

**BEFORE THE STATE HEALTH PLANNING  
 AND DEVELOPMENT AGENCY**

**IN RE:** )  
 )  
**PREFERRED HOME HEALTH** ) **PROJECT NO: 2026-003**  
**OF LEE COUNTY, LLC** )  
**(LEE COUNTY)** )  
 )  
**PREFERRED HOME HEALTH** ) **PROJECT NO: 2026-006**  
**OF MONTGOMERY COUNTY, LLC** )  
**(MONTGOMERY COUNTY)** )

**PETITION FOR DECLARATORY RULING**

Come now Petitioners, Preferred Home Health of Lee County, LLC (“Preferred of Lee”), and Preferred Home Health of Montgomery County (“Preferred of Montgomery”) (collectively the “Preferred Home Health Applicants”), and pursuant to *Ala. Code* § 41-22-11 and Chapter 410-1-9-.01 of the Alabama Administrative Code (the “CON Rules”) respectfully submit this Petition for Declaratory Ruling to the Alabama State Health Planning and Development Agency (“SHPDA” or “Agency”), through its Certificate of Need Review Board (“CONRB” or “Board”). The Preferred Home Health Applicants seek a declaratory ruling specifically that:

- The May 19, 2025, Home Health Statistical Update (the “2025 Home Health Statistical Update”) to the 2024-2027 Alabama State Health Plan (the “SHP”) was adopted properly by the Alabama Statewide Health Coordinating Council (“SHCC”) and SHPDA in accordance with applicable rules and regulations;
- The Health Care Information and Data Advisory Council (the “Data Advisory Council”), established pursuant to the Alabama Health Planning Facilitation Act codified at *Ala. Code* §§ 22-4-30 through 22-4-42 (the “Data Act”), properly conducted its advisory functions as set forth in the enacting statute with regard to advising and consulting with SHPDA concerning (i) the type of data and information to be gathered from providers covered under the Data Act (i.e., “Covered Health Care Reporters”), and (ii) the composition of the forms and reports to be disseminated by SHPDA to Covered Health Care Reporters and to be completed and timely submitted to SHPDA by Covered Health Care Reporters (i.e., “Health Care Reports”);
- The Data Advisory Council has no role in approving a statistical update prior to its adoption or publication by SHPDA;
- The home health utilization data gathered from Health Care Reports completed and submitted to SHPDA by Covered Health Care Reporters (these specifically being home health agencies), and upon which the 2025 Home Health Statistical Update

is based, were the type of data and information that was “approved” by the Data Advisory Council; and

- Any applicant that filed an application for a home health certificate of need (“CON”) after the adoption of the 2025 Home Health Statistical Update, was correct in relying upon the 2025 Home Health Statistical Update in determining whether or not their respective CON applications were consistent with the SHP.

In support thereof, the Preferred Home Health Applicants offer the following:

**A. BASED ON THE BELOW SHOWING, THE PREFERRED HOME HEALTH APPLICANTS MAY BE SUBSTANTIALLY AFFECTED BY THE AGENCY’S INTERPRETATION OF THE RULE IN QUESTION:**

1. On May 19, 2025, SHPDA published a statistical update to the home health section of the 2024-2027 Alabama State Health Plan (the “SHP”). The 2025 Home Health Statistical Update applied the home health need methodology set forth in the SHP and determined that a need existed for additional home health services in eight (8) counties: Autauga, Bullock, Elmore, Lee, Limestone, Madison, Montgomery, and Russell. See Attachment A.
2. Pursuant to the 2025 Home Health Statistical Update, Preferred of Lee filed an application seeking a CON to establish a home health agency in Lee County, Alabama, which application was deemed complete by SHPDA as of November 25, 2025, and assigned Project Number AL2026-003 (the “Preferred Lee County CON Application”).<sup>1</sup>
3. The Preferred Lee County CON Application was opposed by East Alabama Medical Center HomeCare, LLC d/b/a HomeCare of East Alabama Medical Center (“HomeCare of East Alabama Medical Center”), EH Health Home Health of Alabama, LLC (“Enhabit”), and Chattahoochee Valley Home Health, LLC d/b/a CenterWell Home Health (“CenterWell”). A contested case was requested pursuant to Chapter 410-1-8-.02 of the CON Rules, and the case was assigned to the Honorable James Hampton, as Administrative Law Judge (“ALJ”), to hear the matter.
4. Pursuant to the 2025 Home Health Statistical Update, Preferred of Montgomery filed an application seeking a CON to establish a home health agency in Montgomery County, Alabama, which project was deemed complete by SHPDA as of December 30, 2025, and assigned Project Number AL2026-006 (the “Preferred Montgomery County CON Application”).
5. The Preferred Montgomery County CON Application was opposed by a CenterWell affiliate, as well as Enhabit, Amedisys Alabama, LLC (“Amedisys”),

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<sup>1</sup> SHPDA’s historical practice is that SHPDA will not deem a CON application complete unless the Agency deems the application to be consistent with the SHP.

and Alabama Homecare of Montgomery, LLC (“Alabama Homecare”). A contested case was requested pursuant to Chapter 410-1-8-.02 of the CON Rules, and the case was also assigned to the same ALJ as the Preferred Lee County CON Application.

