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June 1, 2010

Received by the
CON Section

01 JUN REC'D 03 : 44

Ms. Gebrette Miles, Project Analyst
Mr. Craig Smith, Section Chief
Certificate of Need Section
Division of Health Services Regulation
NC Department of Health and Human Services
701 Barbour Drive
Raleigh, North Carolina 27626

Re: Comments on Competing Wake County Home Health CON Proposals –
AssistedCare Home Health, Inc. (AssistedCare), **J-8506-10**
ARC Therapy Services, LLC d/b/a Innovative Senior Care (Innovative), **J-8507-10**
SunCrest Home Health of North Carolina, Inc. (SunCrest), **J-8508-10**
Home Health and Hospice Care, Inc. (3HC), **J-8509-10**
Community Home Health of North Carolina, LLC (Community), **J-8510-10**
Continuum II Home Care and Hospice, Inc. (Continuum), **J-8512-10**

Dear Ms. Miles and Mr. Smith:

On behalf of United Home Care, Inc. d/b/a United Home Care of Wake County (UHCW), Project ID **J-8511-10**, thank you for the opportunity to comment on the above referenced applications for development of a new Medicare-certified home health agency in Wake County. During your review of the projects, I trust that you will consider the comments presented herein.

We recognize that the State's Certificate of Need (CON) award for the proposed home health agency will be based upon the State's CON health planning objectives, as outlined in G.S. 131E-183. Specifically, we request that the CON Section give careful consideration to the extent to which each applicant:

1. Demonstrates the need this population has for all types of home health services;
2. Demonstrates immediate and long-term financial feasibility;
3. Demonstrates the availability of adequate staff to provide all proposed services;
4. Demonstrates the ability to provide all necessary ancillary and support services;
5. Offers service accessibility to all service area residents;

6. Accommodates the clinical needs of health professional training programs in the service area;
7. Demonstrates a cost effective alternative; and
8. Effectively adheres to Policy GEN-3 –Basic Principals.

The application from UHCW, Project ID J-8511-10, best meets all of the above-referenced planning objectives.

Home Health Care Needs

Wake County's current and future need for home health services, as a whole, is well documented by all applicants. All applicants make it clear that the sustained growth and aging of the population of Wake County will generate a need for home health services far greater than existing Wake County home health agencies can handle. However, only UHCW makes it clear in Section III.1.(a) what specific home health services are truly needed by this population. Thus, UHCW is the only applicant conforming to Criterion (3). Please see Table 1 below.

Wake County is served by 27 home health agencies and 11 agencies have offices in the county. Most existing agencies continue to expand capacity and reach more patients every year. It has been three years since a new agency was added to the county and it will likely be several years before another is added. Hence, with seven agencies competing for the one new provider opportunity, it is important that the Agency select a new provider that will fill service gaps in this large and diverse county.

To determine what home health services are truly needed in the Wake County area, only one applicant, UHCW, conducted a survey of Wake County area healthcare providers. UHCW surveyed 37 Wake County area healthcare providers, who represented a broad cross-section of the community. Collectively, they identified 39 different home health agency services that the county needs. (Please see Exhibit 32 in UHCW's CON application). The top five services in order of most requested were: Psychiatric, Wound Care, Pain Management, Palliative Care, and Diabetes Management. All applicants propose wound care and diabetes management programs. Six of the seven applicants, propose pain management programs. However, only UHCW proposes a comprehensive psychiatric and palliative care program, in addition to the other requested services.

Table 1- Comparison of Response to Five Most Requested Wake County Home Health Agency Services

Applicant	Psychiatric	Palliative Care	Wound Care	Pain Management	Diabetes Management	Documents Need of the Population to be Served for Services in III.1.(a).
AssistedCare	No	No	Yes	Yes	Yes	No
Community	No	No	Yes	Yes	Yes	No
SunCrest	No	No	Yes	Yes	Yes	No
Continuum	No	No	Yes	No	Yes	No
3HC	No	No	Yes	Yes	Yes	No
Innovative	No	No	Yes	Yes	Yes	Some*
UHCW	**YES**	**YES**	**YES**	**YES**	**YES**	**YES**

**Innovative generically identified need for diabetes and pain management services.*

Approving an agency that will provide the services most needed by the service area is essential to assure that the new provider will not represent unnecessary duplication of existing services.

Competition

The right new provider will provide essential competition that can improve service offerings among existing providers. Adequate competition creates an environment that supports tendencies toward expanded access, higher salaries, and higher quality. Members of the State Health Coordinating Council (SHCC) agree. On page 3 the 2010 State Medical Facilities Plan (SMFP) states, "A competitive marketplace should favor providers that deliver the highest quality and best value care.

For this reason, 3HC should not be approved. Although not licensed in Wake County, 3HC currently provides home health services to Wake County residents. Thus, approving 3HC would limit the amount of positive change that can occur by allowing a new provider into the market.

Furthermore, information provided in its application shows that 3HC will only increase the number of Wake County residents receiving home health care by 55. According to application page 49, in 2009, 3HC served 422 Wake County residents. Table IV.2, application page 62 shows that, 3HC will serve only 477 Wake County residents by Project Year 1, a net increase of only 55 Wake County residents two years later (477 minus 422 equals 55).

Why Approve United Home Care of Wake County

Overview

Wake County will benefit tremendously from UHCW. UHCW meets all statutory review criteria and is comparably the most effective applicant. UHWC proposes:

- The only service program specifically tailored to Wake County area resident needs;
- The most visits per unduplicated client;
- The most comprehensive quality monitoring program;
- The highest salaries for LPNs and Home Health Aides;
- The highest percentage of Medicare and Medicaid access; and
- The lowest charges for nursing and therapy services.

The following summarizes the ways in which UHCW meets the 2010 SMFP basic principles: Quality, Access and Value.

Quality

UHCW provides the most visits per unduplicated client and is the only applicant to document that it will provide all home health services 24 hours a day, seven days a week.

Table 2- Visits per Unduplicated Client Comparison

Applicant	Visits / Unduplicated
AssistedCare	15.9
Community	17.4
SunCrest	15.7
Continuum	18.4
3HC	17.7
Innovative	15.1
UHCW	**23.3**

UHCW will invest in the most comprehensive quality monitoring program. In conjunction with internal processes, UHCW will utilize a minimum of five third-party quality benchmarking systems (OCS, Home Health Compare, CASPER, Press Ganey, and MyInnerview) to continuously examine client satisfaction, staff satisfaction, adherence to quality of care standards, and client outcomes. No other applicant proposes a comparable investment in quality assurance.

Table 3- Quality Benchmarking Program Comparison

Applicant	Number of Quality Benchmarking Programs	Number of Client Satisfaction Programs	Number of Staff Satisfaction Programs	Total Quality Monitoring programs
AssistedCare	2	0	0	2
Community	0	1	0	1
SunCrest	1	0	0	1
Continuum	1	1	0	2
3HC	2	1	0	3
Innovative	1	0	0	1
UHCW	**3**	**1**	**1**	**5**

UHCW proposes the highest paid Licensed Practical Nurse (LPN) and Home Health Aide (HHA) employees, which in this economy is extremely important. Because UHW offers the best salaries, UHCW has the best potential to recruit top caliber employees in each position. Proposed UHCW salaries for other positions are comparable to those for other providers.

Table 4- Salary Comparison

Applicant	LPN	HHA
AssistedCare	50,717	31,648
Community	48,616	33,180
SunCrest	55,653	33,518
Continuum	-	29,672
3HC	-	36,453
Innovative	-	24,189
UHCW	**65,879**	**42,441**

Access

UHCW offers the most access to Medicare and Medicaid recipients.

Table 5- Payor Comparison

Applicant	Projected Visits /Hours as % of Total Project Visits /Hours
AssistedCare	78.00%
Community	87.00%
SunCrest	86.00%
Continuum	88.15%
3HC	85.30%
Innovative	80.22%
UHCW	**95.62%**

As stated above, UHCW is the only applicant that proposes and demonstrates how it will offer a comprehensive psychiatric home health program. According to Wake County area healthcare providers, this is the most needed home health service.

UHCW is the only applicant proposing to offer a comprehensive palliative care program. According to Wake County area healthcare providers, this is the fourth most needed home health service.

UHCW is the only applicant that can appropriately care for Wake County's diverse foreign-born population. UHCW is the only applicant to document coordination with persons capable of assisting UHCW in hiring non-English speaking staff and is the only applicant to allocate funds for interpreter services.

UHCW is the only applicant that demonstrates how it will respond to the unique role of Wake County hospitals as tertiary care providers that draw residents from outside Wake County.

Finally, UHCW is the only applicant that documents sufficient referrals to fill its utilization projections.

Table 6- Referral Comparison

Applicant	Year 2 Unduplicated Census	Promised Referrals
AssistedCare	474	0
Community	410	0
SunCrest	484	0
Continuum	480	0
3HC	497	0
Innovative	444	0
UHCW	**588**	**7,700**

Value

In addition to proposing the most intensive level of service per unduplicated resident and documenting the basis for its proposal, UHCW offers the lowest charges for skilled nursing and therapy services.

Table 7- Charge Comparison

Applicant	Nursing	PT	ST	OT
AssistedCare	$ 155	$ 165	$ 155	$ 155
Community	$ 125	$ 150	$ 150	$ 150
SunCrest	$ 130	$ 160	$ 160	$ 160
Continuum	$ 155	$ 155	$ 155	$ 155
3HC	$ 125	$ 130	$ 130	$ 130
Innovative	$ 155	$ 165	$ 165	$ 165
UHCW	**$ 120**	**$ 130**	**$ 130**	**$ 130**

UHCW believes it is essential for all CON applicants to clearly define how their proposed projects will promote the three basic principles of quality, access and value. UHCW believes our proposal to own and operate a Medicare-certified home health agency in Raleigh, North Carolina, meets the statutory review criteria and best promotes the three basic principals. We believe that our application encourages competition by offering high quality value-based services in a cost effective manner to a population that is underserved.

Conclusion

Although all applicants are surely interested in providing quality service, it is our opinion that among the projects under review, competing applications offer less desirable alternatives or fall short of meeting the state's objectives for the provision of universal access to quality health care in the most effective manner.

The application from UHCW proposes a needed service and is competitively superior. It:

- Provides programming for <u>all</u> home health services currently needed in Wake County;
- Increases accessibility to all service area residents;
- Provides evidence that high quality and high levels of direct care will be provided;
- Provides positive aspects of competition and increased consumer choice;
- Demonstrates a value-based, cost-effective alternative;
- Brings innovative services that support quality of client and staff life and appropriate staffing levels; and
- Meets all state review criteria and special rules (10A NCAC 14C .2000).

In the following pages, each competing application is discussed within the framework of the State's CON Review Criteria and applicable home health rules (10A NCAC 14C .2000). For each applicant, we have addressed only those criteria for which we believe the information provided is non-conforming. Please fee free to call me if you have any questions.

Sincerely,

Sarah Haislip / pp

Sarah Haislip
Health Planner
USH-Pruitt Corporation

Attachments:
Noncompliance with CON Review Criteria and applicable home health rules: 10A NCAC 14C .2000
2010 Wake County Home Health Payor Mix Comparison

COMPETITIVE REVIEW OF – AssistedCare Home Health, Inc. (*AssistedCare*), J-8506-10

CON REVIEW CRITERIA

1. ***The proposed project shall be consistent with applicable policies and need determinations in the State Medical Facilities Plan, the need determination of which constitutes a determinative limitation on the provision of any health service, health service facility, health service facility beds, dialysis stations, ambulatory surgery operating rooms, or home health offices that may be approved.***

Overview

The proposed application is not consistent with applicable policies in the 2010 State Medical Facilities Plan (SMFP). The application does not demonstrate how the project will promote safety and quality in the delivery of health care services while promoting equitable access and maximizing healthcare value. Nor does the application document how its projected volumes incorporate these principals in meeting the needs of all residents of the proposed service area. Therefore, AssistedCare fails to be consistent with Policy GEN-3: BASIC PRINCIPLES and thus, non-conforming to Criterion (1).

Additionally, the proposed project is not consistent with all the special rules for home health agencies, in 10A NCAC Section 14C. 2000 – Criteria and Standards for Home Health Services, in II.8, thus, is not conforming to Criterion (1).

The discussion below outlines how the applicant is inconsistent with Policy GEN-3.

Safety and Quality

Safety and quality can not be assumed because the applicant fails to adequately demonstrate the availability of health manpower and necessary ancillary and support services. Please see discussion in Criterion (7) and (8).

Access

AssistedCare does not offer equitable access to Medicaid recipients. AssistedCare offers Medicaid access below the county average. On application page 98, Section VI.12, AssistedCare projects seven percent of its visits will be provided to Medicaid recipients. According to 2010 Home Health Licensure Renewal Applications, 8.2 percent of the home health visits made by existing Wake County home health providers were delivered to Medicaid recipients. Please see Attachment 1.

