

- (8) The applicant shall demonstrate that the provider of the proposed services will make available, or otherwise make arrangements for, the provision of the necessary ancillary and support services. The applicant shall also demonstrate that the proposed service will be coordinated with the existing health system.

Healthkeeperz fails to show documentation of the availability of contract service providers for medical social worker and all of the therapy services as discussed in Criterion 7. The application also does not include letters from pharmacy and DME providers to demonstrate the availability of necessary ancillary and support services. Therefore the application fails to conform to Criterion 8.

In addition, HealthKeeperz is also nonconforming to regulatory standard 10A NCAC 14C .2005 (b) *An applicant shall provide copies of letters of interest, preliminary agreements, or executed contractual arrangements between the proposed home health agency office and each health care provider with which the home health agency office plans to contract for the provision of home health services in each of the counties proposed to be served by the new office.*

(18a) *The applicant shall demonstrate the expected effects of the proposed services on competition in the proposed service area, including how any enhanced competition will have a positive impact upon the cost effectiveness, quality, and access to the services proposed; and in the case of applications for services where competition between providers will not have a favorable impact on cost-effectiveness, quality, and access to the services proposed, the applicant shall demonstrate that its application is for a service on which competition will not have a favorable impact.*

The Healthkeeperz application does not conform to Criterion 18a because the project will not enhance competition. Healthkeeperz lacks the commitment of contract medical social workers and all therapy services to implement services. Lacking a complete scope of direct patient care services, the applicant is ill prepared to enter a market as competitive as Mecklenburg County. Healthkeeperz' aspiration to serve 50 home health patients per year from Union County per year is not achievable without a full scope of services.

Comments Regarding CON Project Application # F-10006-12

AssistedCare of the Carolinas proposes to establish a new Medicare-certified home health agency in Mecklenburg County. The applicant projects service to 326 unduplicated patients in Year 1 and 351 unduplicated patients in Year 2.

The CON application is nonconforming to the CON Review Criteria as follows:

- (3) *The applicant shall identify the population to be served by the proposed project, and shall demonstrate the need that this population has for the services proposed, and the extent to which all residents of the area, and, in particular, low income persons, racial and ethnic minorities, women, handicapped persons, the elderly, and other underserved groups are likely to have access to the services proposed.*

The AssistedCare application is nonconforming to Criterion 3 because the applicant unreasonably projects to serve only Mecklenburg County residents and ignores the projected home health deficits in neighboring counties. However, on page 91, the applicant states that its proposed agency will also serve residents of any contiguous county who are referred by an appropriate referral source in accordance with applicable regulatory requirements. The patient origin projections are unreliable because the statistics are contradicted by AssistedCare's statement.

Home health agencies located in Mecklenburg County often provide home health services in adjoining counties. The table below shows that five of the home health agencies in Mecklenburg County actively serve patients in adjacent counties. Personal Home Care served patients in all six contiguous counties with 38 percent of its patients originating outside of Mecklenburg. Liberty, Healthy@Home and Advanced Home Care range between 17 and 20 percent of their patients living outside Mecklenburg County.

| 2011 Home Health Data | Meck. | Cabarrus | Iredell | Lincoln | Gaston | Union | Other | Outside of Mecklenburg Totals | % Out of Meck. |
|---------------------------|---------------|------------|-----------|-----------|------------|------------|-----------|-------------------------------|----------------|
| Healthy @ Home | 4,185 | 668 | 3 | - | 112 | 45 | 8 | 836 | 19.98% |
| Advanced Home Care | 3,037 | 16 | 4 | - | 13 | 577 | 1 | 611 | 20.12% |
| Gentiva HC0787 | 2,162 | 2 | - | - | - | - | - | 2 | 0.09% |
| Gentiva HC0097 | 1,915 | - | - | - | - | - | - | - | 0.00% |
| Interim | 1,352 | - | 31 | - | - | 85 | - | 116 | 8.58% |
| Gentiva HC0138 | 989 | - | - | - | - | - | - | - | 0.00% |
| Home Health Professionals | 528 | - | - | - | - | 3 | - | 3 | 0.57% |
| Liberty | 456 | 25 | 8 | 1 | 11 | 35 | - | 80 | 17.54% |
| HPC (Innovative) | 53 | - | - | - | - | - | - | - | 0.00% |
| Personal Home Care | 168 | 1 | 1 | 17 | 20 | 20 | 5 | 64 | 38.10% |
| Combined | 14,845 | 712 | 47 | 18 | 156 | 765 | 14 | 1,712 | 11.53% |