6. Based on a Scheduling Order issued by the ALJ, the Preferred Lee County CON Application was set to be heard beginning on April 27, 2026. Less than one (1) business day prior to the commencement of the April 27, 2026, contested case hearing for the Preferred Lee County CON Application, CenterWell filed a Motion to Dismiss the Preferred Lee County CON Application or Stay the Proceedings with respect to the Preferred Lee County CON Application (the “CenterWell Motion”). In the CenterWell Motion, CenterWell alleges, *inter alia*, that the 2025 Home Health Statistical Update was improperly compiled and adopted by SHPDA staff due to the failure of SHPDA staff to submit (i) the supporting applicable Health Care Reports and other applicable reports SHPDA drafted using the data and information gathered from the Health Care Reports to the Data Advisory Council for approval, and (ii) to submit the draft 2025 Home Health Statistical Update to the Data Advisory Council for approval prior to publishing the 2025 Home Health Statistical Update. A copy of the CenterWell Motion (without attachments) is attached as Attachment B.
7. The CenterWell Motion raises an issue of agency regulatory interpretation that is best addressed by the Agency and the Board, as the bodies entitled to interpret SHPDA’s rules and regulations and determine if the CON review criteria are satisfied. The result of such legal interpretation could have a direct impact on the ability of the Preferred Home Health Applicants to prove compliance with the CON review criteria and to receive a CON.<sup>2</sup>
8. The assigned ALJ has not yet ruled on the CenterWell Motion. If the CenterWell Motion were to be granted, the impact would extend to any CON application filed in any of the eight (8) counties in which the SHCC has determined, based on the need methodology, a need for additional home health services exists.
9. Thus, based on the above, both Preferred Home Health Applicants are substantially affected by the rule in question by virtue of the fact that (i) their respective CON applications relied upon, among other things, the 2025 Home Health Statistical Update to support the home health need in Lee County and Montgomery County, and (ii) CenterWell has filed a Motion to Dismiss the Preferred of Lee County CON Application based on the validity of the 2025 Home Health Statistical Update.

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<sup>2</sup> The result of such legal interpretation could also have a direct impact on any party who has filed a home health CON application in any of the eight (8) counties in which the SHCC has determined, based on the need methodology, that a need for additional home health services exists.

**B. THE 2025 HOME HEALTH STATISTICAL UPDATE WAS VALIDLY AND PROPERLY ADOPTED.**

1. Section 410-2-5-.04(2)(b) of the SHP outlines statistical updates as one of three types of SHP revisions<sup>3</sup>. A statistical update is defined as “[a]n update of a specific section of the SHP to reflect more current population, utilization, or other statistical data.”
2. Section 410-2-5-.04(3)(b) of the SHP describes the procedure for a statistical update. “SHPDA staff shall make statistical updates to the SHP as needed. The SHCC shall be informed at its next regularly scheduled meeting of such updates.”
3. Section 410-2-1-.03(3) of the SHP provides, in part, that “Statistical updates to reflect more current population and utilization data may be accomplished by staff with the approval of the SHCC chairman.”
4. Importantly, nowhere in the SHP sections addressing statistical updates does it require that the statistical update must be reviewed or approved by the Data Advisory Council. Instead, statistical updates can be accomplished by SHPDA staff and approved by the SHCC chairman.
5. On May 15, 2025, SHPDA Executive Director Emily Marsal sent an email to SHCC Chair Elaine Beech, stating, in part, “We would like to inform you that the Agency has prepared the following statistical updates for: . . . Home Health . . . With your approval we will release these updates in the next few days.” The SHCC Chair responded that same date by email, saying “You have my permission to publish them.” A copy of the email exchange is attached as Attachment C.
6. Pursuant to the approval of the SHCC Chair, SHPDA published the 2025 Home Health Statistical Update on May 19, 2025, and it was presented to the SHCC at its next regularly scheduled meeting that occurred on June 10, 2025. See Attachment D for the June 10, 2025, draft minutes of the SHCC meeting evidencing the presentment of the 2025 Home Health Statistical Update to the SHCC.
7. Thus, the 2025 Home Health Statistical Update was properly made by SHPDA staff, approved by the SHCC Chair, and presented to the SHCC at its next regularly scheduled meeting. As a result, the 2025 Home Health Statistical Updated was adopted by the SHCC and SHPDA in accordance with applicable regulatory requirements.

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<sup>3</sup> The other two types of SHP revisions are Plan Adjustments and Plan Amendments as outlined respectively in Chapter 410-2-5-.04(2) (a) and (c) of the SHP.

C. CENTERWELL MISAPPREHENDS LANGUAGE IN THE DATA ACT, AS TO THE ROLE THE DATA ADVISORY COUNCIL HAS WITH REGARD TO STATISTICAL UPDATES.