AssistedCare provides no plan, or funds, for care of non-English speaking residents. In a study by the US English Foundation, Wake County was found to be the most linguistically diverse county in the state of North Carolina, with 70 languages spoken. Please see Exhibit 39 of UHCW's CON application. Thus, to ensure access to all Wake County residents, applicants must demonstrate an ability to care for non-English speaking residents.

AssistedCare does not demonstrate that it will offer comprehensive psychiatric and palliative care programming. Of the 37 Wake County area healthcare providers interviewed by UHCW representatives, 59 percent stated there is a need for psychiatric home health services in the Wake County area. Additionally, 41 percent of the same peer group stated there is a need for palliative care services in the Wake County area. Thus, to ensure access to the services most needed by Wake County residents, applicants must demonstrate an ability to care for home health clients in need of psychiatric and palliative care services. Please see discussion in Criterion (7) and (8).

AssistedCare provides no explanation of how it will handle pediatric clients. Although UHCW believes the need for pediatric home health services to be uncertain, it is important that an applicant have the systems in place to ensure pediatric clients get appropriate care.

Value

It is not possible to determine that AssistedCare's proposed project will maximize healthcare value, because the applicant does not adequately demonstrate the population to be served and the need of the population for the proposed home health service. Please see discussion in Criterion (3).

Furthermore, AssistedCare proposes high charges. As demonstrated in Table 7, in the attached UHCW letter to the CON Section, AssistedCare's proposed skilled nursing and therapy charges are, or are close to, the most expensive among the applicants. AssistedCare's Medical Social Worker (MSW) charge of $300 per visit is 66 percent more than second highest charge ($300 / $180 – 1 = 66%). The average among all other applicants is $143.

Table 8- MSW Charge Comparison

Applicant	MSW Charge
AssistedCare	$ 300
Community	$ 75
SunCrest	$ 170
Continuum	$ 155
3HC	$130
Innovative	$180
UHCW	**$ 150**
Average (Less Assisted Care)	$ 143

Volumes

Volumes of visits and patients in the AssistedCare application are not consistent with providing access to persons with limited financial resources. Not only does it propose the lowest level of Medicare and Medicaid service, as noted in UHCW's cover letter, it also demonstrates a lack of understanding of North Carolina Medicaid reimbursement. See discussion in Criterion (5).

Additionally, AssistedCare failed to provide any evidence of referrals of clients in need of psychiatric care; Wake County's most needed home health service.

For the reasons stated above, AssistedCare failed to demonstrate that it is a qualified applicant or that the application is consistent with the need determination and applicable policies.

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.***

AssistedCare does not adequately demonstrate the need of the population to be served for the services proposed:

- AssistedCare does not demonstrate a need for each of the proposed services described in Section II.1. Section III.1.(a) instructs applicants to "describe, in specific terms, the unmet need that necessitated the inclusion of each of the proposed services to be offered by the home health office as set forth in the description of the scope of services in Section II.1."
- AssistedCare does not provide an independent assessment of Wake County's projected home health need for each project year. On application page 61, Section III.1.(b), AssistedCare states that existing provider volume will increase by seven percent; however, AssistedCare provides no statistical methodology projecting the population's need for the home health services.
- AssistedCare projected unduplicated patients that match the need in the 2010 SMFP, but it failed to document that it will receive enough referrals to reach its projected number of clients.

AssistedCare does not adequately demonstrate 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 for the following reasons:

- As stated in Criterion (1), the applicant projects below average Medicaid access.
- As stated in Criterion (1), the applicant does not offer programs sufficient enough to care for non-English speaking residents or residents in need of psychiatric, palliative care, or pediatric care.
- Moreover, AssistedCare failed to propose or provide any evidence of referrals of clients in need of psychiatric care; Wake County's most needed home health service.

In conclusion, the applicant did not adequately demonstrate the need that its projected population has for the services proposed and does not adequately demonstrate that all persons will have access to its proposed services. Thus, the application is non-conforming to Criterion (3).

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 is not conforming to other applicable statutory and regulatory review criteria. Therefore, AssistedCare did not demonstrate the least costly or most effective alternative has been proposed and thus, the application is not conforming to this criterion. See discussion in Criteria (1), (3), (5), (6), (7), (8), (13c), and (18a).

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.***

Operational Projections

The applicant's operational projections are unsupported and unreliable for the following reasons:

- Unduplicated client projections on application page 63, Section III.1.(b), are arbitrary and based on unsubstantiated projections of need. Year 1 projections are based solely on the need determined in the 2010 SMFP. Year 2 projections are arbitrarily increased by seven percent and do not consider what the actual need in Wake County will be in that year. Please see discussion in Criterion (3).

- AssitedCare's forecasts of the number of times the same client will be served are aggressive. AssistedCare's methodology forecasts that some clients will be served twice in the first six months (duplicated clients). Based on UHCW corporate consultant experience it is unreasonable to assume the proposed agency will serve duplicated clients in the first six months. Additionally, it is the experience of UHCW corporate consultants that commercial, private pay and indigent clients are rarely duplicated, or repeat users. The age of Medicare clients and economic characteristics of Medicaid clients make them more susceptible to multiple admissions. It appears AssistedCare's methodology applies duplication factors to all payor classes, boosting forecasts of revenues and reducing working capital requirements.
- AssistedCare provides no assumption to explain how visits per episode will be separated into months of service. It assumes all episode visits will be completed in the year the episode starts. It is unreasonable to assume that a client who begins a new episode in the last two months of a project year will complete all his/her visits in that time frame. A standard home health episode lasts 60 days and, currently, United Home Care, Inc. averages 18.1 visits per episode of care[1]. Therefore, a client averages about two visits a week over a period of eight weeks. Not every client in those two months will start care at the beginning of the period. Some will carry over.
- Medicaid, private/insurance clients, self pay, and charity care visit per client estimates are based on arbitrary numbers. On application page 77, the applicant states that Medicaid, private/insurance clients, self pay, and charity care visits per client average 15, 12, 13, and nine, respectively. However, the applicant provides no rationale for these numbers.
- AssistedCare failed to document that it will receive client referrals sufficient to reach its projected number of clients.

Financial Projections

The applicant's financial projections are unsupported and unreliable for the following reasons:

- The applicant's projections for utilization are unsupported and unreliable. See discussion above. Consequently, costs and revenues that are based on the applicant's utilization projections are unreliable.
- Medicaid revenue is based on inappropriate assumptions. On application page 140, AssistedCare provides Medicaid revenue assumptions that show its agency being paid for Medical Social Work visits. Medicaid does not reimburse for Medical Social Work Visits.[2]
- Detailed net revenue assumptions, on application page 142, do not match net revenue totals in Form B, on application page 131.
- The applicant failed to budget adequate expenses for appropriate levels of health manpower. See discussion in Criterion (7).

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[1] *Please see UHCW application Exhibit 64.*
[2] http://www.dhhs.state.nc.us/dma/services/homehealth.htm

Availability of Funds

The applicant provides insufficient data to demonstrate availability of funds necessary to operate the proposed project.

The applicant fails to apply a lag to Medicare and Medicaid receipts. On application page 143, AssistedCare projects Medicare and Medicaid revenue by month two of operations. UHCW does not believe it is reasonable to collect Medicare or Medicaid revenue until the second quarter of operations. By underestimating the cash flow lag, the applicant understated its initial operating expenses. A longer lag in cash flow would call for access to more initial operating capital. Thus, AssistedCare's initial operating expenses would increase. This is important because AssistedCare's financing letter, in application Exhibit 33, is not sufficient to cover any increase in initial operating expense. Therefore, the applicant does not demonstrate the availability of funds necessary to operate the proposed project.

In conclusion, the applicant did not adequately demonstrate the availability of sufficient funds for capital and operating needs and the applicant's utilization and financial projections are unreliable. Thus, the application is non-conforming to Criterion (5).

6. ***The applicant shall demonstrate that the proposed project will not result in unnecessary duplication of existing or approved health service capabilities or facilities.***

The applicant failed to adequately demonstrate the need for the home health agency and therefore, the applicant failed to demonstrate that the proposed project will not result in unnecessary duplication of existing or approved health service capabilities or facilities and is non-conforming with this criterion. Please see discussion in Criterion (3).

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 applicant does not show evidence of the availability of resources including health manpower and management personnel, for the provision of the services proposed.

AssistedCare does not budget for a Registered Nurse that can provide psychiatric home health services. In application Section II.2, AssistedCare proposes a psychiatric home health program. In order to get paid by Medicare for a direct psychiatric client admission, an agency must utilize a registered nurse that meets certain psychiatric care standards[3]. AssistedCare does not propose such a staff person.

[3] http://cnhhs.org/files/hha_200_to_205.pdf

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 care system.***

The applicant does not 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 for the following reasons:

- AssistedCare fails to document referral relationships with area behavioral health specialists. On application page 29, Section II.1.(b), AssistedCare states that certain clients will be referred to psychiatrists and behavioral health staff but the applicant does not document a relationship with these persons.
- AssistedCare fails to document referral relationships with area palliative care specialists. On application page 24, Section II.1.(c), the applicant states that it will offer a hospice palliative care bridge program. However, the program requires a relationship with an area hospice. The applicant provides no documentation of a relationship with an area hospice.

The applicant does not demonstrate that the proposed service will be coordinated with the existing health care system. As discussed in Criterion (5), AssistedCare failed to document a single referral from area healthcare providers.

In conclusion, the applicant did not adequately demonstrate that it will make available, or otherwise make arrangements for, the provision of the necessary ancillary and support services and does not demonstrate that the proposed services will be coordinated with the existing health care system. Thus, the application is non-conforming to Criterion (8).

13. ***The applicant shall demonstrate the contribution of the proposed service in meeting the health-related needs of the elderly and of members of medically underserved groups, such as medically indigent or low income persons, Medicaid and Medicare recipients, racial and ethnic minorities, women, and handicapped persons, which have traditionally experienced difficulties in obtaining equal access to the proposed services, particularly those needs identified in the State Health Plan as deserving of priority. For the purpose of determining the extent to which the proposed service will be accessible, the applicant shall show:***

(c) That the elderly and the medically underserved groups identified in this subdivision will be served by the applicant's proposed services and the extent to which each of these groups is expected to utilize the proposed services; and

The applicant is non-conforming to this Criterion. As stated in Criterion (1), the applicant projects below average Medicaid access and does not offer programs sufficient to care for non-English speaking residents or residents in need of psychiatric, palliative care, and pediatric care. Please see discussion in Criterion (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 the service for which competition will not have a favorable impact.

Though a new provider in the county, AssistedCare is non-conforming with Criterion (1), (3), (4), (5), (6), (7), (8), and (13c) and thus, it is impossible to determine if the facility will have a positive impact upon the cost effectiveness, quality, and access to the services proposed. As a result, the application is non-conforming with this criterion. Please see discussions in Criterion (1), (3), (4), (5), (6), (7), (8), and (13c).

NORTH CAROLINA ADMINISTRATIVE CODE –SECTION .2000
CRITERIA AND STANDARDS FOR HOME HEALTH SERVICES

10A NCAC 14C .2002 INFORMATION REQUIRED OF APPLICANT

(a) An applicant shall identify:

(3) the projected total unduplicated patient count of the new office for each of the first two years of operation;

Projections are based on flawed and undocumented assumptions. Please see discussion in Criterion (3) and (5) above.

(4) the projected number of patients to be served per service discipline for each of the first two years of operation;

Projections are based on flawed and undocumented assumptions. Please see discussion in Criterion (3) and (5) above.

(5) the projected number of visits by service discipline for each of the first two years of operation;

Projections are based on flawed and undocumented assumptions. Please see discussion in Criterion (3) and (5) above.

(6) within each service discipline, the average number of patient visits per day that are anticipated to be performed by each staff person;

The applicant is non-conforming because it is unclear how many visits per day a Home Health Aide will perform. On application page 106, Table VII.2- Year 1, the applicant states that a Home Health Aide will perform six visits per day. On application page 107, Table VII.2- Year 2, the applicant states that a Home Health Aide will perform five visits per day.

(7) the projected average annual cost per visit for each service discipline;

Projections are based on flawed and undocumented assumptions. Please see discussion in Criterion (5) above.

All assumptions, including the specific methodology by which patient utilization and costs are projected, shall be stated.

Projections are based on flawed and undocumented assumptions. Please see discussion in Criterion (3) and (5) above.

10A NCAC 14C .2003 PERFORMANCE STANDARDS

An applicant shall project, in the third year of operation, an annual unduplicated patient caseload for the county in which the facility will be located that meets or exceeds the minimum need used in the applicable State Medical Facilities Plan to justify the establishment of a new home health agency office in that county. An applicant shall not be required to meet this performance standard if the home health agency office need determination in the applicable State Medical Facilities Plan was not based on application of the standard methodology for a Medicare-certified home health agency office.

Projections are based on flawed and undocumented assumptions. Please see discussion in Criterion (3) and (5) above.

10A NCAC 14C .2005 STAFFING AND STAFF TRAINING

(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.

The applicant is non-conforming. The applicant does not provide copies of letters of interest, preliminary agreements, or executed contractual arrangements from person necessary to provide comprehensive psychiatric and palliative care programming. Please see discussion in Criterion (8).

