

Vermont Assembly of Home Health and Hospice Agencies

February 2013

Temporary Suspension on Granting a CON for Home Health

Certificate of Need (CON) review for home health began in 1979. From then until 2005 Medicare-certified home care services were limited to the not-for-profit agencies. In 2005 Professional Nurses Service (PNS) was issued a CON to provide home health services statewide. In 2009, Bayada Nurses Inc. purchased PNS and was issued a CON to continue to provide home health and hospice service.

Act 83 - In 2010, the Vermont Legislature approved a three-year suspension (Act 83) on granting a CON to a new home health agency. That decision was based on the fact that objective indicators of unmet need had never been established. Act 83 also required the state to set up a work group to develop objective criteria including: establishing a definition of unmet need; developing a method for measuring the impact of any proposed project on existing service providers and the population served; identifying standards to measure unnecessary duplication of services that would increase the costs to the health care system and the state; and determining whether any additional standards were needed.

Work Group - The Act 83 Home Health Work Group, comprised of industry and state representatives and advocates from nursing homes, legal aid, disability rights, and elder services, met several times in 2010. The group reached limited consensus on criteria that should be used for CON approval. Of the 26 criterion considered, none was unanimously approved.

Commissioners' Recommendations - The Commissioners of the Department of Disabilities, Aging and Independent Living and the Department of Banking, Insurance, Securities and Health Care Administration did recommend that the state analyze data from home health agencies currently collected by DAIL (these data show significant Medicaid losses by the agencies) for use in CON review and include the results of independent client satisfaction surveys, provider complaint rates filed with DAIL; significant deficiencies cited related to quality of care resulting in action by the Division of Licensing and Protection; the number of persons on state-generated wait lists; the average length of wait by program; and the number of persons eligible for but not provided services by program.

The state did not, however, determine what criteria it would use to determine unmet need nor did BISHCA develop a method for measuring the impact of any proposed project on existing service providers or on the population served, nor identify standards to measure unnecessary duplication of services.

Due to the unfinished business of developing objective criteria for CON review, the members of the Vermont Assembly of Home Health and Hospice Agencies recommended extending the CON suspension to January 1, 2017.

Questions – Call Peter Cobb, 229-0579 or 249-5167.