1. In its motion, CenterWell misapprehends the scope of the Data Advisory Council’s statutory charge by erroneously alleging that the Data Advisory Council is charged with approving the actual data submitted to SHPDA by Covered Health Care Reporters and approving the compilation reports that are compiled by SHPDA using such data. CenterWell erroneously argues that without the Data Advisory Council’s approval of every piece of utilization data, any statistical update utilizing such data is void.
2. However, on the contrary, the Data Act gives no such duty to the Data Advisory Council. Instead, a clear reading of the applicable provisions in the Data Act show that the Data Advisory Council is charged with (i) reviewing the composition of the form of and the type of data to be collected through the annual Health Care Reports that SHPDA disseminates annually to health care providers to be completed and submitted to SHPDA (*i.e.*, the DM-1 Report), and (ii) to participate in writing rules adopted to implement the Data Act.
3. The Data Act states that the “purpose of this law is to give SHPDA authority to require the reporting of certain information to SHPDA by the legal entities covered in this article” *Ala. Code* § 22-4-31. Thus, the purpose of the Data Act and the creation of the Data Advisory Council was to provide SHPDA with legal authority under which it can mandate certain reporting to SHPDA by certain entities.
4. The legal entities covered by the Data Act are defined in the Data Act’s definition section in Section 22-4-32 as “Covered Health Care Reporter”. The Data Act defines a “Covered Health Care Reporter” as “health care facilities as that term is defined in Section 22-21-260(6); new institutional health services subject to review as defined in Section 22-21-263); a facility or institution for the care or treatment of any kind of mental or emotional illness or substance abuse or for providing services to persons with intellectual disabilities as defined in Section 22-50-17; and facilities and distinct units as defined in 22-21-263(c).” Under the definition, a home health agency would be a Covered Health Reporter.
5. Section 22-4-32(3) of the Data Act defines “Health Care Reports” as “[t]he written reports to SHPDA which are required to be submitted by this article.” Thus, as used in the Data Act, reports are those annual reports that health care providers are required by the Data Act to submit annually to SHPDA (*i.e.*, the DM-1 Report).
6. Section 22-4-32(4) of the Data Act defines the Data Advisory Council as “[t]he body created by this article which is charged with advising and participating in the writing of rules necessary to implement this article and reviewing reports prior to dissemination by SHPDA.” Thus, the Data Advisory Council’s charge is to provide advice and review the reports, which by definition are those reports provided to

SHPDA, prior to their being disseminated by SHPDA to Covered Health Care Reporters for completion and submission back to SHPDA.

7. By merely looking at the definitions section of the Data Act, which were intentionally included by the Legislature in the enacting statute, it is clear that the role of the Data Advisory Council is to consult with SHPDA, advise, and review report forms that will be utilized by health care providers to submit information to SHPDA. It is not, as CenterWell contends, to review every completed annual report, every summary data report compiled by SHPDA, or each statistical update prior to being accepted.
8. Section 22-4-33 of the Data Act provides that there “is established a Health Care Information and Data Advisory Council to give advice and guidance to SHPDA in adopting rules necessary to implement this article, to review and serve as consultants to SHPDA on matters related to any reports or publications prior to a report or publication release, and to serve as consultants to SHPDA on matters relating to the protection, collection, and dissemination of health care reports.” Thus, the Data Act clearly shows that the Data Advisory Council’s role is to “give advice” and to “serve as consultants”. It has no approval role or authority under the enacting statute.
9. Section 22-4-34 of the Data Act provides that “[t]he SHPDA, following advice and guidance from the [Data Advisory Council], shall adopt rules providing the specific information which shall be submitted and the method of submission to SHPDA. All covered health care reporters shall provide written reports as required by SHPDA, at least annually...Reporting to SHPDA shall be required at least annually after the initial report and shall cover the one-year period from the previous report as provided by rules of SHPDA.” (emphasis added). This clearly shows that the scope of the Data Advisory Council is limited to two (2) functions. First, advising SHPDA in writing rules to enforce the Data Act with regard to the specific information that is submitted to SHPDA. Second, advising and guiding SHPDA on the form and format of the annual Health Care Reports to be submitted by Health Care Reporters to SHPDA.
10. Section 22-4-35 of the Data Act addresses the submission of reports “directly to SHPDA”. Section 22-4-36 of the Data Act addresses the limitations on the types of information that can be included in the annual reports required by SHPDA. Section 22-4-37 of the Data Act addresses the penalties that may be imposed if a Health Care Reporter does not submit completed annual reports to SHPDA. Thus, the entire Data Act centers around the submission of annual reports to SHPDA, and not on the dissemination of reports by SHPDA.
11. In fact, Section 22-4-39(a) of the Data Act states that “SHPDA shall utilize the data and information received from covered health care reporters for the benefit of the public and public officials. The data and information obtained by SHPDA pursuant to this article, including a summary, shall be reported to the SHCC and the Certificate of Need Review Board at least annually.” The data obtained by SHPDA

is not required to be approved by the Data Advisory Council, the SHCC, or the CONRB. Instead, it must merely be reported to the SHCC and the CONRB.

12. Section 22-4-39(b) of the Data Act provides that “SHPDA shall follow the advice and guidance of the [Data Advisory Council] as to what reports, publications, or studies may be compiled using data required to be collected in this article....” The enacting statute is clear that any advice and guidance by the Data Advisory Council is limited to the type of reports, publications, or studies that may be compiled by SHPDA using data collected through the Health Care Reports.
13. In the CenterWell Motion, CenterWell asserts that the April 14, 2021, meeting of the Data Advisory Board is the last time that the Data Advisory Board approved matters related to home health. CenterWell further asserts that SHPDA used unapproved data submitted since the April 14, 2021, Data Advisory Council meeting to develop the 2025 Home Health Statistical Update. This argument is moot since, as discussed above, the Data Advisory Council is not charged with approving or even reviewing statistical updates. In fact, nowhere in the Data Act does it even mention a statistical update.
14. Thus, the Data Advisory Council has acted in conformity with the enacting statute.

