Attachment #3

SYNOPSIS

Rule 111-2-2- et seq.
Administrative Rules for Certificate of Need

STATEMENT OF PURPOSE AND MAIN FEATURES OF PROPOSED RULE

The purpose of this proposed amendment is to modify and update existing regulations with respect to the specific Certificate of Need review considerations for home health services.

DIFFERENCES BETWEEN EXISTING AND PROPOSED RULES

Rule 111-2-2-.32 Specific Review Considerations for Home Health Services

Rule 111-2-2-.32(2)(e) is amended to delete an outdated definition of "Official state component plan" and to renumber section (2) accordingly.

Rule 111-2-2-.32(3)(c)(2) is amended to update the language to reflect that the Office of Regulatory Services of the Department of Human Resources is now the Healthcare Facility Regulation Division of the Department of Community Health.

Rule 111-2-2-.32(3)(e) is amended to update the language to reflect that the Office of Regulatory Services of the Department of Human Resources is now the Healthcare Facility Regulation Division of the Department of Community Health.

Rule 111-2-2-.32(3)(i) is amended to update the language to reflect that the Joint Commission for the Accreditation of Health Care Organizations (JHACO) is now The Joint Commission.

Rule 111-2-2-.32(3)(j) is amended to update the language to reflect that the Joint Commission for the Accreditation of Health Care Organizations (JHACO) is now The Joint Commission.

Rule 111-2-2-.32(3)(l)(2) is amended to change the required percentage of annual adjusted gross revenues of an applicant to be committed to services for indigent and charity patients from three per cent to one per cent.

Rule 111-2-2-.32(3)(l)(4) is amended to include the registered trademark name for the PeachCare for Kids™ program.

111-2-2-.32 Specific Review Considerations for Home Health Services.

(1) Applicability. A Certificate of Need for a home health agency will be required prior to the establishment of a new home health agency or the expansion of the geographic service area of an existing home health agency unless such expansion is a result of a non-reviewable acquisition of another existing home health agency.

(2) Definitions.

(a) "Home health agency" means a public agency or private organization, or a subdivision of such an agency or organization, which is primarily engaged in providing to individuals who are under a written plan of care of a physician, on a visiting basis in the place of residence used as such individual's home, part-time or intermittent nursing care provided by or under the supervision of a registered professional nurse, and one or more of the following services: physical therapy, occupational therapy, speech therapy, medical-social services under the direction of a physician, or part-time or intermittent services of a home health aide.

(b) "Horizon year" means the last year of the three-year projection period for need determinations for a new or expanded home health agency.

(c) "Geographic service area" means a grouping of specific counties within a planning area for which the home health agency is authorized to provide services to individuals residing in the specific counties pursuant to an existing or future certificate of need. For purposes of establishing a service area for a new home health agency, the geographic service area shall consist of any individual county or combination of contiguous counties which have an unmet need as determined through the numerical need formula or the exception. For purposes of an expansion of an existing agency, the geographic service area shall consist of an individual county or any combination of counties which have an unmet need and which are within any planning area in which the home health agency already provides service; however, in no case may an existing home health agency apply to provide services outside the health planning areas in which its current geographic service area is located.

(d) "Nursing care" means such services provided by or under the supervision of a licensed registered professional nurse in accordance with a written plan of medical care by a physician. Such services shall be provided in accordance with the scope of nursing practice laws and associated Rules.

~~(e) "Official state component plan" means the document related to home health services developed by the Department established by the Health Strategies Council and adopted by the Board of Community Health.~~

~~(f)~~ (e) "Planning area" for all home agencies means the geographic regions in Georgia defined in the State Health Plan or Component Plan.

(3) Standards.

(a) The need for a new or expanded home health agency shall be determined through application of a numerical need method and an assessment of the projected number of patients to be served by existing agencies.

1. The numerical need for a new or expanded home health agency in any planning area in the horizon year shall be based on the estimated number of annual home health patients within each health planning area as determined by a population-based formula which is a sum of the following for each county within the health planning area:

(i) a ratio of 4 patients per 1,000 projected horizon year Resident population age 17 and younger;

(ii) a ratio of 5 patients per 1,000 projected horizon year Resident population age 18 through 64;

(iii) a ratio of 45 patients per 1,000 projected horizon year Resident population age 65 through 79; and

(iv) a ratio of 185 patients per 1,000 projected horizon year Resident population age 80 and older.

2. The net numerical unmet need for home health services shall be determined by subtracting the projected number of patients for the current calendar year from the projected need for services as calculated in (3)(a)(1). The projected number of patients for the current calendar year is determined by multiplying the number of patients having received services in each county, as reported in the most recent survey year, by the county population change factor. The county population change factor is the percent change in total population between the most recent survey year and the current calendar year.

(b)1. The Division shall accept applications for review as enumerated below:

(i) If the net numerical unmet need in a given planning area is 250 patients or more, the Division shall authorize the submission of applications for an expanded home health agency; or

(ii) If the net numerical unmet need in a given planning area is 500 patients or more, the Division shall authorize the submission of applications for a new home health agency as well as an expanded home health agency.

2. An applicant must propose to provide service only within a county or group of counties, each of which reflects a numerical unmet need, and contained within the given planning area for which the Division has authorized the submission of applications.

3. The Department shall only approve applications in which the applicant has applied to serve all of the unmet numerical need in any one county in which need is projected. The need within counties shall not be divided or shared between any two or more applicants.