Based on the above analysis of the existing home health agencies, AssistedCare's patient origin projections are unreliable due to the omission of any patients from contiguous counties. Locating the proposed home health agency on the border between Mecklenburg and Union Counties will certainly influence the patient origin for the proposed agency. This supports AssistedCare's real intent to capture market share in both Mecklenburg and Union Counties

The existing AssistedCare Home Health agency in Brunswick County is located in Leland, which is very near the border between New Hanover County and Brunswick County. Patient origin for AssistedCare's Brunswick office is provided on page 80 of the application and is summarized in the table below:

| AssistedCare Home Health Brunswick | |
|------------------------------------|---------|
| Counties | % |
| New Hanover County | 50.1% |
| Brunswick County | 36.3% |
| Columbus County | 6.4% |
| Pender County | 3.6% |
| Bladen County | 2.9% |
| Onslow County | 0.4% |
| Duplin County | 0.2% |
| Total | 100.00% |

AssistedCare's application contains numerous statements that the scope of services and future projections are based on the experience of the applicant. Furthermore, the application repeatedly references the experience of AssistedCare in Brunswick County as the basis of projecting staffing levels, productivity standards, and operating expenses. Therefore the applicant's patient origin projections to serve 100 percent Mecklenburg County patients are disingenuous and inconsistent with its own experience and other statistical assumptions.

- (4) *Where alternative methods of meeting the needs for the proposed project exist, the applicant shall demonstrate that the least costly or most effective alternative has been proposed.*

The AssistedCare application does not conform to Criterion 4 because the proposed home health office is based on contrived patient origin projections that are inconsistent with its proposed location. The applicant fails to demonstrate that locating the proposed office in southeastern Mecklenburg is the most effective alternative to serve 100 percent Mecklenburg County patients.

- (5) *Financial and operational projections for the project shall demonstrate the availability of funds for capital and operating needs as well as the immediate and long-term financial feasibility of the proposal, based upon reasonable projections of the costs of and charges for providing health services by the person proposing the service.*

This application fails to conform to Criterion 5. AssistedCare fails to provide reasonable financial projections because the operational projections for the proposed project include only Mecklenburg patients, whereas the expense projections are based on the historical experience of AssistedCare Home Health's Brunswick County office that services a large multi-county region.

AssistedCare Home Health's Brunswick County office's historical costs are based on a large patient population derived from a large geographic region. The high patient volumes achieved by AssistedCare Brunswick provide economies of scale

for the administrative costs for that agency. It is unreasonable to use the historical experience of this existing agency to predict expenses for the proposed office with much lower patient volumes, based on serving only Mecklenburg patients. The economies of scale achieved in Brunswick are simply not transferrable to Mecklenburg because the applicant chose to limit its patient population to that of a single county.

- (18a) *The applicant shall demonstrate the expected effects of the proposed services on competition in the proposed service area, including how any enhanced competition will have a positive impact upon the cost effectiveness, quality, and access to the services proposed; and in the case of applications for services where competition between providers will not have a favorable impact on cost-effectiveness, quality, and access to the services proposed, the applicant shall demonstrate that its application is for a service on which competition will not have a favorable impact.*