**D. CENTERWELL WRONGLY INTERPRETS SECTION 410-2-4-.07(C)(1) OF THE SHP TO MEAN THAT THE DATA ADVISORY COUNCIL MUST APPROVE A STATISTICAL UPDATE PRIOR TO ITS ISSUANCE.**

1. CenterWell erroneously asserts in the CenterWell Motion that the language in Chapter 410-2-4-.07(c)(1), that provides “[t]he Target Year (TY) as used in this methodology refers to the most recent year of utilization data approved by the Health Care Information and Data Advisory Council and published by SHPDA....” means that the Data Council must not only approve the statistical update, but it must approve (i) each of the home health care annual reports (DM-1 Forms) filed by home health agencies as Covered Health Care Reporters, and (ii) the annually completed compilation of the data SHPDA compiles from the DM-1 Reports into the HH series of reports<sup>4</sup>.
2. However, the reference to the Data Advisory Council’s approval of data used in this section of the SHP (which is relied upon by CenterWell in its assertion that the 2025 Home Health Statistical Update is invalid), refers to the type of data that the Data Advisory Council gives SHPDA advice and guidance on in the performance of the Data Advisory Council’s statutory duties. As stated above, the statutory scope of the Data Advisory Council’s duties is to give advice and guidance for SHPDA to follow when developing the composition of the form and type data to

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<sup>4</sup> The DM-1 Reports are the annual reports that are submitted by every home health provider in each county reflecting home health utilization data. The series of HH reports are the home health reports that are compiled by SHPDA and summarize the data submitted on the DM-1 reports. The series of HH reports merely aggregate and summarize certain data points submitted on the DM-1 reports.

be gathered through the Health Care Reports submitted to SHPDA by Covered Health Care Reporters. The enacting statute does not require the Data Advisory Council to review and approve every annual report submitted by every provider. It also does not require the Data Advisory Council to review and approve every HH report, which is the compilation of that collected data into summary reports. Interpreting the language in the SHP to require such review and approval by the Data Advisory Council would be outside the scope of the enacting statute.

3. Data was submitted by home health Covered Health Care Reporters to SHPDA using the DM-1 form, which the Data Council has the authority to consult on. This data was aggregated and submitted in the HH series report forms, which the Data Council also has the authority to consult on. This data was used by SHPDA when applying the home health need methodology adopted by the SHCC in the home health section of the SHP, to properly develop the 2025 Home Health Statistical Update on May 19, 2025. Per the minutes of the SHCC's next regularly scheduled meeting on June 10, 2025, meeting, the 2025 Home Health Statistical Update was properly submitted to the SHCC in accordance with Chapter 410-2-5-.04 (3)(b) of the SHP.
4. Thus, the home health need methodology was applied using data that was "approved by the Health Care Information and Data Advisory Council." Consequently, the 2025 Home Health Statistical Update was properly adopted, based on the appropriate data.

## **E. CONCLUSION**

As stated above, there is nothing in the Data Act that requires SHPDA to submit to the Data Advisory Council for approval (i) each of the completed Health Care Reports received from Covered Health Care Reporters, (ii) every summary report that SHPDA compiles from the Health Care Reports received from Covered Health Care Reporters, or (iii) the statistical updates. Instead, the Data Advisory Council's charge is to advise and guide SHPDA in developing the forms it plans to use as Health Care Reports to be submitted to SHPDA by Covered Health Care Reporters and/or the form of the reports SHPDA plans to develop by compiling data from the Health Care Reports. The language in the SHP does not alter this charge. Therefore, the Petitioners respectively request SHPDA and the Board to declare as follows:

- The 2025 Home Health Statistical Update was adopted properly by the SHCC and SHPDA in accordance with applicable rules and regulations;
- The Data Advisory Council, established pursuant to the Data Act, properly conducted its advisory functions as set forth in the enacting statute with regard to advising and consulting with SHPDA concerning (i) the type of data and information to be gathered from providers covered under the Data Act (i.e., "Covered Health Care Reporters"), and (ii) the composition of the forms and reports to be disseminated by SHPDA to Covered Health Care Reporters and to be completed and timely submitted to SHPDA by Covered Health Care Reporters (i.e., the "Health Care Reports");

- The Data Advisory Council has no role in approving a statistical update prior to its adoption or publication by SHPDA;
- The home health utilization data gathered from Health Care Reports completed and submitted to SHPDA by Covered Health Care Reporters (these specifically being home health agencies), and upon which the 2025 Home Health Statistical Update is based, were the type of data and information that was “approved” by the Data Advisory Council; and
- Any applicant that filed an application for a home health certificate of need (“CON”) after the adoption of the 2025 Home Health Statistical Update, was correct in relying upon the 2025 Home Health Statistical Update in determining whether or not their respective CON applications were consistent with the SHP.

Respectfully submitted on this the 6th day of May, 2026.

/s/ Kelli C. Fleming

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**CERTIFICATE OF SERVICE**

I hereby certify that I filed electronically a copy of the foregoing **Request for Declaratory Ruling** upon:

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of Montgomery, LLC

on this the 6th day of May, 2026.

*/s/ Kelli C. Fleming*  
OF COUNSEL

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# **ATTACHMENT A**




STATE HEALTH PLANNING AND DEVELOPMENT AGENCY  
100 NORTH UNION STREET, SUITE 870  
MONTGOMERY, ALABAMA 36104

May 19, 2025

**MEMORANDUM**

TO: Recipients of the 2024-2027 *Alabama State Health Plan*

FROM: Emily T. Marsal   
Executive Director

SUBJECT: Statistical Update to the 2024-2027 *Alabama State Health Plan*

Enclosed is a statistical update to the 2024-2027 *Alabama State Health Plan*. The following section should be updated:

410-2-3-.07 Home Health.