COMPETITIVE REVIEW OF –
(Innovative Senior Care Home Health, (Innovative) J-8507-10

CON REVIEW CRITERIA

1. ***The proposed project shall be consistent with applicable policies and need determinations in the State Medical Facilities Plan, the need determination of which constitutes a determinative limitation on the provision of any health service, health service facility, health service facility beds, dialysis stations, ambulatory surgery operating rooms, or home health offices that may be approved.***

Overview

The proposed application is not consistent with applicable policies in the State Medical Facilities Plan (SMFP). The application does not demonstrate how the project will promote safety and quality in the delivery of health care services while promoting equitable access and maximizing healthcare value. Nor does the application document how its projected volumes incorporate these principals in meeting the needs of all residents of the proposed service area. Therefore, Innovative fails to be consistent with Policy GEN-3: BASIC PRINCIPLES and thus, non-conforming to Criterion (1).

Additionally, the proposed project is not consistent with all the special rules for home health agencies, in 10A NCAC Section 14C .2000 – Criteria and Standards for Home Health Services, in II.8, thus, is not conforming to Criterion (1).

The discussion below outlines how the applicant is inconsistent with Policy GEN-3.

Safety and Quality

Safety and quality can not be assumed because the applicant fails to adequately demonstrate the availability of health manpower and necessary ancillary and support services. Please see discussion in Criterion (7) and (8).

Access

Innovative provides no plan, or funds, for care of non-English speaking residents. In a study by the US English Foundation, Wake County was found to be the most linguistically diverse county in the state of North Carolina, with 70 languages spoken. Please see Exhibit 39 of UHCW's CON application. Thus, to ensure access to all Wake County residents, applicants must demonstrate an ability to care for non-English speaking residents.

Innovative does not demonstrate that it has appropriate staff or arrangements to offer comprehensive psychiatric and palliative care programming. Of the 37 Wake County area healthcare providers interviewed by UHCW representatives, 59 percent stated there is a need for psychiatric home health services in the Wake County area. Additionally, 41 percent of the same peer group stated there is a need for palliative care services in the Wake County area. Thus, to ensure access to the services most needed by Wake County residents, applicants must demonstrate an ability to care for home health clients in need of psychiatric and palliative care services. Please see discussion in Criterion (7) and (8).

Innovative provides no explanation of how it will handle pediatric clients. Although UHCW believes the need for pediatric home health services to be uncertain, it is important that an applicant have the systems in place to ensure pediatric clients get appropriate care.

Value

It is not possible to determine that Innovative's proposed project will maximize healthcare value, because the applicant does not adequately demonstrate the population to be served and the need of the population for the proposed home health service. Please see discussion in Criterion (3).

Furthermore, Innovative proposes high charges and the lowest number of visits per unduplicated client. As demonstrated in Table 2 and 7, in UHCW's letter to the CON Section. Please see discussion in Criterion (6).

Volumes

Volumes of visits and patients in the Innovative application are not consistent with providing access to persons with limited financial resources. Not only does it propose the second lowest level of Medicare and Medicaid service, as noted in our cover letter, it also demonstrates a lack of understanding of the needs of other underserved groups in Wake County. See discussion in Criterion (3). Additionally, Innovative failed to provide any evidence of referrals of clients in need of psychiatric care; Wake County's most needed home health service.

For the reasons stated above, Innovative failed to demonstrate that it is a qualified applicant or that the application is consistent with the need determination and applicable policies.

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.***

Innovative does not adequately demonstrate the need of the population to be served for the following reasons:

- Innovative identified the population to be served as Wake County and communities within 60 miles of Wake County. However, the application identified a need for services only in Wake County.
- Innovative does not provide an explanation of the need of even Wake County residents for each of the proposed services described in Section II.1. Section III.1.(a) instructs applicants to "describe, in specific terms, the unmet need that necessitated the inclusion of each of the proposed services to be offered by the home health office as set forth in the description of the scope of services in Section II.1."
- For the services Innovative does explain, Innovative fails to identify a specific need for those services. For example, Innovative identifies several special programs in Section II and in Figure 6, on application page 43. However, the need for these programs is based entirely on Medicare reports of services used nationwide in 2007. Innovative makes no attempt to forecast or identify the specific need for these in Wake County or elsewhere in the proposed service area.
- Innovative presents data from an unidentified summary data source at the National Center for Health Statistics, but makes unsubstantiated conclusions like:

  > "*More whites receive home health because non-whites typically die at an earlier age*, (application page 50), and *More women receive home health care services than their male counterparts because women outlive males.*" (application, page 50)

- Innovative provides historical data showing home health use by people in different age groups in Wake County, but fails to tie the data to a specific need in the proposed population to be served. The same is true for its SEM Scores by Place Name. This discussion only concludes that

  > "*overall, Wake County scored higher than the national average, indicating a relatively affluent population.*"
  > (application, page 53)

- Innovative proposes several special programs, e.g. HIV/AIDS care, TPN, pain therapy, psychiatric program, but fails to demonstrate the need for these services in the proposed service area.

In summary, Innovative proposes to offer a very specific mix of services and proposes a very specific number of Wake County clients who will use the services in each of the first three years. However, the discussion in Section III addresses only the generic need for home health agency service in Wake County and the presence of "some chronic conditions" (application page 38). Innovative relies on national data on home health ICD codes dating back to 1997 to predict need for these services only in Wake County. It makes no attempt to localize the information. Moreover, it relies on average history of existing home health agencies, to distribute clients by discipline rather than probing any of the unmet need in the county or in its proposed service area.

Innovative does not adequately demonstrate 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. As stated in Criterion (1), the applicant does not offer programs or staffing sufficient to care for non-English speaking residents or residents in need of psychiatric, palliative care, or pediatric care. See resource discussion in Criterion (7).

In conclusion, the applicant did not adequately demonstrate the need that its projected population has for the services proposed and does not adequately demonstrate that all persons will have access to its proposed services. Thus, the application is non-conforming to Criterion (3).

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 proposal by Innovative is clearly not the most effective among the applicants. It demonstrates a weak understanding of the need for home health agency services in the proposed service area, inadequate staffing, and a clear focus on the higher reimbursement therapy clients.

In Section I, Innovative presents itself as a therapy-oriented home care agency. This true interest manifests itself in the visit and client projections. In its utilization projections on application page 70, it proposes almost as many unduplicated clients using MSW services as using Home Health Aide services (27.15 vs. 32.55) and almost twice as many clients using Occupational Therapy as Home Health Aide services (70.37 vs. 32.55). Medicare Home Health Resource Group (HHRG) payments are weighted in favor of therapy clients and against clients who need complex or chronic nursing care. The Innovative application seems to favor these higher HHRG payments.

Medicare pays a fixed amount per client based on the client case mix. Innovative proposes a high therapy mix based on the experience of existing agencies serving Wake County in 2008 (application Exhibit 4, page 26). This does not respond to the Wake County need for more nursing oriented services that were identified by UHCW representatives. Please see UHCW application Exhibit 32. Innovative proposes to serve only four psychiatric clients in the

second year, and no palliative care clients; yet it proposes that every diabetic and digestive disease client will be on Total Parenteral Nutrition, a very expensive treatment that is appropriate only in extreme cases.

As noted in the comparison Tables 2 and 7, in UHCW's cover letter, Innovative proposes high charges per visit and the lowest number of visits per unduplicated client.

Furthermore, the application is not conforming to other applicable statutory and regulatory review criteria. Therefore, Innovative did not demonstrate the least costly or most effective alternative has been proposed and thus, the application is not conforming to this criterion. See discussion in Criteria (1), (3), (5), (6), (7), (8), (13c), (13d), (14), and (18a).

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.***

Operational Projections

The applicant's operational projections are unsupported and unreliable for the following reasons:

- Utilization forecasts are based on retrospective averages of Wake County providers in 2008. However, as applied, the assumptions produce illogical results.
- Utilization forecasts in Section IV indicate less than one client in several months – see ST on page 2 and 3 of Exhibit 4. In prior Findings, The CON Section has found this unacceptable. [4]
- Innovative provides no assumption to explain how visits per episode will be separated into months of service. It assumes all episode visits will be completed in the year the episode starts. It is unreasonable to assume that a client who begins a new episode in the last two months of a project year will complete all his/her visits in that time frame. A standard home health episode lasts 60 days and, currently, United Home Care, Inc. averages 18.1 visits per episode of care[5]. Therefore, a client averages about two visits a week over a period of eight weeks. Not every client in those two months will start care at the beginning of the period. Some will carry over.
- Innovative failed to document that it will receive client referrals sufficient to reach its projected number of clients.
- On application page 114, Section XII, Innovative projects licensure and certification on the same day. This is not possible.

[4] *N-8143-08/ The Radiation Medicine Group, PLLC and The Radiation Medical Center, LLC/ Acquire a linear accelerator and simulator and establish a new radiation oncology center/ Robeson County*

[5] *Please see UHCW application Exhibit 64.*

Financial Projections

The applicant's financial projections are unsupported and unreliable for the following reasons:

- The applicant's projections for utilization are unsupported and unreliable. See discussion above. Consequently, costs and revenues that are based on the applicant's utilization projections are unreliable.
- The applicant failed to budget adequate expenses for appropriate levels of health manpower. See discussion in Criterion (7).

Availability of Funds

The applicant provides insufficient data to demonstrate availability of funds necessary to operate the proposed project for the following reasons:

- Exhibit 4 contains the calculations and assumptions for financial proformas. On application page 99, the cash flow projections do not appear to allow for a delay between licensure and certification. In fact, on application page 144, the application indicates that both occur on the same day. This is not reasonable. This erroneous assumption means that the working capital estimates for the project are understated.
- Exhibit 20 contains a letter from Mark Ohlendorf, Chief Financial Officer of Brookdale Senior Living referring to an account in the name of American Retirement Corporation for ARC Therapy Services, LLC d/b/a Innovative Senior Care Home Health, indicating that the account has $800,000 available in non-borrowed funds. It does give the number for the account. However, the Excerpts from the 10K that follows the letter shows that Brookdale had only $317,421 in Current Assets including Accounts Receivable, at the end of December 2009. We were unable to find an excerpt describing the activities of American Retirement Corporation for ARC Therapy Services, LLC. It is impossible to determine if these funds for cash flow have been obligated to other ongoing expenses of this very large corporation.
- On application page 97, Section IX.2.(c), the applicant states total initial operating expense is $524,360. However, this number is not verifiable in the applicant's cash flow projection on application page 99. On application page 99, the applicant shows a negative $95,822 net cash flow from operations at the end of project year 1.
- Taken together, the proposal to use cash and not a credit vehicle, the absence of documentation of available cash and the errors in cash flow projections make it impossible to verify if the applicant demonstrates availability of funds necessary to operate the proposed project.

In conclusion, the applicant did not adequately demonstrate the availability of sufficient funds for capital and operating needs and the applicant's utilization and financial projections are unreliable. Thus, the application is non-conforming to Criterion (5).

6. ***The applicant shall demonstrate that the proposed project will not result in unnecessary duplication of existing or approved health service capabilities or facilities.***

The applicant failed to adequately demonstrate the need for the home health agency and therefore, the applicant failed to demonstrate that the proposed project will not result in unnecessary duplication of existing or approved health service capabilities or facilities and is non-conforming with this criterion. Please see discussion in Criterion (3).

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 applicant does not show evidence of the availability of resources including health manpower and management personnel, for the provision of the services proposed for the following reasons:

- Innovative proposes an agency with employed therapists, but proposes no full-time therapy staffing in the first project year. It proposes to serve Wake and surrounding counties, but forecasts six visits a day for its therapy and nurse staff and seven a day for Home Health Aides in a county with one of the largest geographies in the state. According to the Office of State Budget and Management, Wake's 627,850 municipal residents represented 15 communities in 2007, and 203,687 of the remaining 831,537 residents, about one in four, lived in non-metropolitan areas.[6] It can take over an hour to reach different parts of Wake County. In a county that large and spread out, it is unreasonable to project six or greater visits per day. Thus, this applicant did not adequately plan for the reality of the geography it intends to serve.
- The application proposes a psychiatric program, but does not describe the staffing requirements or propose the staffing needed to support such a program. The agency proposes less than one nurse in the first year, and only 2.32 in the second year.
- Calculations in Exhibit 4 match FTE counts on application page 90 of Section VII. Both assumptions indicate that an FTE will work 260 days a year, or 2,080 hours a year. This provides no time off and no allowance for in-service training. Thus, its staffing FTEs are under estimated.

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6 http://www.osbm.state.nc.us/ncosbm/facts_and_figures/socioeconomic_data/population_estimates/municipal_estimates.shtm

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 care system.***

The applicant does not 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 does not document referral, or contractual, relationships for pharmacy, psychiatry consultation, lab, DME, dietician, oxygen, or Infusion/IV therapy supplies and drugs. All services are proposed by the applicant in Section II.

The applicant does not demonstrate that the proposed service will be coordinated with the existing health care system .As discussed in Criterion (5), Innovative failed to document a single referral from area healthcare providers.