(c) The Division may authorize an exception to 111-2-2-.32(3)(a) if:

1. the applicant for a new or expanded home health agency can show that there is limited access in the proposed geographic service area for special groups such as, but not limited to, medically fragile children, newborns and their mothers, and HIV/AIDS patients. For purposes of this exception, an applicant shall be required to document, using population, service, special needs and/or disease incidence rates, a projected need for services in the planning area of at least 200 patients within a defined

geographic service area. A successful applicant applying under this section will be restricted to serving the special group or groups identified in the application within the county or counties stipulated in the application; or

2. a particular county is served by no more than two (2) home health agencies and either of the following conditions exists: (1) less than one percent of the county's population has received home health services, or (2) one of the two home health agencies has demonstrated a failure to adequately serve Medicaid patients as evidenced by a level of service to such individuals that is less than the statewide average within each of the past two years as reported on the Annual Home Health Services survey. For purposes of this exception, an applicant must already be approved to provide service in a contiguous county or be approved to provide service in a county that is no further than 15 miles from the county authorized through the exception. In all other aspects of the application process, the applicant shall be required to comply with provisions applicable to expanded home health agencies. For purposes of this exception, "served by" shall mean the agency(ies) are licensed to serve the county by the ~~Office of Regulatory Services of the Department of Human Resources.~~ Healthcare Facility Regulation Division of the Georgia Department of Community Health.

(d) An applicant for a new or expanded home health agency shall provide a community linkage plan which demonstrates factors such as, but not limited to, referral arrangements with appropriate services of the healthcare system and working agreements with other related community services assuring continuity of care focusing on coordinated, integrated systems which promote continuity rather than acute, episodic care. Working agreements with other related community services may include the ability to streamline referrals to other appropriate services and to participate in the development of cross-continuum care plans with other providers.

(e) An applicant for a new or expanded home health agency shall provide a written statement of its intent to comply with all appropriate licensure requirements and operational procedures required by the ~~Office of Regulatory Services of the Georgia Department of Human Resources.~~ Healthcare Facility Regulation Division of the Georgia Department of Community Health.

(f) An applicant for a new or expanded home health agency or agency(ies) owned and/or operated by the applicant or its parent organization shall have no history of uncorrected or repeated conditional level violations or uncorrected standard deficiencies as identified by licensure inspections or equivalent deficiencies as noted from Medicare or Medicaid audits.

(g) An applicant for a new or expanded home health agency or agency(ies) owned and/or operated by the applicant or its parent organization shall have no previous conviction of Medicaid or Medicare fraud.

(h) An applicant for a new or expanded home health agency shall provide a written plan which demonstrates the intent and ability to recruit, hire and retain the appropriate numbers of qualified personnel to meet the requirements of the services proposed to be provided and that such personnel are available in the proposed geographic service area.

(i) An applicant for a new home health agency shall provide evidence of the intent to meet the appropriate accreditation requirements of ~~the Joint Commission for Accreditation of Health Care Organizations (JCAHO),~~ The Joint Commission (TJC), the Community Health Accreditation Program, Inc. (CHAP), and/or other appropriate accrediting agencies.

(j) An applicant for an expanded home health agency shall provide documentation that they are fully accredited by ~~the Joint Commission for Accreditation of Health Care Organizations (JCAHO),~~ The Joint Commission (TJC), the Community Health Accreditation Program, Inc. (CHAP), and/or other appropriate accrediting agency.

(k) An applicant for a new or expanded home health agency shall provide its existing or proposed plan for a comprehensive quality improvement program.

(l) An applicant for a new or expanded home health agency shall assure access to services to individuals unable to pay and to all individuals regardless of payment source or circumstances by:

1. providing evidence of written administrative policies that prohibit the exclusion of services to any patient on the basis of age, disability, gender, race, or ability to pay;

2. providing a written commitment that services for indigent and charity patients will be offered at a standard which meets or exceeds ~~three~~ one percent of annual, adjusted gross revenues for the home health agency or, in the case of an applicant providing other health services, the applicant may request that the Division allow the commitment for services to indigent and charity patients to be applied to the entire facility;

3. providing documentation of the demonstrated performance of the applicant, and any facility in Georgia owned or operated by the applicant's parent organization, of providing services to Medicare, Medicaid, and indigent and charity patients;

4. providing a written commitment to participate in the Medicare, Medicaid and PeachCare for Kids™ programs; and

5. providing a written commitment to participate in any other state health benefits insurance programs for which the home health service is eligible.

(m) An applicant for a new or expanded home health agency shall demonstrate that their proposed charges compare favorably with the charges of existing home health agencies in the same geographic service area.

(n) An applicant for a new or expanded home health agency shall document an agreement to provide Division requested information and statistical data related to the operation and provision of home health services and to report that data to the Division in the time frame and format requested by the Division.

(o) The department may authorize an existing home health agency to transfer one county or several counties to another existing home health agency without either agency being required to apply for a new or expanded certificate of need, provided the following conditions are met:

1. the two agencies agree to the transfer and submit such agreement and a joint request to transfer in writing to the department at least thirty (30) days prior to the proposed effective date of the transfer;

2. the two agencies document within the written request that the transfer would result in increased and improved services for the residents of the county or counties including Medicare and Medicaid patients;

3. the agency to which the county or counties are being transferred currently offers services in at least one contiguous county or within the health planning area(s) in which county or counties are located; and

4. the two agencies are in compliance with all other requirements of these Rules; such compliance to be evaluated with the written transfer request.

No such transfer shall become effective without written approval from the department.

Authority: O.C.G.A. §§ 31-5A et seq., 31-6 et seq.