ETM/blw

Enclosure: As stated

### Home Health Agency Projected Need 2027

County	Projected	Population	Population	PJPS <65,	PJPS >65,	PJPS,	Difference	APNS	Reflects
	Patients Served, 2027	Under 65, 2027	Over 65, 2027	2027	2027	2027	to meet		Need
Autauga	1,649	48,681	10,511	8	118	126	10	129	Need
Baldwin	12,339	190,030	61,479	16	151	167	(31)	(2,276)	
Barbour	1,121	19,276	5,152	15	163	178	(42)	(264)	
Bibb	1,284	17,900	4,204	18	229	247	(111)	(577)	
Blount	2,613	47,098	12,379	14	158	172	(36)	(549)	
Bullock	231	7,950	2,163	7	80	87	49	129	Need
Butler	928	14,475	4,582	16	152	168	(32)	(177)	
Calhoun	8,667	90,430	22,357	24	291	315	(179)	(4,922)	
Chambers	1,418	25,543	8,097	14	131	145	(9)	(90)	
Cherokee	1,389	18,725	7,023	19	148	167	(31)	(257)	
Chilton	1,825	36,637	8,375	12	163	176	(40)	(414)	
Choctaw	643	8,425	3,098	19	156	175	(39)	(143)	
Clarke	1,431	16,952	5,573	21	193	214	(78)	(520)	
Clay	627	9,755	3,063	16	154	170	(34)	(125)	
Cleburne	1,058	11,803	3,428	22	231	254	(118)	(491)	
Coffee	2,087	44,588	9,661	12	162	174	(38)	(453)	
Colbert	2,434	41,106	12,833	15	142	157	(21)	(326)	
Conecuh	836	8,135	3,317	26	189	215	(79)	(306)	
Coosa	431	6,474	3,046	17	106	123	13	46	**
Covington	1,885	28,588	9,437	16	150	166	(30)	(343)	
Crenshaw	591	11,044	3,079	13	144	157	(21)	(80)	
Cullman	4,247	65,680	18,622	16	171	187	(51)	(1,161)	
Dale	1,927	38,724	9,478	12	153	165	(29)	(338)	
Dallas	1,395	29,063	8,023	12	130	142	(6)	(63)	
DeKalb	3,390	57,647	15,044	15	169	184	(48)	(880)	

### Home Health Agency Projected Need 2027

County	Projected	Population	Population	PJPS <65,	PJPS >65,	PJPS,	Difference	APNS	Reflects
	Patients Served, 2027	Under 65, 2027	Over 65, 2027	2027	2027	2027	to meet		Need
Elmore	2,530	70,336	17,424	9	109	118	18	389	Need
Escambia	2,410	29,118	7,543	21	240	260	(124)	(1,151)	
Etowah	7,397	78,800	22,103	23	251	274	(138)	(3,731)	
Fayette	961	11,640	3,863	21	187	207	(71)	(330)	
Franklin	1,308	25,936	5,674	13	173	186	(50)	(349)	
Geneva	1,344	20,668	6,535	16	154	171	(35)	(272)	
Greene	612	5,199	2,248	29	204	234	(98)	(256)	
Hale	1,139	10,215	3,654	28	234	262	(126)	(547)	
Henry	942	12,681	4,826	19	146	165	(29)	(165)	
Houston	4,830	88,616	23,269	14	156	169	(33)	(950)	
Jackson	2,499	38,255	12,565	16	149	165	(29)	(445)	
Jefferson	26,449	539,632	125,089	12	159	171	(35)	(5,393)	
Lamar	1,042	9,095	3,484	29	224	253	(117)	(481)	
Lauderdale	4,179	70,436	22,556	15	139	154	(18)	(484)	
Lawrence	1,449	24,118	7,107	15	153	168	(32)	(275)	
Lee	3,517	157,208	28,428	6	93	98	38	1,345	Need
Limestone	3,113	90,094	21,442	9	109	118	18	489	Need
Lowndes	351	6,601	2,211	13	119	132	4	10	**
Macon	881	13,083	3,790	17	174	191	(55)	(254)	
Madison	10,953	327,214	73,443	8	112	120	16	1,438	Need
Marengo	1,278	13,976	4,486	23	214	236	(100)	(543)	
Marion	1,685	21,474	7,250	20	174	194	(58)	(504)	
Marshall	4,008	79,995	18,766	13	160	173	(37)	(852)	
Mobile	15,365	338,012	83,132	11	139	150	(14)	(1,433)	
Monroe	1,272	14,549	4,937	22	193	215	(79)	(468)	

### Home Health Agency Projected Need 2027

County	Projected	Population	Population	PJPS		PJPS, 2027	Difference to meet	APNS	Reflects Need
	Patients Served, 2027	Under 65, 2027	Over 65, 2027	PJPS <65, 2027	PJPS >65, 2027				
Montgomery	6,305	187,669	40,126	8	118	126	10	487	Need
Morgan	4,607	95,782	24,869	12	139	151	(15)	(456)	
Perry	412	6,199	1,932	17	160	177	(41)	(95)	
Pickens	1,179	15,691	4,774	19	185	204	(68)	(393)	
Pike	1,366	27,732	6,004	12	171	183	(47)	(351)	
Randolph	1,545	16,708	5,616	23	206	229	(93)	(629)	
Russell	1,698	54,256	10,664	8	119	127	9	117	Need
Saint Clair	3,623	77,556	18,662	12	146	157	(21)	(490)	
Shelby	8,009	199,224	47,086	10	128	138	(2)	(94)	
Sumter	793	8,865	3,107	22	191	214	(78)	(288)	
Talladega	4,009	62,246	16,600	16	181	197	(61)	(1,245)	
Tallapoosa	1,769	29,586	9,900	15	134	149	(13)	(154)	
Tuscaloosa	8,567	190,023	35,470	11	181	192	(56)	(2,512)	
Walker	3,776	49,051	14,864	19	191	210	(74)	(1,328)	
Washington	1,029	11,909	3,743	22	206	228	(92)	(414)	
Wilcox	673	7,158	2,488	23	203	226	(90)	(269)	
Winston	1,505	16,734	6,003	22	188	210	(74)	(532)	
<b>Totals</b>	<b>208,819</b>	<b>4,048,070</b>	<b>1,021,751</b>					<b>(38,308)</b>	<b>8</b>