13. ***The applicant shall demonstrate the contribution of the proposed service in meeting the health-related needs of the elderly and of members of medically underserved groups, such as medically indigent or low income persons, Medicaid and Medicare recipients, racial and ethnic minorities, women, and handicapped persons, which have traditionally experienced difficulties in obtaining equal access to the proposed services, particularly those needs identified in the State Health Plan as deserving of priority. For the purpose of determining the extent to which the proposed service will be accessible, the applicant shall show:***

(c) That the elderly and the medically underserved groups identified in this subdivision will be served by the applicant's proposed services and the extent to which each of these groups is expected to utilize the proposed services; and

The applicant is non-conforming to this Criterion. As stated in Criterion (1), the applicant does not offer programs sufficient enough to care for non-English speaking residents or residents in need of psychiatric, palliative care, and pediatric care. Please see discussion in Criterion (1).

(d) That the applicant offers a range of means by which a person will have access to its services. Examples of a range of means are outpatient services, admission by house staff, and admission by personal physician.

The applicant is non-conforming to this Criterion. The applicant proposes a limited range of access means, citing only physician admission on application page 79. On application pages 72 and 73 the application indicates that letters were sent to area healthcare providers, but only seven providers, including only two physicians, sent letters of support. Please see application Exhibit 9.

14. The applicant shall demonstrate that the proposed health services accommodate the clinical needs of health professional training programs in the area, as applicable.

Because Innovative proposes a service area of Wake County (application page 64), the applicant should document relationships with health professional training programs within Wake County. Innovative provides no documentation of existing, or proposed, relationships with health professional training programs in Wake County. Therefore, the applicant did not demonstrate that the proposed agency will accommodate the clinical needs of health professional training programs in the area.

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 the service for which competition will not have a favorable impact.

Though a technically a new home health provider in the county, Innovative is non-conforming with Criterion (1), (3), (4), (5), (6), (7), (8), (13c), (13d), and (14) and thus, it is impossible to determine if the facility will have a positive impact upon the cost effectiveness, quality, and access to the services proposed. As a result, the application is non-conforming with this criterion. Please see discussions in Criterion (1), (3), (4), (5), (6), (7), (8), (13c), (13d), and (14).

Additionally, it appears the applicant is applying to serve primarily its own residents in its senior living facilities. As such, the project would not have a positive affect on competition.

Furthermore, as the highest charge agency among the applicants for therapy visits, Innovative could have a negative effect on cost, setting a new benchmark that would encourage existing providers to raise charges. Please see Table 7, in UHCW's letter to the CON Section.

NORTH CAROLINA ADMINISTRATIVE CODE –SECTION .2000
CRITERIA AND STANDARDS FOR HOME HEALTH SERVICES

10A NCAC 14C .2002 INFORMATION REQUIRED OF APPLICANT

(4) the projected number of patients to be served per service discipline for each of the first two years of operation;

Projections are based on flawed and undocumented assumptions. Please see discussion in Criterion (3) and (5) above.

(5) the projected number of visits by service discipline for each of the first two years of operation;

Projections are based on flawed and undocumented assumptions. Please see discussion in Criterion (3) and (5) above.

(6) within each service discipline, the average number of patient visits per day that are anticipated to be performed by each staff person;

Projections are based on flawed and undocumented assumptions. Please see discussion in Criterion (3) and (5) above.

(7) the projected average annual cost per visit for each service discipline;

Projections are based on flawed and undocumented assumptions. Please see discussion in Criterion (3) and (5) above.

All assumptions, including the specific methodology by which patient utilization and costs are projected, shall be stated.

Projections are based on flawed and undocumented assumptions. Please see discussion in Criterion (3) and (5) above.

10A NCAC 14C .2003 PERFORMANCE STANDARDS

An applicant shall project, in the third year of operation, an annual unduplicated patient caseload for the county in which the facility will be located that meets or exceeds the minimum need used in the applicable State Medical Facilities Plan to justify the establishment of a new home health agency office in that county. An applicant shall not be required to meet this performance standard if the home health agency office need determination in the applicable State Medical Facilities Plan was not based on application of the standard methodology for a Medicare-certified home health agency office.

Projections are based on flawed and undocumented assumptions. Please see discussion in Criterion (3) and (5) above.

10A NCAC 14C .2005 STAFFING AND STAFF TRAINING

(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.

The applicant is non-conforming to this Criterion. The applicant does not document referral, or contractual, relationships for pharmacy, lab, DME, psychiatric consultation, oxygen, Infusion/IV therapy supplies and drugs, or a dietician.

Competitive Review of –
SunCrest Home Health of North Carolina, Inc. (*SunCrest*), J-8508-10

CON Review Criteria

1. ***The proposed project shall be consistent with applicable policies and need determinations in the State Medical Facilities Plan, the need determination of which constitutes a determinative limitation on the provision of any health service, health service facility, health service facility beds, dialysis stations, ambulatory surgery operating rooms, or home health offices that may be approved.***

Overview

The proposed application is not consistent with applicable policies in the State Medical Facilities Plan (SMFP).

The applicant does not demonstrate how it is consistent with Policy GEN-3: BASIC PRINCIPLES in Section III.2. Therefore, SunCrest is non-conforming to Criterion (1).

If the CON Section wanted to use information provided in the application to determine if SunCrest is conforming to Policy GEN-3, it could not do it. The application does not demonstrate how the project will promote safety and quality in the delivery of health care services while promoting equitable access and maximizing healthcare value. Nor does the application document how its projected volumes incorporate these principals in meeting the needs of all residents of the proposed service area. Therefore, SunCrest still fails to be consistent with Policy GEN-3: BASIC PRINCIPLES and thus, non-conforming to Criterion (1).

Additionally, the proposed project is not consistent with all the special rules for home health agencies, in 10A NCAC Section 14C .2000 – Criteria and Standards for Home Health Services, in II.8, thus, is not conforming to Criterion (1).

The discussion below outlines how the applicant is inconsistent with Policy GEN-3.

Safety and Quality

Safety and quality can not be assumed because the applicant fails to adequately demonstrate the availability of health manpower staff and ancillary services. Please see discussion in Criterion (7) and (8).

Access

SunCrest does not propose equitable access to Medicaid recipients. SunCrest proposes Medicaid access below the county average. On application page 98, Section VI.12, SunCrest projects eight percent of its visits will be provided to Medicaid recipients. According to 2010 Home Health Licensure Renewal Applications, 8.2 percent of the home health visits made by existing Wake County home health providers were delivered to Medicaid recipients. Please see Attachment 1.

On application page 18, SunCrest claims it will market to non-English speaking populations; however, it provides no concrete plan to recruit bilingual staff, provides no correspondence with persons who can help recruit non-English speaking staff, nor does it allocated funds for interpreter services. In a study by the US English Foundation, Wake County was found to be the most linguistically diverse county in the state of North Carolina, with 70 languages spoken. Please see Exhibit 39 of UHCW's CON application. Thus, to ensure access to all Wake County residents, applicants must demonstrate an ability to care for non-English speaking residents.

SunCrest does not demonstrate that it will offer comprehensive psychiatric and palliative care programming. Of the 37 Wake County area healthcare providers interviewed by UHCW representatives, 59 percent stated there is a need for psychiatric home health services in the Wake County area. Additionally, 41 percent of the same peer group stated there is a need for palliative care services in the Wake County area. Thus, to ensure access to the services most needed by Wake County residents, applicants must demonstrate an ability to care for home health clients in need of psychiatric and palliative care services.

SunCrest provides no explanation of how it will handle pediatric clients. Although UHCW believes the need for pediatric home health services to be uncertain, it is important that an applicant have the systems in place to ensure pediatric clients get appropriate care.

Value

It is not possible to determine that the proposed project will maximize healthcare value, because the applicant does not adequately demonstrate the population to be served and the need of the population for the proposed home health service. Please see discussion in Criterion (3).

SunCrest also proposes the second lowest visits per client. See comparison Table 2 in UHCW's cover letter.

Volumes

Volumes of visits and patients in the SunCrest application are not consistent with providing access to persons with limited financial resources. Not only does it propose to serve less Medicaid than the county average, SunCrest failed to provide any evidence of referrals of clients in need of psychiatric care; Wake County's most needed home health service.

For the reasons stated above, SunCrest failed to demonstrate that it is a qualified applicant or that the application is consistent with the need determination and applicable policies.

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.***

SunCrest does not adequately demonstrate the need of the population to be served for the following reason:

- SunCrest does not provide a need explanation for the inclusion of each of the proposed services described in Section II.1. Section III.1.(a) instructs applicants to "describe, in specific terms, the unmet need that necessitated the inclusion of each of the proposed services to be offered by the home health office as set forth in the description of the scope of services in Section II.1."
- SunCrest does not adequately demonstrate 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 for the following reasons:
  - As stated in Criterion (1), the applicant projects below average Medicaid access.
  - As stated in Criterion (1), the applicant does not offer programs sufficient to care for non-English speaking residents or residents in need of psychiatric, palliative, or pediatric care.

In conclusion, the applicant did not adequately demonstrate the need that its projected population has for the services proposed and does not adequately demonstrate that all persons will have access to its proposed services. Thus, the application is non-conforming to Criterion (3).

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 is not conforming to other applicable statutory and regulatory review criteria. Therefore, SunCrest did not demonstrate the least costly or most effective alternative has been proposed and thus, the application is not conforming to this criterion. See discussion in Criteria (1), (3), (5), (6), (7), (8), (13c), (14), and (18a).

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.***

Operational Projections

The applicant's operational projections are unsupported, unreliable, and can not be recreated for the following reasons:

- SunCrest does not explain how to separate unduplicated clients by admitting service disciple in Table IV.1, on application page 43.
- SunCrest provides no methodology or assumption for estimating duplicated clients in Table IV.2, on application page 44.
- SunCrest provides no assumption to explain how visits will be separated into months of service. It appears that SunCrest assumes all visits will be completed in the year of admission. It is unreasonable to assume that a client who begins a new episode in the last two months of a project year will complete all his/her visits in that time frame. A standard home health episode lasts 60 days and, currently, United Home Care, Inc. averages 18.1 visits per episode of care[7]. Therefore, a client averages about two visits a week over a period of eight weeks. Not every client in those two months will start care at the beginning of the period. Some will carry over.
- SunCrest failed to document that it will receive client referrals sufficient to reach its projected number of clients.

[7] *Please see UHCW application Exhibit 64.*

Financial Projections

The applicant's financial projections are unsupported, unreliable, and can not be recreated for the following reasons:

- The applicant's projections for utilization are unsupported and unreliable. See discussion above. Consequently, costs and revenues that are based on the applicant's utilization projections are unreliable.
- It is impossible to recreate the applicant's revenue projections.
  - It is impossible to determine how many total admissions SunCrest projects in each project year. Total admissions are different from duplicated clients. The applicant makes no assumptions for readmissions and makes no assumption for episodes per Medicare admission.
  - The applicant does not provide proposed reimbursement rates for Medicaid or commercial clients.
- The applicant provides no explanation for its proposed LUPA, PEP, and Outlier adjustments.
- On application page 12, Section II.1.(c), SunCrest states that all full-time field staff are required to carry cell phones. It does not appear the applicant budgeted funds for such an expense in Form B.
- Based on the assumptions provided in the application, it is impossible to determine if rent is included in Form B.
- The applicant failed to budget adequate expenses for appropriate levels of health manpower. See discussion in Criterion (7).

Availability of Funds

The applicant provides insufficient data to demonstrate availability of funds necessary to operate the proposed project for the following reasons:

- The applicant's start-up costs are underestimated. On application page 67, Section IX.1, the applicant states that start-up costs include three months of rent. However, the applicant's proposed lease, in application Exhibit 11, begins July 1, 2010, six months prior to opening. Thus, the applicant underestimated lease and utility costs by three months. As a result of underestimating start-up costs, SunCrest's initial operating expenses are too low. Thus, it is impossible to determine if the applicant has enough funds to operate the proposed project.
- The applicant's financing letter, in application Exhibit 8, does not specifically state how much cash is promised to the project or how much line of credit is promised to the project. Therefore, the applicant does not provide sufficient data to demonstrate availability of funds necessary to operate the proposed project.

6. ***The applicant shall demonstrate that the proposed project will not result in unnecessary duplication of existing or approved health service capabilities or facilities.***

The applicant failed to adequately demonstrate the need for the home health agency and therefore, the applicant failed to demonstrate that the proposed project will not result in unnecessary duplication of existing or approved health service capabilities or facilities and is non-conforming with this criterion. Please see discussion in Criterion (3).