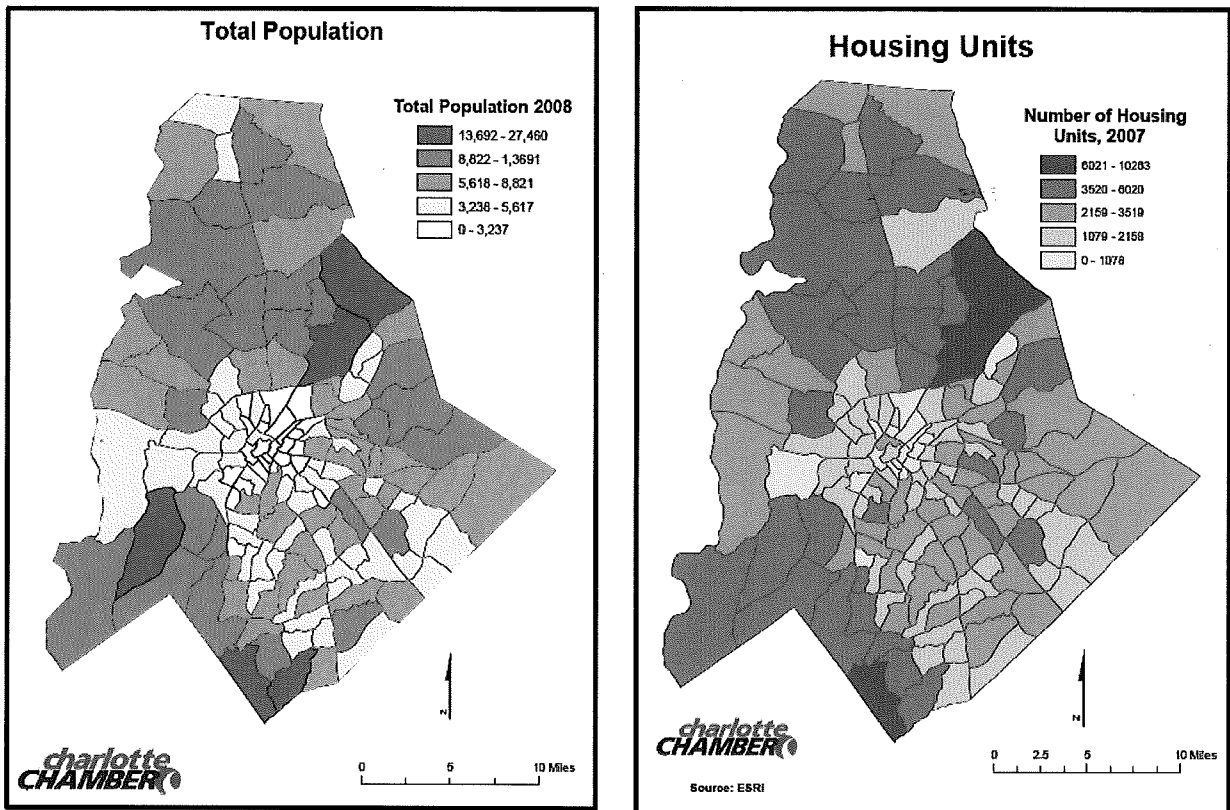
AssistedCare's proposed project fails to conform to Criterion 18a because the proposed project demonstrates no competitive impact on home health services in adjoining counties. In reality, home health providers provide services in multiple counties and compete for patient referrals from hospitals and physicians who typically serve patients from multiple counties. The applicant's choice of location on the southeastern fringe of the service area limits AssistedCare's ability to be a robust competitor in the high growth areas in north Mecklenburg County. Since the application includes no liaison staff, the proposed project does not offer enhanced competition or improved access.

Comparative Factors

The following comments relate to those factors that Well Care sees as the most important in determining the most effective proposals.

Locations of Offices

Well Care, H@H-CMC, Vizion, Continuum, UHC and J&D proposed home health offices located in northeast Mecklenburg County. These six project locations provide superior access to the high population areas of Mecklenburg County that are shown in the following maps.



The remaining four proposals by Maxim, Emerald Care, HealthKeeperz and AssistedCare are less effective proposals because their office locations are more distant from the high population areas of Mecklenburg County. Maxim proposes a central Charlotte location and Emerald Care's proposed office is in south central Charlotte. HealthKeeperz and AssistedCare propose office locations in Matthews, located in southeastern Mecklenburg County.

Year 2 Medicaid Percentage of Total Visits

The following table shows the Medicaid percentage of patients for each of the CON applicants.

| Year 2 Medicaid Percentage of Total Visits | |
|--|--------|
| H@H-CMC | 15.20% |
| HealthKeeperz | 14.90% |
| WellCare Home Health | 14.48% |
| Vizion Home Health | 12.92% |
| UniHealth Home Health | 9.20% |
| Maxim Health Care Services | 8.70% |
| Assisted Care | 8.20% |
| Continuum | 8.17% |
| Emerald Care | 7.20% |
| J and D Health Care Services | 0.00% |

As discussed in the previous comments, the H@H-CMC proposal does not demonstrate financial viability. The HealthKeeperz application is based on overstated patient volumes and fails to demonstrate the availability of contract staffing. Based on these deficiencies the H@H-CMC and HealthKeeperz proposals' rankings for Medicaid percentages are invalid. Well Care provides the highest percentage Medicaid visits and is the most effective proposal. Continuum, Emerald Care and J&D are the least effective due to their low Medicaid percentages.