Average Projected Persons Served per 1,000 Population per Year (APPS) 160  
 Statewide Average Comparative Value (SACV) 136

PJPS - Projected Total Persons Served per 1,000 Population by County  
 APNS - Additional Persons Projected to Need Service to meet SACV Value by County

**\*\*Under Section 410-2-4-.07** if APNS is greater than or equal to 100, need for one (1) additional home health provider is shown in that county. If APNS is less than or equal to 99, no need is shown for any additional home health providers in that county.

**Note:** No more than one (1) application may be approved in any county showing a need for additional home health providers during any approval cycle as defined by the Statewide Health Coordinating Council, or as implemented by SHPDA

**Note:** Counties below 136 persons served per 1,000 population are defined as underserved, utilizing the three year wighted average methodology

**Note:** Methodology per *2024-2027 Alabama State Health Plan* Section 410-2-4-.07.

Sources: SHPDA HH-2 report for FY2022, FY2023 and FY2024

5/19/2025

# **ATTACHMENT B**

**BEFORE THE STATE HEALTH PLANNING  
AND DEVELOPMENT AGENCY**

**IN RE:** )  
 )  
**PREFERRED HOME HEALTH** ) **PROJECT NO: 2026-003**  
**OF LEE COUNTY, LLC** )  
**(LEE COUNTY)** )

**CENTERWELL’S MOTION TO DISMISS PREFERRED HOME HEALTH OF LEE  
COUNTY’S APPLICATION FOR A HOME HEALTH AGENCY CERTIFICATE OF  
NEED OR IN THE ALTERNATIVE MOTION TO STAY THE PROCEEDINGS AND  
SUPPORTING BRIEF**

COMES NOW, Chattahoochee Valley Home Health, LLC d/b/a CenterWell Home Health ("CenterWell"), by and through their counsel, The Law Office of David Belser, and files this Motion to Dismiss Preferred Home Health of Lee County’s application for a home health agency Certificate of Need in Lee County. CenterWell’s motion should be granted because the most recent Statistical Update to the Alabama State Health Plan used unapproved, unverified, unofficial, and unpublished data to calculate Lee County was in need of an additional home health care provider. Only approved and officially published data may be used to make this determination, therefore the most recent statistical update is inherently flawed. No certificate of need may be granted without a valid calculation demonstrating need.

In light of this information, CenterWell is currently drafting a Declaratory Petition asking the Certificate of Need Review Board to declare the Statistical Update to the 2024-2027 Alabama State Health Plan invalid and void as a matter of law. Therefore, in the alternative to granting their Motion to Dismiss, CenterWell requests a stay in the current proceedings until the Declaratory Petition is ruled upon.

## STATEMENT OF FACTS

On October 14, 2025, Preferred Home Health of Lee County, LLC filed a Certificate of Need application for home health services in Lee County. (Ex. 1). To support this application, Preferred Home Health of Lee County, LLC cited the Statistical Update to the Alabama State Health Plan issued on May 19, 2025. (Ex. 1, A-2 III). This Statistical Update indicated 1,345 additional persons would need home health services in Lee County by the year 2027. (Ex. 2).

Rule 410-2-4-.07 of the Alabama Administrative Code declares if the additional persons needing to be served is greater than or equal to 100, the county is in need of one additional home health care provider. Because 1,345 additional people were projected to need home health care services in 2027, the Statistical Update to the 2024-2027 Alabama State Health Plan concluded Lee County was in need of one additional home health care service provider. (Ex.2).

## ARGUMENT

### **I. BEFORE A HOME HEALTH AGENCY CERTIFICATE OF NEED MAY BE GRANTED IN LEE COUNTY, MATHEMATICAL CALCULATIONS FROM APPROVED AND OFFICIALLY PUBLISHED UTILIZATION DATA MUST DEMONSTRATE A NEED FOR AN ADDITIONAL HOME HEALTH CARE PROVIDER.**

Section 410-2-1-.05(1) of the Alabama Administrative Code declares efficient health planning and Certificate of Need decisions are dependent upon the availability of *reliable* health care data. Thus, *accurate* utilization statistics are required to project the need for additional home health care services in each county. *Id.* For this reason, the Alabama Health Planning Facilitation Act mandates existing home health care providers submit their utilization data to the State Health Planning and Development Agency (“SHPDA”) for collection, compilation, and analyzation of the data. Ala. Admin. Code r. 410-2-1-.05(2).

To aid SHPDA, the Health Care Information and Data Advisory Council (“HCIDAC”) was created to review and authorize publication of this utilization data. *Id.* The most current technology is supposed to be used by the HCIDAC to ensure only accurate utilization data is presented to determine potential need. Ala. Admin. Code r. 410-2-1-.05(6).