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 applicant does not show evidence of the availability of resources including health manpower and management personnel, for the provision of the services proposed for the following reasons:

- The applicant does not demonstrate availability of enough Physical Therapy (PT) manpower in project year 1. The applicant did not budget enough money to ensure all PT visits are performed in project year 1. On application page 62, the applicant states that it will contract 2,182 PT visits at $80 per visit, in Project Year 1. On application page 78, Form B, the applicant budgets for only 534 PT visits ($42,764/$80 per visit=534 visits).
- The applicant does not demonstrate availability of enough PT manpower in Project Year 2. The applicant did not budget enough money to ensure all PT visits are performed in Project Year 2. On application page 62, the applicant states that it will contract 959 PT visits at $80 per visit, in Project Year 2. On application page 78, Form B, the applicant budgets for only 27 PT visits ($2,142 / $80 per hour = 27 visits).
- It is unclear why Registered Nurse (RN) FTEs decreases in year 2. On application page 60, the applicant estimates the agency will utilize 1.42 RNs. On application page 61, the applicant estimates the agency will utilize only 1.10 RNs. All other staff positions remained the same or increased from Project Year 1 to Project Year 2.
- SunCrest proposes to serve Wake County, but forecasts six visits a day for its therapy and nurse staff in a county with one of the largest geographies in the state. According to the Office of State Budget and Management, Wake's 627,850 municipal residents represented 15 communities in 2007, and 203,687 of the remaining 831,537 residents, about one in four, lived in non-metropolitan areas[8]. It can take over an hour to reach different parts of Wake County. In a county that large and spread out, it is unreasonable to project six or greater visits per day. Thus, this applicant did not adequately plan for the reality of the geography it intends to serve.

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[8] http://www.osbm.state.nc.us/ncosbm/facts_and_figures/socioeconomic_data/population_estimates/municipal_estimates.shtm

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 care system.***

On application page 9, Section II.1.(a), the applicant claims it will coordinate with other providers for the following services:

- Respiratory services
- Housekeeping services
- Dental services
- Nutrition guidance
- Home delivered meals
- Audiologic services
- Ophthalmologic services
- Client transportation and escort services
- Podiatry services
- Prosthetic / orthotic devices
- Physician services
- Radiology services
- Infusion services
- Durable medical equipment
- Respite care
- Spiritual counseling

However, the applicant provides no evidence of relationships with area entities that could provide these services.

On application page 56, Section VII.4.(d), the applicant states that Denise Webb, LCSW, will perform the proposed agency's social work duties. However, Ms. Webb lives in Madison, Tennessee. Please see application Exhibit 7. The application provides no evidence that Ms. Webb is relocating to North Carolina. Additionally, the application does not budget money for Ms. Webb's travel to North Carolina. UHCW believes it is unlikely Ms. Webb will travel to North Carolina. Furthermore, if Ms. Webb lives in Tennessee, it will make it very difficult for SunCrest to provide social work services on an unscheduled basis.

The applicant does not demonstrate that the proposed service will be coordinated with the existing health care system .As discussed in Criterion (5), SunCrest failed to document a single referral from area healthcare providers.

In conclusion, the applicant did not adequately demonstrate it will make available, or otherwise make arrangements for, the provision of the necessary ancillary and support services and does not demonstrate that the proposed services will be coordinated with the existing health care system. Thus, the application is non-conforming to Criterion (8).

13. ***The applicant shall demonstrate the contribution of the proposed service in meeting the health-related needs of the elderly and of members of medically underserved groups, such as medically indigent or low income persons, Medicaid and Medicare recipients, racial and ethnic minorities, women, and handicapped persons, which have traditionally experienced difficulties in obtaining equal access to the proposed services, particularly those needs identified in the State Health Plan as deserving of priority. For the purpose of determining the extent to which the proposed service will be accessible, the applicant shall show:***
   (c) That the elderly and the medically underserved groups identified in this subdivision will be served by the applicant's proposed services and the extent to which each of these groups is expected to utilize the proposed services; and

   The applicant is non-conforming to this Criterion (1). As stated in Criterion (1), the applicant projects below average Medicaid access and does not offer programs sufficient enough to care for non-English speaking residents or residents in need of psychiatric, palliative care, and pediatric care. Please see discussion in Criterion (1).

14. ***The applicant shall demonstrate that the proposed health services accommodate the clinical needs of health professional training programs in the area, as applicable.***

On application page 45, Section V.1.(c), SunCrest states that it sent letters to area training programs as a way to document efforts to establish training relationships. However, the applicant provides no proof that the letters were actually sent. Therefore, the applicant did not demonstrate that the proposed agency will accommodate the clinical needs of health professional training programs in the area.

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 the service for which competition will not have a favorable impact.***

Though a new provider in the county, SunCrest is non-conforming with Criterion (1), (3), (4), (5), (6), (7), (8), (13c) and (14) and thus, it is impossible to determine if the facility will have a positive impact upon the cost effectiveness, quality, and access to the services proposed. As a result, the application is non-conforming with this criterion. Please see discussions in Criterion (1), (3), (4), (5), (6), (7), (8), (13c) and (14).

NORTH CAROLINA ADMINISTRATIVE CODE –SECTION .2000
CRITERIA AND STANDARDS FOR HOME HEALTH SERVICES

10A NCAC 14C .2002 INFORMATION REQUIRED OF APPLICANT

(a) An applicant shall identify:

(3) the projected total unduplicated patient count of the new office for each of the first two years of operation;

Projections are based on flawed and undocumented assumptions. Please see discussion in Criterion (3) and (5) above.

(4) the projected number of patients to be served per service discipline for each of the first two years of operation;

Projections are based on flawed and undocumented assumptions. Please see discussion in Criterion (3) and (5) above.

(5) the projected number of visits by service discipline for each of the first two years of operation;

Projections are based on flawed and undocumented assumptions. Please see discussion in Criterion (3) and (5) above.

(7) the projected average annual cost per visit for each service discipline;

Projections are based on flawed and undocumented assumptions. Please see discussion in Criterion (3) and (5) above.

All assumptions, including the specific methodology by which patient utilization and costs are projected, shall be stated.

Projections are based on flawed and undocumented assumptions. Please see discussion in Criterion (3) and (5) above.

10A NCAC 14C .2003 PERFORMANCE STANDARDS

An applicant shall project, in the third year of operation, an annual unduplicated patient caseload for the county in which the facility will be located that meets or exceeds the minimum need used in the applicable State Medical Facilities Plan to justify the establishment of a new home health agency office in that county. An applicant shall not be required to meet this performance standard if the home health agency office need determination in the applicable State Medical Facilities Plan was not based on application of the standard methodology for a Medicare-certified home health agency office.

Projections are based on flawed and undocumented assumptions. Please see discussion in Criterion (3) and (5) above.

10A NCAC 14C .2005 STAFFING AND STAFF TRAINING

(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.**

The applicant is non-conforming. The applicant does not provide copies of letters of interest, preliminary agreements, or executed contractual arrangements from person necessary to provide the following services.

- Management services
- Respiratory services
- Housekeeping services
- Dental services
- Nutrition guidance
- Home delivered meals
- Audiologic services
- Ophthalmologic services
- Client transportation and escort services
- Podiatry services
- Prosthetic / orthotic devices
- Physician services
- Radiology services
- Infusion services
- Durable medical equipment
- Respite care
- Spiritual counseling

Additionally, SunCrest provides no indication that its proposed contract Social Worker will be able to care for its proposed agency from Tennessee.

Please see discussion in Criterion (8).

COMPETITIVE REVIEW OF –
Home Health and Hospice Care, Inc. (*3HC*), J-8509-10

CON REVIEW CRITERIA

1. ***The proposed project shall be consistent with applicable policies and need determinations in the State Medical Facilities Plan, the need determination of which constitutes a determinative limitation on the provision of any health service, health service facility, health service facility beds, dialysis stations, ambulatory surgery operating rooms, or home health offices that may be approved.***

Overview

The proposed application is not consistent with applicable policies in the State Medical Facilities Plan (SMFP). The application does not demonstrate how the project will promote safety and quality in the delivery of health care services while promoting equitable access and maximizing healthcare value. Nor does the application document how its projected volumes incorporate these principals in meeting the needs of all residents of the proposed service area. Therefore, 3HC fails to be consistent with Policy GEN-3: BASIC PRINCIPLES and thus, non-conforming to Criterion (1).

Additionally, the proposed project is not consistent with all the special rules for home health agencies, in 10A NCAC Section 14C .2000 – Criteria and Standards for Home Health Services, in II.8, thus, is not conforming to Criterion (1).

The discussion below outlines how the applicant is inconsistent with Policy GEN-3.

Safety and Quality

Safety and quality can not be assumed because the applicant fails to adequately demonstrate the availability of health manpower and necessary ancillary and support services. Please see discussion in Criterion (7) and (8).

Access

3HC's proposed project does not sufficiently increase access to Wake County residents in need of home health services. 3HC will only increase the number of Wake County Residents receiving care by 55. Please see discussion in Criterion (13c).

3HC does not provide funds necessary for the care of non-English speaking residents. In a study by the US English Foundation, Wake County was found to be the most linguistically diverse county in the state of North Carolina, with 70 languages spoken. Please see Exhibit 39 of UHCW's CON application. Thus, to ensure access to all Wake County residents, applicants must demonstrate an ability to care for non-English speaking residents. Please see discussion in Criterion (5).

3HC does not demonstrate that it will offer comprehensive psychiatric and palliative care programming. Of the 37 Wake County area healthcare providers interviewed by UHCW representatives, 59 percent stated there is a need for psychiatric home health services in the Wake County area. Additionally, 41 percent of the same peer group stated there is a need for palliative care services in the Wake County area. Thus, to ensure access to the services most needed by Wake County residents, applicants must demonstrate an ability to care for home health clients in need of psychiatric and palliative care services.

Value

It is not possible to determine that the proposed project will maximize healthcare value, because the applicant does not adequately demonstrate the population to be served and the need of the population for the proposed home health service. Please see discussion in Criterion (3).

Volumes

Volumes of visits and patients in the 3HC application are not consistent with providing access to persons with limited financial resources. The application does not propose psychiatric or palliative care services. Clients needing both are underserved in Wake County. See discussion in Criterion (3). Moreover, 3HC failed to provide any evidence of referrals of clients in need of psychiatric care; Wake County's most needed home health service.

For the reasons stated above, 3HC failed to demonstrate that it is a qualified applicant or that the application is consistent with the need determination and applicable policies.

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.***

3HC does not adequately demonstrate the need of the population to be served for the following reasons:

- As stated in Criterion (1), the applicant does not sufficiently increase access to Wake County residents in need of home health care. The proposed project would serve only 55 new patients. The 2010 SMFP projects that Wake County will have 444 unserved home health agency patients in 2011. (See Criterion (13c).)
- The directions in the CON application Section III.1.(a) tell applicants to "describe, in specific terms, the unmet need that necessitated the inclusion of each of the proposed services to be offered by the home health office as set forth in the description of the scope of services in Section II.1." 3HC does not provide a need explanation for the inclusion of each of the proposed services described in Section II.1.

3HC does not adequately demonstrate 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 for the following reasons:

- As stated in Criterion (1), the applicant does not offer programs sufficient enough to care for non-English speaking residents or residents in need of psychiatric or palliative care.
- 3HC failed to provide any evidence of referrals of clients in need of psychiatric care; Wake County's most needed home health service.

In conclusion, the applicant did not adequately demonstrate the need that its projected population has for the services proposed and does not adequately demonstrate that all persons will have access to its proposed services. Thus, the application is non-conforming to Criterion (3).

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 is not conforming to other applicable statutory and regulatory review criteria. Therefore, 3HC did not demonstrate the least costly or most effective alternative has been proposed and thus, the application is not conforming to this criterion. See discussion in Criteria (1), (3), (5), (6), (7), (8), (13c), (14), and (18a).

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.***

Operational Projections

The applicant's operational projections are unsupported and unreliable for the following reasons:

- The applicant incorrectly projects unduplicated clients by admitting service discipline. On application page 62, Table IV.1, the applicant projects unduplicated clients will be admitted by Nursing, PT, OT, ST, HH Aide, and MSW. Nursing, PT, OT, and ST are the only service disciplines that can admit a client. Please see 42 C.F.R Part 484- Home Health Services.[9]
- 3HC's forecasts of the number of times the same client will be served are aggressive. Its methodology forecasts that some clients will be served twice in the first six months (duplicated clients). Based on UHCW corporate consultant experience it is unreasonable to assume the proposed agency will serve duplicated clients in the first six months. Additionally, it is the experience of UHCW corporate consultants that commercial, private pay and indigent clients are rarely duplicated, or repeat users. The age of Medicare clients and economic characteristics of Medicaid clients make them more susceptible to multiple admissions. It appears 3HC's methodology applies duplication factors to all payor classes, boosting forecasts of revenues and reducing working capital requirements.
- 3HC provides no assumption to explain how visits will be separated into months of service. It appears that 3HC assumes all visits will be completed in the year of admission. It is unreasonable to assume that a client who begins a new episode in the last two months of a project year will complete all his/her visits in that time frame. A standard home health episode lasts 60 days and, currently, United Home Care, Inc. averages 18.1 visits per episode of care[10]. Therefore, a client averages about two visits a week over a period of eight weeks. Not every client in those two months will start care at the beginning of the period. Some will carry over.

[9] http://law.justia.com/us/cfr/title42/42-3.0.1.5.23.html
[10] *Please see UHCW application Exhibit 64.*

- 3HC failed to document that it will receive client referrals sufficient to reach its projected number of clients.
- On application page 112, Section XII, 3HC projects licensure and certification on the same day. This is not possible.