Year 2 Total Expense per Visit

The following table shows the Year 2 total expense per visit for each of the applicants.

| Year 2 Total Expense per Visit | |
|--------------------------------|----------|
| Maxim Health Care Services | \$123.77 |
| Vizion Home Health | \$131.45 |
| WellCare Home Health | \$132.67 |
| Emerald Care | \$135.15 |
| Assisted Care | \$139.52 |
| HealthKeeperz | \$139.51 |
| H@H-CMC | \$144.48 |
| UniHealth Home Health | \$148.45 |
| Continuum | \$151.89 |
| J and D Health Care Services | N/A |

As discussed in the above comments, the Maxim proposal is not based on reasonable financial projections due to the omission of expenses. The Vizion application is based on unreasonable duplicated patients and lacks proper documentation of project funding.

Based on these deficiencies the Maxim and Vizion proposals' comparative rankings for expense per visit are invalid. Well Care reasonably projects the lowest Year 2 total expense per visit and is the most effective proposal.

The least effective proposals for Year 2 Total Expenses per Visit are UHS and Continuum due to their proposals having the highest expense per visit. J & D's financial projections and Year 2 expenses are the most unreliable.

Adequacy of Staffing to Promote Access and Enhance Competition

In order for a new home health agency to compete and succeed in Mecklenburg County, the provider must have full time leadership, depth of clinical staff, and vigorous marketing resources.

The following table provides a comparison of each of the applications total projected visits and staffing resources. This analysis examines leadership FTEs, RN FTEs, Physical Therapy FTEs, Marketing / Liaison FTEs and Total FTEs in Year 2.

| Year 2 | H@H CMC | Emerald | UHS | Well Care | Maxim | HKZ | Continuum | Vizion | AssisteCare | J&D |
|--|---------|---------|----------|-----------|-----------|----------------|-----------|---------|-------------|-------|
| Total Visits | 47,780 | 12,570 | 11,527 | 11,268 | 9,499 | 8,578 | 8,556 | 8,125 | 6,159 | 1,482 |
| Adminstrator and / or Manager Positions | 3 | 2 | 2 | 1 | .33 + .50 | 1 | 1.5 | Omitted | 1 | 0.97 |
| RN Care Providers | 18.8 | 3.35 | 5 | 5.2 | 3.75 | 2.3 | 4.5 | Omitted | 2.19 | 1.33 |
| Physical Therapists | 8.9 | 3.4 | Contract | 2 | 2.75 | Not Documented | 5.4 | Omitted | 1.22 | 4.66 |
| Marketing Positions - Community Relations Representatives, Liaison Positions or Account Managers | None | 1 | 1 | 2 | None | None | None | Omitted | None | None |
| Total FTEs | 64.2 | 16.6 | 12.1 | 12.18 | 10.43 | 8.8 | 13.5 | Omitted | 6.7 | 23.31 |

Most Effective

Well Care provides one full time leadership position, the second highest number of RN positions, and two liaison marketing positions. UHS provides two leadership positions, the third highest number of RN positions and one marketing position. Emerald Care provides two full time leadership positions, the fifth highest number of RN positions and one marketing position.

Marginal Effectiveness

H@H-CMC provides three leadership positions, the highest number of RNs and Physical Therapists but no marketing positions. Continuum provides 1.5 FTE leadership positions but no marketing positions. Assisted Care provides the fewest total FTEs in Year 2, the third lowest number of RNs, no marketing or liaison staff.

Least Effective

Maxim provides less than full time leadership positions and no marketing positions. HealthKeeperz fails to provide documentation of contract services and projects no marketing staff. The Vizion application omitted the staffing tables. The J&D application provides staffing information that is not based on reasonable assumptions.

Leadership capacity for Well Care includes a full time administrative position that is bolstered by Well Care's corporate officers and staff. Registered nurses and physical therapy staff provide excellent depth of staff resources for 7 days per week services. The Well Care application includes all necessary clinical staff and a full time management position as well as two liaison positions to support the projected gains in market share and utilization projection.

Well Care is convinced that marketing resources with full time personnel are essential to the provision of home health services in Mecklenburg County. Most of the CON applications propose to serve hundreds of patients in Year 2. However, only three of the CON applications include marketing staff to achieve these referral projections. The two liaison positions included in Well Care's staff will be highly trained marketing professionals who will be guided by a marketing plan to reach out to referral sources in Mecklenburg and surrounding counties. Marketing to physician practices is an essential activity. Just as home health clinicians have specific productivity measures and documentation requirements, the liaison staff will set productivity goals and document their daily interactions with referral sources.

In summary, the Well Care proposal conforms to all of the CON review criteria and is comparatively superior to the other applications based on reasonable assumptions and projections.