SHPDA annually compiles all existing home health agency reports and uses this data in their home health need methodology to identify counties in need of an additional home health care provider. Ala. Admin. Code r. 410-2-4-.07(2); (7)(a). The home health need methodology takes multiple data points from three years of home health agency reports and CBER data. Then SHPDA enters this data into numerous equations to calculate whether or not a county is expected to have additional persons in need of home health care services three years into the future. Ala. Admin. Code r. 410-2-4-.07(2)

Before any calculations can be performed, a target year must be identified. Ala. Admin. Code r.410-2-4-.07(7)(c). A target year is the most recent year of home health care agency utilization data *approved* by the HCIDAC and *published* by SHPDA. Ala. Admin. Code r.410-2-4-.07(7)(c)(1). Because the home health need methodology projects a potential need three years ahead of the target year, this methodology uses a weighted average of the three most recent sets of annual reports published by SHPDA to calculate need. Ala. Admin. Code r.410-2-4-.07(7)(c)(1). Only utilization data approved by the HCIDAC and published by SHPDA may be used in any of the home health need methodology calculations. Ala. Admin. Code r.410-2-4-.07(7)(c). No Certificate of Need for home health care may be granted until a need by county is demonstrated via mathematical calculations using approved, official, verified, and published utilization data. Ala. R. Admin. Code 410-2-4-.07(7)(d)-(e).

## **II. BECAUSE UNAPPROVED AND UNOFFICIAL DATA WAS USED TO CONCLUDE**

**LEE COUNTY WAS IN NEED OF AN ADDITIONAL HOME HEALTH CARE PROVIDER, THIS HONORABLE JUDGE HAS NO AUTHORITY TO ISSUE PREFERRED HOME HEALTH A CERTIFICATE OF NEED.**

In the Statistical Update to the 2024-2027 Alabama State Health Plan, the target year was 2024. (Ex. 2). Utilization data from 2022 to 2024 from the existing home health care providers in Lee County was used to perform the home health care need methodology calculations set forth in Rule 410-2-7-.07(c) of the Administrative Code. (Ex. 2). Results from these calculations are included in the Statistical Update to the 2024-2027 Alabama State Health Plan. (Ex. 2).

None of the utilization data from 2022 to 2024 from the existing home health care providers in Lee County was approved by HCIDAC or officially published by SHPDA. (Ex. 3). In fact, these documents are clearly marked “unaudited and unpublished”. (Ex. 3). Moreover, all of the compilations of this data have the following disclaimer: “This data is unofficial. The annual reports from which this report is derived have not yet completed SHPDA’s validation and correction process. See the disclaimer included as part of your order for details.” (Ex. 4). Every page in these home health reports is stamped “**UNOFFICIAL DATA.**” (Ex. 4). Furthermore, these documents include the phrase: “Officially published as of: xx/xx/xxxx.” (Ex. 4).

The last time HCIDAC approved utilization data from the existing home health care providers in Lee County and SHPDA officially published this data was August 10, 2021. (Ex. 5).

**CONCLUSION**

To be valid, the Statistical Update to the 2024-2027 Alabama State Health Plan must have complied with all the home health need methodology criteria set forth in Section 410-2-4-.07(7) of the Alabama Administrative Code. Section 410-2-4-.07(7) mandates only approved and officially published data may be used to calculate need. By relying on unapproved and

unpublished data, SHPDA failed to follow its own regulations in home health care methodology. Hence, the May 19, 2025, Statistical Update is inconsistent with the home health care section of the Alabama State Health Plan. Accordingly, the results of this statistical update demonstrating a need for an additional home health care provider in Lee County is invalid and void as a matter of law.

Because no Certificate of Need for home health care may be granted until a need by county is demonstrated via approved, official, verified, and published utilization data, Preferred Home Health of Lee County's CON application in this case must be dismissed. In fact, no Certificate of Need for any home health agency in Alabama may be granted until another statistical update using approved and officially published utilization data demonstrates a need for an additional home health care provider by county.

For the foregoing reasons, CenterWell respectfully requests this honorable Administrative Law Judge dismiss Preferred Home Health of Lee County's application for a home health agency Certificate of Need in Lee County or in the alternative, issue a stay until the Certificate of Need Review Board has an opportunity to declare the May 19, 2025 Statistical Update to the Alabama State Health Plan invalid and void as a matter of law.

Respectfully Submitted this 24<sup>th</sup> day of April 2026.

/s/ David E. Belser  
David E. Belser, Esq.  
Jennifer A. Wood, Esq.  
*Attorneys for CenterWell*

**OF COUNSEL:**

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Law Office of David E. Belser

2865 Zelda Road  
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**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing document has been served upon the following by electronic mail on this 24<sup>th</sup> day of April 2026.

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Administrative Law Judge  
State Health Planning and Development Agency  
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# **ATTACHMENT C**

**From:** [Elaine Beech](#)  
**To:** [Marsal, Emily](#)  
**Subject:** Re: Statistical Updates  
**Date:** Thursday, May 15, 2025 12:49:17 PM

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You have my permission to publish them.

Elaine H. Beech

On Thu, May 15, 2025 at 12:11 PM Marsal, Emily <[Emily.Marsal@shpda.alabama.gov](mailto:Emily.Marsal@shpda.alabama.gov)> wrote:

Good Afternoon Rep. Beech – I hope you are doing well! We would like to inform you that the Agency has prepared the following statistical updates for:

Acute Care

Home Health

SCALF

Long Term Acute Care

ESRD

With your approval we will release these updates in the next few days. Please let us know of your approval or disapproval by responding to this email.