Financial Projections

The applicant's financial projections are unsupported, unreliable, and cannot be recreated for the following reasons:

- The applicant's projections for utilization are unsupported and unreliable. See discussion above. Consequently, costs and revenues that are based on the applicant's utilization projections are unreliable.
- It is impossible to recreate the applicant's revenue projections.
    - It is impossible to determine how many total admissions 3HC projects in each project year. Total admissions are different from duplicated clients. The applicant provides no assumptions for readmissions and makes no assumption for episodes per Medicare admission.
    - The applicant does not provide proposed reimbursement rates for Medicaid, commercial clients, private pay, charity care clients, or medical supplies.
    - The applicant provides no bad debt, charity care, or contractual adjustment assumptions.
    - It is impossible to determine if the applicant accounted for LUPAs, PEPs, and Outliers in its financial projections.
- Based on the assumptions provided in the application, it is impossible to determine if rent is included in Form B.
- The applicant failed to budget adequate expenses for appropriate levels of health manpower. See discussion in Criterion (7).

Availability of Funds

The applicant provides insufficient data to demonstrate availability of funds necessary to operate the proposed project. It is unclear how much money is actually promised to the project. On application page 97, Section VIII.2, the applicant states that it will fund $40,000 of capital costs through accumulated reserves. On application page 101, Section IX.4, the applicant states that it will fund $100,000 of working capital costs through unrestricted cash. In application Exhibit 15, 3HC's CFO states that the proposed capital costs are estimated at less than $250,000 and that 3HC will fund the proposed project through accumulated cash reserves. The 3HC CFO goes onto say that upon approval of the project, the available funds will be used for the proposed project. However, the CFO never specifies how much money will be allocated to the project.

If the CON Section determines the applicant did provided sufficient funding documentation for the capital cost and working capital costs proposed in the application, the applicant still does not provide sufficient data to demonstrate the availability of funds necessary to operate the proposed project for the following reasons:

- The applicant underestimates its capital costs. Although 3HC operates a home health waystation for its Johnston County home health agency in Wake County, UHCW believes it is unreasonable to assume that the proposed project will include no capital expenditures. UHCW believes this because, on application page 90, Section VII.4.(a), the applicant states that it will not utilize existing staff to operate the proposed project. Thus, it is reasonable to assume that all computers and equipment, utilized by the existing waystation, would travel with the existing staff back to Johnston County. Even if 3HC utilizes some existing staff, all new staff will require laptops and electronic medical record software. Because 3HC makes the argument, on application page 49, that it needs more resources in Johnston County to care that population, it is also reasonable to assume that the proposed Wake Country agency will need to purchase new PT-INR systems, pulse oximeters, digital cameras for wound care, McKesson Health Buddy Monitoring Systems, and infrared therapy equipment. Without this equipment the applicant will not be able to offer the services proposed throughout Section II. On application page 97, Section VIII.2, 3HC allocates only $40,000 for capital cost needs.
- The applicant underestimates working capital needs. The applicant fails to apply a lag to Medicare and Medicaid receipts. On application page 115, 3HC projects Medicare and Medicaid revenue by month two of operations. UHCW does not believe it is reasonable to collect Medicare or Medicaid revenue until the second quarter of operations. By underestimating the cash flow lag, the applicant understated its initial operating expenses. A longer lag in cash flow would call for access to more initial operating capital. On application page 101, Section IX.4, 3HC allocates $100,000 for working capital needs. If 3HC's quarter one Medicare and Medicaid receipts were removed from the cash flow projections, 3HC would need an extra $223,798 to fund operations.

In conclusion, the applicant did not adequately demonstrate the availability of sufficient funds for capital and operating needs and the applicant's utilization and financial projections are unreliable. Thus, the application is non-conforming to Criterion (5).

6. ***The applicant shall demonstrate that the proposed project will not result in unnecessary duplication of existing or approved health service capabilities or facilities.***

The applicant failed to adequately demonstrate the need for the home health agency and therefore, the applicant failed to demonstrate that the proposed project will not result in unnecessary duplication of existing or approved health service capabilities or facilities and is non-conforming with this criterion. Please see discussion in Criterion (3).

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 applicant does not show evidence of the availability of resources including health manpower and management personnel, for the provision of the services proposed for the following reasons:

- On application page 19, the applicant states that the agency will have access to a registered dietician. However, the applicant did not budget for a dietician in Table VII.2 or in Form B.
- On application page 17, the applicant states that the agency will have access to specially trained wound care RNs and PTs, as well as, RNs certified in diabetic education. Also on application page 17, the applicant states that the agency will have access to a Certified Registered Nurse in Infusion (CRNI). However, the applicant did not budget for such team members in Table VII.2 or in Form B.

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 care system.***

The applicant does not 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 does not document referral, or contractual, relationships for pharmacy, lab, DME, interpretation, oxygen, or Infusion/IV therapy supplies and drugs.

The applicant does not demonstrate that the proposed service will be coordinated with the existing health care system. As discussed in Criterion (5), 3HC failed to document a single referral from area healthcare providers.

In conclusion, the applicant did not adequately demonstrate it will make available, or otherwise make arrangements for, the provision of the necessary ancillary and support services and does not demonstrate that the proposed services will be coordinated with the existing health care system. Thus, the application is non-conforming to Criterion (8).

13. ***The applicant shall demonstrate the contribution of the proposed service in meeting the health-related needs of the elderly and of members of medically underserved groups, such as medically indigent or low income persons, Medicaid and Medicare recipients, racial and ethnic minorities, women, and handicapped persons, which have traditionally experienced difficulties in obtaining equal access to the proposed services, particularly those needs identified in the State Health Plan as deserving of priority. For the purpose of determining the extent to which the proposed service will be accessible, the applicant shall show:***

(c) ***That the elderly and the medically underserved groups identified in this subdivision will be served by the applicant's proposed services and the extent to which each of these groups is expected to utilize the proposed services; and***

As proposed in its application, 3HC will only increase the number of Wake County home health agency clients by 55. According to page 49, in Fiscal Year 2009, 3HC served 422 Wake County residents. According to Table IV.2, page 62 3HC will serve only 477 Wake County residents by Project Year 1. This is a net increase of only 55 Wake County residents. The 2010 SMFP projects a deficit of 444 home health agency clients in 2011.

Furthermore, the applicant does not offer sufficient programs to care for non-English speaking residents or residents in need of psychiatric, palliative care, and pediatric care.

14. ***The applicant shall demonstrate that the proposed health services accommodate the clinical needs of health professional training programs in the area, as applicable.***

Because 3HC proposes a service area of just Wake County (application page 60), the applicant should document relationships with health professional training programs within Wake County. 3HC provides no documentation of existing, or proposed, relationships with health professional training programs in Wake County. Therefore, the applicant did not demonstrate that the proposed agency will accommodate the clinical needs of health professional training programs in the area.

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 the service for which competition will not have a favorable impact.***

Though a new provider in the county, 3HC is non-conforming with Criterion (1), (3), (4), (5), (6), (7), (8), (14) and (13c) and thus, it is impossible to determine if the facility will have a positive impact upon the cost effectiveness, quality, and access to the services proposed. As a result, the application is non-conforming with this criterion. Please see discussions in Criterion (1), (3), (4), (5), (6), (7), (8), (14) and (13c).

NORTH CAROLINA ADMINISTRATIVE CODE –SECTION .2000
CRITERIA AND STANDARDS FOR HOME HEALTH SERVICES

10A NCAC 14C .2002 INFORMATION REQUIRED OF APPLICANT

(a) An applicant shall identify:

(3) the projected total unduplicated patient count of the new office for each of the first two years of operation;

Projections are based on flawed and undocumented assumptions. Please see discussion in Criterion (3) and (5) above.

(4) the projected number of patients to be served per service discipline for each of the first two years of operation;

Projections are based on flawed and undocumented assumptions. Please see discussion in Criterion (3) and (5) above.

(5) the projected number of visits by service discipline for each of the first two years of operation;

Projections are based on flawed and undocumented assumptions. Please see discussion in Criterion (3) and (5) above.

(7) the projected average annual cost per visit for each service discipline;

Projections are based on flawed and undocumented assumptions. Please see discussion in Criterion (3) and (5) above.

(8) the projected charge by payor source for each service discipline;

The applicant is non-conforming to this Criterion. In Form B, the applicant shows medical supply revenue. However, the applicant does not provide a proposed medical supply charge in the application.

All assumptions, including the specific methodology by which patient utilization and costs are projected, shall be stated.

Projections are based on flawed and undocumented assumptions. Please see discussion in Criterion (3) and (5) above.

10A NCAC 14C .2003 PERFORMANCE STANDARDS

An applicant shall project, in the third year of operation, an annual unduplicated patient caseload for the county in which the facility will be located that meets or exceeds the minimum need used in the applicable State Medical Facilities Plan to justify the establishment of a new home health agency office in that county. An applicant shall not be required to meet this performance standard if the home health agency office need determination in the applicable State Medical Facilities Plan was not based on application of the standard methodology for a Medicare-certified home health agency office.

This application does not propose a new unduplicated patient caseload that meets or exceeds the minimum need used in the 2010 SMFP, 275 clients. See discussion in Criterion (13c).

10A NCAC 14C .2005 STAFFING AND STAFF TRAINING

(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.**

The applicant is non-conforming to this Criterion. The applicant does not document referral, or contractual, relationships for pharmacy, lab, DME, interpretation, oxygen, Infusion/IV therapy supplies and drugs, a CRNI, a dietician, diabetes educator, or specially trained wound care nurses and therapists.

COMPETITIVE REVIEW OF – Community Home Health of North Carolina (*Community*), J-8510-10

CON REVIEW CRITERIA

1. ***The proposed project shall be consistent with applicable policies and need determinations in the State Medical Facilities Plan, the need determination of which constitutes a determinative limitation on the provision of any health service, health service facility, health service facility beds, dialysis stations, ambulatory surgery operating rooms, or home health offices that may be approved.***

Overview

The proposed application is not consistent with applicable policies in the State Medical Facilities Plan (SMFP).

The applicant does not explain how it is consistent with Policy GEN-3: BASIC PRINCIPLES in Section III.2. Therefore, Community is non-conforming to Criterion (1).

If the analyst wanted to use information provided in the application to determine if Community is conforming to Policy GEN-3, he/she could not do it. The application does not demonstrate how the project will promote safety and quality in the delivery of health care services while promoting equitable access and maximizing healthcare value. Nor does the application document how its projected volumes incorporate these principals in meeting the needs of all residents of the proposed service area. Therefore, Community still fails to be consistent with Policy GEN-3: BASIC PRINCIPLES and thus, non-conforming to Criterion (1).

Additionally, the proposed project is not consistent with all the special rules for home health agencies, in 10A NCAC Section 14C .2000 – Criteria and Standards for Home Health Services, in II.8, thus, is not conforming to Criterion (1).

The discussion below outlines how the applicant is inconsistent with Policy GEN-3.

Safety and Quality

Safety and quality can not be assumed because the applicant fails to adequately demonstrate the availability of health manpower staff and ancillary services. Please see discussion in Criterion (7) and (8).

Access

Community provides no concrete plan to recruit bilingual staff, provides no correspondence with persons who can help recruit non-English speaking staff, nor does it allocated funds for interpreter services. In a study by the US English Foundation, Wake County was found to be the most linguistically diverse county in the state of North Carolina, with 70 languages spoken. Please see Exhibit 39 of UHCW's CON application. Thus, to ensure access to all Wake County residents, applicants must demonstrate an ability to care for non-English speaking residents.

Community does not demonstrate that it will offer comprehensive psychiatric and palliative care programming. Of the 37 Wake County area healthcare providers interviewed by UHCW representatives, 59 percent stated there is a need for psychiatric home health services in the Wake County area. Additionally, 41 percent of the same peer group stated there is a need for palliative care services in the Wake County area. Thus, to ensure access to the services most needed by Wake County residents, applicants must demonstrate an ability to care for home health clients in need of psychiatric and palliative care services. Please see discussion in Criterion (8).

Community provides no explanation of how it will handle pediatric clients. Although UHCW believes the need for pediatric home health services to be uncertain, it is important that an applicant have the systems in place to ensure pediatric clients get appropriate care.

Value

It is not possible to determine that the proposed project will maximize healthcare value, because the applicant does not adequately demonstrate the population to be served and the need of the population for the proposed home health service. Please see discussion in Criterion (3).

Volumes

Volumes of visits and patients in the Community application are not consistent with providing access to persons with limited resources. Community failed to provide any evidence of referrals of clients in need of psychiatric care; Wake County's most needed home health service.

For the reasons stated above, Community failed to demonstrate that it is a qualified applicant or that the application is consistent with the need determination and applicable policies.

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.***

Community does not adequately demonstrate the need of the population to be served. CON application, Section III.1.(a) tells applicants to "describe, in specific terms, the unmet need that necessitated the inclusion of each of the proposed services to be offered by the home health office as set forth in the description of the scope of services in Section II.1." Community does not show that the population to be served has a need for the inclusion of each of the proposed services described in Section II.1.