We will schedule a time to talk before the June SHCC meeting. Thanks so much! ETM

**Emily Marsal, Executive Director**  
**State Health Planning and Development Agency**  
**334-242-4103**  
**[Emily.marsal@shpda.alabama.gov](mailto:Emily.marsal@shpda.alabama.gov)**

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# **ATTACHMENT D**

**MINUTES**  
**STATEWIDE HEALTH COORDINATING COUNCIL**  
**June 10, 2025**

The Statewide Health Coordinating Council (SHCC) held its quarterly meeting on Tuesday, June 10, 2025, virtually via web conference. The minimum number of council members required by law was present in room 387 of the RSA Union building at 100 North Union Street in Montgomery, Alabama.

**COUNCIL MEMBERS PRESENT**

Chairman Elaine Beech (In-Person)  
Ms. Brenda Carlisle  
Mr. James Clements  
Ms. Terri Connell  
Mayor Harold Crouch (In-Person)  
Mr. Mark Edwards  
Ms. Barbara Estep (In-Person)  
Mr. Keith Granger  
Mr. Dean Griffin  
Ms. Marcilla Gross  
Mr. Bert Guy  
Mr. David Hunt  
Mr. Carey McRae  
Ms. Dare Underwood Meeks  
Senator Tim Melson (entered at 10:50)  
Mr. Don Owens  
Dr. Carol Ratcliffe  
Mr. J. Tuerk Schlesinger (entered at 10:36)  
Ms. Lisa Teel  
Dr. Mickey Trimm  
Mr. Hodges Washington (In Person)  
Mr. Gregg Waycaster

**COUNCIL MEMBERS NOT PRESENT**

Mr. Frank Brown  
Mr. Ralph Clark  
Representative Jeremy Gray  
Honorable Stephanie Kemmer  
Dr. David Montiel  
Mr. Simeon Penton  
Mr. Danny Rickert  
Dr. Wilburn Smith  
Mr. Mark Traylor  
Dr. Scott Harris

**SHPDA STAFF PRESENT**

Ms. Emily T. Marsal, Executive Director  
Mr. Bradford L. Williams  
Ms. Toni Ferguson  
Ms. Teresa Lee  
Ms. Jelena Magallon  
Ms. Kristin F. Norman  
Ms. Melissa Trehern

**LEGAL REPRESENTATIVE PRESENT**

Mr. Mark Wilkerson, Esq.

**COURT REPORTER PRESENT**

Suzanne Lee

A copy of the register of participants is on file in the office of the State Health Planning and Development Agency.

Chairman Elaine Beech called the meeting to order at 10:30 a.m. Mrs. Emily T. Marsal, Executive Director of the State Health Planning and Development Agency, performed a roll call and confirmed a quorum. Chairman Beech requested a motion to adopt the agenda. Ms. Barbara Estep motioned to adopt the agenda, seconded by Mr. Hodges Washington. The motion carried unanimously.

Chairman Beech requested a motion to adopt the minutes from the September 10, 2024, meeting. Mayor Harold Crouch motioned to approve the minutes, seconded by Ms. Terri Connell. The motion carried unanimously.

### **Chair's Report**

Chairman Beech welcomed everyone to the meeting of the Statewide Health Coordinating Council.

### **Old Business**

Mr. Bradford Williams updated the Statewide Health Coordinating Council on the most recent statistical updates as published and informed the SHCC that SHPDA has received notice from multiple facilities on their intent to file for CONs in the near future.

### **New Business**

**PA2024-002, Coosa Valley Medical Center:** proposes to adjust the Psychiatric Care section of the 2024-2027 Alabama State Health Plan, Ala. Admin. Code §410-2-4-.10, to add five (5) geriatric psychiatric care beds and establish a new Adult Behavioral Health Center with the addition of twenty (20) adult inpatient psychiatric care beds to Talladega County within the North Central Region. To accomplish these additions, Coosa Valley Medical Center proposes to relocate its current Senior Behavioral Health Center to a different wing within the hospital to make room for the proposed expansion and remodel the existing space for the establishment of the newly proposed Adult Behavioral Health Center. **Opposition: NONE.**

### **Speakers for the Applicant:**

Colin Luke, Esq., Glen Sisk, Judge Chad Joiner, Dr. Shankar Yalamanchili, Senator Jerry Fielding

After all questions and comments were addressed, Chairman Elaine Beech called for a motion regarding the plan adjustment. Mr. Hodges Washington made a motion to APPROVE the proposed adjustment, seconded by Ms. Barbara Estep. After a roll call vote, the motion to APPROVE the plan adjustment passed unanimously.

**Hospital Committee Update**

Mr. Bradford Williams updated the Council Members on the work to be performed through the SHCC Hospital Committee, the Alabama Hospital Association, and SHPDA regarding Rural Emergency Hospital language to be added to the *2024-2027 Alabama State Health Plan*.

Secondly, Mr. Williams stated that further work will be ongoing regarding Substance Abuse Rehabilitation Beds and their official definition within the *2024-2027 Alabama State Health Plan*.

Chairman Elaine Beech announced that the next meeting of the Statewide Health Coordinating Council will be held on Tuesday, September 9, 2025.

There being no further business, Chairman Beech adjourned the meeting at 10:59 p.m.

PREPARED BY:

\_\_\_\_\_  
Toni Ferguson  
\_\_\_\_\_  
Date

APPROVED:

\_\_\_\_\_  
Chairman Elaine Beech  
\_\_\_\_\_  
Date