Community does not adequately demonstrate 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 .As stated in Criterion (1), the applicant does not offer sufficient programs to care for non-English speaking residents or residents in need of psychiatric, palliative care, or pediatric care.

In conclusion, the applicant did not adequately demonstrate the need that its projected population has for the services proposed and does not adequately demonstrate that all persons will have access to its proposed services. Thus, the application is non-conforming to Criterion (3).

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 is not conforming to other applicable statutory and regulatory review criteria. Therefore, Community did not demonstrate the least costly or most effective alternative has been proposed and thus, the application is not conforming to this criterion. See discussion in Criteria (1), (3), (5), (6), (7), (8) (13c), (14) and (18a).

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.***

Operational Projections

The applicant's operational projections are unsupported and unreliable for the following reasons:

- Community inappropriately applies an episode of care factor to all clients. On application page 57, Section IV.3, the applicant states that it assumed all clients will receive 1.2 episodes of care. It is inappropriate to apply the factor to all client types. As stated on application page 51, the 1.2 is a historical factor of episodes per Medicare recipient. Only Medicare recipients receive reimbursement on a per episode basis. Therefore, it is inappropriate to apply the factor to all client types. Medicare patients are by definition the older patients. They are also more likely to have multiple chronic diseases that put them at higher risk for readmission in the same year. Applying the 1.2 Medicare factor to all clients without explanation is inappropriate and causes and overstatement of visits.
- Forecasts of the number of times the same client will be served are aggressive. It appears the applicant's methodology forecasts that some clients will be served twice in the first six months (duplicated clients). Based on UHCW corporate consultant experience it is unreasonable to assume the proposed agency will serve duplicated clients in the first six months. Additionally, it is the experience of UHCW corporate consultants that commercial, private pay and indigent clients are rarely duplicated, or repeat users. The age of Medicare clients and economic characteristics of Medicaid clients make them more susceptible to multiple admissions. It appears Continuum's methodology applies duplication factors to all payor classes, boosting forecasts of revenues and reducing working capital requirements.
- Community failed to document that it will receive client referrals sufficient to reach its projected number of clients.

Financial Projections

The applicant's financial projections are unsupported and unreliable for the following reasons:

- The applicant's projections for utilization are unsupported and unreliable. See discussion above. Consequently, costs and revenues that are based on the applicant's utilization projections are unreliable.
- The applicant does not provide an assumption to validate its proposed Medicare Non-LUPA and Medicare LUPA visit breakout on application pages 122 and 123.
- The applicant does not project PEP and Outlier Medicare visits.

- Projected commercial insurance reimbursement rates are unreliable. On application page 125, Community states that commercial insurance reimbursement rates are based on management experience negotiating with insurance companies in North Carolina and Wake County. However, Community's proposed management entity does not currently operate a home health agency in North Carolina.
- The applicant failed to budget adequate expenses for appropriate levels of health manpower and support services. See discussion in Criterion (7) and (8).

Availability of Funds

The applicant provides insufficient data to demonstrate availability of funds necessary to operate the proposed project. The proposed applicant does not have a funding source for capital cost and working capital needs. Application Exhibit 26 contains a letter from the owners of Community Health, Inc. and Community Health Inc.'s CFO promising funds to Community Home Health, LLC. However, the applicant is Community Home Health of NC, LLC. No other application exhibit contains letters promising funding to Community Home Health of NC, LLC.

In conclusion, the applicant did not adequately demonstrate the availability of sufficient funds for capital and operating needs and the applicant's utilization and financial projections are unreliable. Thus, the application is non-conforming to Criterion (5).

6. ***The applicant shall demonstrate that the proposed project will not result in unnecessary duplication of existing or approved health service capabilities or facilities.***

The applicant failed to adequately demonstrate the need for the home health agency and therefore, the applicant failed to demonstrate that the proposed project will not result in unnecessary duplication of existing or approved health service capabilities or facilities and is non-conforming with this criterion. Please see discussion in Criterion (3).

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 applicant does not show evidence of the availability of resources including health manpower and management personnel, for the provision of the services proposed for the following reasons:

- On application page 25, the applicant states that the agency will employ infusion therapists. However, the applicant did not budget for an infusion therapist in Table VII.2 or in Form B.

- On application page 20, the applicant states that the agency will offer nutritional guidance. However, the applicant did not budget for a dietician in Table VII.2 or in Form B.
- Community proposes to serve Wake County, but forecasts six visits a day for its PT, OT and nurse staff and 6.5 visits for its Home Health Aides in a county with one of the largest geographies in the state. According to the Office of State Budget and Management, Wake's 627,850 municipal residents represented 15 communities in 2007, and 203,687 of the remaining 831,537 residents, about one in four, lived in non-metropolitan areas.[11] It can take over an hour to reach different parts of Wake County. In a county that large and spread out, it is unreasonable to project six or greater visits per day. Thus, this applicant did not adequately plan for the reality of the geography it intends to serve.

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 care system.***

The applicant does not 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 for the following reasons:

- Community fails to document referral relationships with area palliative care specialists. On application page 24, Section II.1, the applicant states that it will offer a hospice palliative care bridge program. However, the program requires a relationship with an area hospice. The applicant provides no documentation of a relationship with an area hospice.
- Community failed to budget appropriate funds for utilization of AT&T telephone translation services.

The applicant does not demonstrate that the proposed service will be coordinated with the existing health care system. As discussed in Criterion (5), Community failed to document a single referral from area healthcare providers.

In conclusion, the applicant did not adequately demonstrate it will make available, or otherwise make arrangements for, the provision of the necessary ancillary and support services and does not demonstrate that the proposed services will be coordinated with the existing health care system. Thus, the application is non-conforming to Criterion (8).

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11 http://www.osbm.state.nc.us/ncosbm/facts_and_figures/socioeconomic_data/population_estimates/municipal_estimates.shtm

13. ***The applicant shall demonstrate the contribution of the proposed service in meeting the health-related needs of the elderly and of members of medically underserved groups, such as medically indigent or low income persons, Medicaid and Medicare recipients, racial and ethnic minorities, women, and handicapped persons, which have traditionally experienced difficulties in obtaining equal access to the proposed services, particularly those needs identified in the State Health Plan as deserving of priority. For the purpose of determining the extent to which the proposed service will be accessible, the applicant shall show:***

(c) ***That the elderly and the medically underserved groups identified in this subdivision will be served by the applicant's proposed services and the extent to which each of these groups is expected to utilize the proposed services; and***

The applicant is non-conforming to this Criterion. Community does not propose to invest in sufficient programs to address the special care requirements of non-English speaking residents or residents in need of psychiatric, palliative care, and pediatric care.

14. ***The applicant shall demonstrate that the proposed health services accommodate the clinical needs of health professional training programs in the area, as applicable.***

Because Community proposes a service area of just Wake County (application page 43), the applicant should document relationships with health professional training programs within Wake County. Community provides no documentation of existing, or proposed, relationships with health professional training programs in Wake County. Therefore, the applicant did not demonstrate that the proposed agency will accommodate the clinical needs of health professional training programs in the area.

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 the service for which competition will not have a favorable impact.***

Though a new provider in the county, Community is non-conforming with Criterion (1), (3), (4), (5), (6), (7), (8), (13c), and (14) and thus, it is impossible to determine if the facility will have a positive impact upon the cost effectiveness, quality, and access to the services proposed. As a result, the application is non-conforming with this criterion. Please see discussions in Criterion (1), (3), (4), (5), (6), (7), (8), (13c), and (14).

NORTH CAROLINA ADMINISTRATIVE CODE –SECTION .2000
CRITERIA AND STANDARDS FOR HOME HEALTH SERVICES

10A NCAC 14C .2002 INFORMATION REQUIRED OF APPLICANT

(a) An applicant shall identify:

(4) the projected number of patients to be served per service discipline for each of the first two years of operation;

Projections are based on flawed and undocumented assumptions. Please see discussion in Criterion (3) and (5) above.

(5) the projected number of visits by service discipline for each of the first two years of operation;

Projections are based on flawed and undocumented assumptions. Please see discussion in Criterion (3) and (5) above.

(7) the projected average annual cost per visit for each service discipline;

Projections are based on flawed and undocumented assumptions. Please see discussion in Criterion (3) and (5) above.

(8) the projected charge by payor source for each service discipline;

Projections are based on flawed and undocumented assumptions. Please see discussion in Criterion (3) and (5) above.

All assumptions, including the specific methodology by which patient utilization and costs are projected, shall be stated.

Projections are based on flawed and undocumented assumptions. Please see discussion in Criterion (3) and (5) above.

10A NCAC 14C .2003 PERFORMANCE STANDARDS

An applicant shall project, in the third year of operation, an annual unduplicated patient caseload for the county in which the facility will be located that meets or exceeds the minimum need used in the applicable State Medical Facilities Plan to justify the establishment of a new home health agency office in that county. An applicant shall not be required to meet this performance standard if the home health agency office need determination in the applicable State Medical Facilities Plan was not based on application of the standard methodology for a Medicare-certified home health agency office.

Projections are based on flawed and undocumented assumptions. Please see discussion in Criterion (3) and (5) above.

10A NCAC 14C .2005 STAFFING AND STAFF TRAINING

(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.

The applicant is non-conforming. The applicant does not provide copies of letters of interest, preliminary agreements, or executed contractual arrangements from person necessary to provide comprehensive palliative care programming or nutritional counseling. Please see discussion in Criterion (7) and (8).

Competitive Review of – Continuum II Home Care and Hospice, Inc. (*Continuum*), J-8512-10

CON Review Criteria

1. ***The proposed project shall be consistent with applicable policies and need determinations in the State Medical Facilities Plan, the need determination of which constitutes a determinative limitation on the provision of any health service, health service facility, health service facility beds, dialysis stations, ambulatory surgery operating rooms, or home health offices that may be approved.***

Overview

The proposed application is not consistent with applicable policies in the State Medical Facilities Plan (SMFP). The application does not demonstrate how the project will promote safety and quality in the delivery of health care services while promoting equitable access and maximizing healthcare value. Nor does the application document how its projected volumes incorporate these principals in meeting the needs of all residents of the proposed service area. Therefore, Continuum fails to be consistent with Policy GEN-3: BASIC PRINCIPLES and thus, non-conforming to Criterion (1).

Additionally, the proposed project is not consistent with all the special rules for home health agencies, in 10A NCAC Section 14C .2000 – Criteria and Standards for Home Health Services, in II.8, thus, is not conforming to Criterion (1).

The discussion below outlines how the applicant is inconsistent with Policy GEN-3.

Safety and Quality

Safety and quality can not be assumed because the applicant fails to adequately demonstrate the availability of health manpower. Please see discussion in Criterion (7).

Access

Continuum provides no concrete plan to recruit bilingual staff, provides no documentation of correspondences with persons who can help recruit non-English speaking staff, nor does it allocated funds for interpreter services. In a study by the US English Foundation, Wake County was found to be the most linguistically diverse county in the state of North Carolina, with 70 languages spoken. Please see Exhibit 39 of UHCW's CON application. Thus, to ensure access to all Wake County residents, applicants must demonstrate an ability to care for non-English speaking residents.

Continuum does not demonstrate that it will offer comprehensive psychiatric and palliative care programming. Of the 37 Wake County area healthcare providers interviewed by UHCW representatives, 59 percent stated there is a need for psychiatric home health services in the Wake County area. Additionally, 41 percent of the same peer group stated there is a need for palliative care services in the Wake County area. Thus, to ensure access to the services most needed by Wake County residents, applicants must demonstrate an ability to care for home health clients in need of psychiatric and palliative care services.

Continuum provides no explanation of how it will handle pediatric clients. Although UHCW believes the need for pediatric home health services to be uncertain, it is important that an applicant have the systems in place to ensure pediatric clients get appropriate care.

Value

It is not possible to determine that Continuum's proposed project will maximize healthcare value, because the applicant does not adequately demonstrate the population to be served and the need of the population for the proposed hospice service. Please see discussion in Criterion (3).

Volumes

Volumes of visits and patients in the Continuum application are not consistent with providing access to persons with limited resources. Continuum failed to provide any evidence of referrals of clients in need of psychiatric care; Wake County's most needed home health service.

For the reasons stated above, Continuum failed to demonstrate that it is a qualified applicant or that the application is consistent with the need determination and applicable policies.

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.***

Continuum does not adequately demonstrate the need of the population to be served for the following reasons:

- Section III.1.(a) tells applicants to "describe, in specific terms, the unmet need that necessitated the inclusion of each of the proposed services to be offered by the home health office as set forth in the description of the scope of services in Section II.1." Continuum does not provide a need explanation for the inclusion of each of the proposed services described in Section II.1.

- Continuum's independent assessment of Wake County's projected home health need for each project year is incorrect. On application page 31, Section III.1.(b), Continuum projects a deficit of 444, 234, and 722, in 2011, 2012, and 2013, respectively. The application indicates that Wake County population age 65 to 74 will increase by 30.19% between 2010 and 2013 but we are unable to reconstruct that calculation. (15,887 + 5,187) / (687,519 + 524,246) = (21,064 / 1,211,765) = 0.0174 = 1.74 percent. This is important, because the Continuum forecast of need is based on the "rapid growth" in persons over 65 in Wake County. Furthermore, the methodology is based on the 2010 SMFP model for determining home health need. This model utilizes federal fiscal year data (October 1 through September 30). The applicant inappropriately applies its project year data, which operates April 1 through March 30, to its model that projects on a fiscal year. The application does not provide assumptions needed to make the adjustment.

Continuum does not adequately demonstrate 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 for the following reasons:

- Although the application discusses the presence of a significant population of Hispanic residents in Wake County, it does not connect this to a future need. The application does not recognize the existence of other non-English speakers in the County.
- The application neither recognizes nor proposes to provide services to persons in need of psychiatric, palliative care, or pediatric care.

In conclusion, the applicant did not adequately demonstrate the need that its projected population has for the services proposed and does not adequately demonstrate that all persons will have access to its proposed services. Thus, the application is non-conforming to Criterion (3).

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 is not conforming to other applicable statutory and regulatory review criteria. Therefore, Continuum did not demonstrate the least costly or most effective alternative has been proposed and thus, the application is not conforming to this criterion. See discussion in Criteria (1), (3), (5), (6), (7), (8), (13c), and (18a).

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.***

Operational Projections

The applicant's operational projections are unsupported and unreliable for the following reasons:

- Unduplicated client projections on application page 64, Section IV.1, are arbitrary and based on incorrect projections of need. Year 1 projections are based solely on the projected federal fiscal year 2011 home health need, determined in the 2010 SMFP. This is not reasonable. The applicant's project year begins in April 2011. The applicant failed to adjust its methodology for its project years. Year 2 projections are arbitrarily increased by approximately eight percent and do not consider what the actual need in Wake County will be in that project year. Please see discussion in Criterion (3).
- The applicant provides no assumption to recreate duplicated clients in Table IV.2, on application page 66.
- Forecasts of the number of times the same client will be served are aggressive. It appears the applicant's methodology forecasts that some clients will be served twice in the first six months (duplicated clients). Based on UHCW corporate consultant experience it is unreasonable to assume the proposed agency will serve duplicated clients in the first six months. Additionally, it is the experience of UHCW corporate consultants that commercial, private pay and indigent clients are rarely duplicated, or repeat users. The age of Medicare clients and economic characteristics of Medicaid clients make them more susceptible to multiple admissions. It appears Continuum's methodology applies duplication factors to all payor classes, boosting forecasts of revenues and reducing working capital requirements.
- Continuum inappropriately applies an episode of care factor to all clients. On application page 68, Section IV.3, the applicant states that it assumed all clients will receive 1.6 episodes of care. It is inappropriate to apply the factor to all client types. As stated on application page 68, the 1.6 is a historical factor of episodes per Medicare recipient. Only Medicare recipients receive reimbursement on a per episode basis. Therefore, it is inappropriate to apply the factor to all client types. Medicare patients are by definition the older patients. They are also more likely to have multiple chronic diseases that put them at higher risk for readmission in the same year. Applying the 1.6 Medicare factor to all clients without explanation is inappropriate and causes and overstatement of visits.
- Continuum provides no assumption to explain how visits per episode will be separated into months of service. It assumes all episode visits will be completed in the year the episode starts. It is unreasonable to assume that a client who begins a new episode in the last two months of a project year will complete all his/her visits in that time frame. A standard home health episode lasts 60 days and, currently, United

Home Care, Inc. averages 18.1 visits per episode of care[12]. Therefore, a client averages about two visits a week over a period of eight weeks. Not every client in those two months will start care at the beginning of the period. Some will carry over.

- Visit projections are unverifiable. On application page 66, Section IV.2, the applicant projects 8,177 and 8,839 total visits in Project Years 1 and 2, respectively. On application page 69, Section IV.3, the applicant projects 8,385 and 9,070 total visits in project years 1 and 2, respectively.
- Continuum failed to document that it will receive client referrals sufficient to reach its projected number of clients. On application pages 43-45, Continuum estimates potential referral sources. Continuum shows a potential for 1,212 annual referrals. However, the applicant only provides documentation for 329 annual referrals in application Exhibit I. Furthermore, no referral source specifies how many referrals it would make to Continuum. The letters simply state a number of home health referrals they make a year to all agencies.

Financial Projections

The applicant's financial projections are unsupported and unreliable for the following reasons:

- The applicant's projections for utilization are unsupported and unreliable. See discussion above. Consequently, costs and revenues that are based on the applicant's utilization projections are unreliable.
- The applicant provides no LUPA, PEP, or Outlier assumptions for Medicare recipients. Therefore, it is impossible to determine if Medicare revenue is appropriate.
- Medicaid revenue can not be verified as correct. On application page 69, Section IV.3, the applicant projects 857 and 906 total Medicaid visits in Project Years 1 and 2, respectively. Medicaid revenue assumptions on application page 113 are based on 808 and 874 total Medicaid visits in Project Years 1 and 2, respectively.
- The applicant provides no detailed revenue assumptions for commercial, private, VA, and indigent clients. Thus, it is impossible to verify if revenue projections are correct. UHCW questions the validity of the numbers because of the inconsistency in Medicaid visits, as discussed above.
- The applicant failed to budget adequate expenses for utility costs in Form B. On application page 111, the applicant states that Rent/Utility costs will equal $12,000 and $12,400 in Project Years 1 and 2, respectively. This is only enough money to cover rent. The applicant's proposed lease agreement, in application Exhibit M states, that rent will cost $1,000 per month ($12,000 per year). However, utilities are not covered in the proposed rent amount. Thus, the applicant did not budget for utilities in Form B. The under budgeting also affects cash flow requirements in Section IX.
- The applicant failed to budget adequate expenses for appropriate levels of health manpower. See discussion in Criterion (7)

[12] *Please see UHCW application Exhibit 64.*

Availability of Funds

The applicant provides insufficient data to demonstrate availability of funds necessary to operate the proposed project. The applicant fails to provide documentation of the availability of funds to operate the proposed project. Application page 315, application Exhibit L, states that Hillco Limited will give Continuum $319,520 for the proposed development and implementation of a new home health agency in Wake County. The letter states that the funds will come from Hillco Limited's current assets. However, Hillco Limited does not have sufficient assets to cover the proposed project. Application page 319, application Exhibit L, shows that Hillco Limited has current assets of only $112,110.

If the CON Section determines the applicant did provided sufficient documentation of funds for the capital cost and working capital costs proposed in the application, the applicant still does not provide sufficient data to demonstrate the availability of funds necessary to operate the proposed project. The applicant fails to apply a lag to Medicare and Medicaid receipts. On application page 96, Section IX.5, Continuum projects Medicaid revenue by month two of operations and Medicare revenue by month three of operations. UHCW does not believe it is reasonable to collect Medicare or Medicaid revenue until the second quarter of operations. By underestimating the cash flow lag, the applicant understated its initial operating expenses. A longer lag in cash flow would call for access to more initial operating capital. Thus, Continuum's initial operating expenses would increase. This is important because Continuum's financing letter, in application Exhibit L, is not sufficient to cover any increase in initial operating expense. Therefore, the applicant does not demonstrate the availability of funds necessary to operate the proposed project.

In conclusion, the applicant did not adequately demonstrate the availability of sufficient funds for capital and operating needs and the applicant's utilization and financial projections are unreliable. Thus, the application is non-conforming to Criterion (5).

6. ***The applicant shall demonstrate that the proposed project will not result in unnecessary duplication of existing or approved health service capabilities or facilities.***

The applicant failed to adequately demonstrate the need for the home health agency and therefore, the applicant failed to demonstrate that the proposed project will not result in unnecessary duplication of existing or approved health service capabilities or facilities and is non-conforming with this criterion. Please see discussion in Criterion (3).

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 applicant does not show evidence of the availability of resources including health manpower and management personnel, for the provision of the services proposed. On application pages 85 and 86, the applicant states that the agency will employ an OASIS/QA Coordinator. However, the applicant did not budget for such an employee in Form B.

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 care system.***

The applicant does not demonstrate that the proposed service will be coordinated with the existing health care system. Continuum failed to document sufficient referrals from area healthcare providers. Please discussion in Criterion (5).

13. ***The applicant shall demonstrate the contribution of the proposed service in meeting the health-related needs of the elderly and of members of medically underserved groups, such as medically indigent or low income persons, Medicaid and Medicare recipients, racial and ethnic minorities, women, and handicapped persons, which have traditionally experienced difficulties in obtaining equal access to the proposed services, particularly those needs identified in the State Health Plan as deserving of priority. For the purpose of determining the extent to which the proposed service will be accessible, the applicant shall show:***

    (c) ***That the elderly and the medically underserved groups identified in this subdivision will be served by the applicant's proposed services and the extent to which each of these groups is expected to utilize the proposed services; and***

    The applicant is non-conforming to this Criterion. As stated in Criterion (1), the applicant does not offer programs sufficient enough to care for non-English speaking residents or residents in need of psychiatric, palliative care, and pediatric care. Please see discussion in Criterion (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 the service for which competition will not have a favorable impact.***

Though a new provider in the county, Continuum is non-conforming with Criterion (1), (3), (4), (5), (6), (7), (8), and (13c) and thus, it is impossible to determine if the facility will have a positive impact upon the cost effectiveness, quality, and access to the services proposed. As a result, the application is non-conforming with this criterion. Please see discussions in Criterion (1), (3), (4), (5), (6), (7), (8), and (13c).

NORTH CAROLINA ADMINISTRATIVE CODE –SECTION .2000
CRITERIA AND STANDARDS FOR HOME HEALTH SERVICES

10A NCAC 14C .2002 INFORMATION REQUIRED OF APPLICANT

(a) An applicant shall identify:

(3) the projected total unduplicated patient count of the new office for each of the first two years of operation;

Projections are based on flawed and undocumented assumptions. Please see discussion in Criterion (3) and (5) above.

(4) the projected number of patients to be served per service discipline for each of the first two years of operation;

Projections are based on flawed and undocumented assumptions. Please see discussion in Criterion (3) and (5) above.

(5) the projected number of visits by service discipline for each of the first two years of operation;

Projections are based on flawed and undocumented assumptions. Please see discussion in Criterion (3) and (5) above.

(7) the projected average annual cost per visit for each service discipline;

Projections are based on flawed and undocumented assumptions. Please see discussion in Criterion (3) and (5) above.

All assumptions, including the specific methodology by which patient utilization and costs are projected, shall be stated.

Projections are based on flawed and undocumented assumptions. Please see discussion in Criterion (3) and (5) above.

10A NCAC 14C .2003 PERFORMANCE STANDARDS

An applicant shall project, in the third year of operation, an annual unduplicated patient caseload for the county in which the facility will be located that meets or exceeds the minimum need used in the applicable State Medical Facilities Plan to justify the establishment of a new home health agency office in that county. An applicant shall not be required to meet this performance standard if the home health agency office need determination in the applicable State Medical Facilities Plan was not based on application of the standard methodology for a Medicare-certified home health agency office.

Projections are based on flawed and undocumented assumptions. Please see discussion in Criterion (3) and (5) above.

Clients/Visits by Payor

Wake County

	Horizon's Home Care				At Home Quality Care				Medi Home Health Agency				Liberty Home Care, LLC			
Payment Source	**Clients**	**Visits**	**% clients**	**% visits**	**Clients**	**Visits**	**% clients**	**% visits**	**Clients**	**Visits**	**% clients**	**% visits**	**Clients**	**Visits**	**% clients**	**% visits**
Medicare	91	2,221	61.9%	84.2%	214	5,006	42.0%	57.0%	720	12,245	73.4%	80.0%	999	13,986	57.0%	62.1%
Medicare HMO	6	74	4.1%	2.8%	10	108	2.0%	1.2%	76	986	7.7%	6.4%	127	2,005	7.2%	8.9%
Medicaid	9	14	6.1%	0.5%	64	1,134	12.6%	12.9%	100	551	10.2%	3.6%	53	593	3.0%	2.6%
Medicaid HMO																
Private Insurance	30	189	20.4%	7.2%	216	2,520	42.4%	28.7%	70	883	7.1%	5.8%	571	5,918	32.6%	26.3%
Private Insurance HMO	9	105	6.1%	4.0%												
Indigent Non-Pay	2	34	1.4%	1.3%	5	14	1.0%	0.2%	15	644			4	10	0.2%	0.0%
Other (not specified)																
Private Pay																
Self Pay							0.0%	0.0%								
Tricare																
VA																
Workers Comp																
Total	**147**	**2,637**			**509**	**8,782**			**981**	**15,309**			**1,754**	**22,512**		

Source: 2010 Licensure Renewal Applications

Intrepid of North Carolina, Inc				Rex Home Services				Pediatric Services of America, Inc				WakeMed Home Health				Tar Heel Home Health			
Clients	Visits	% clients	% visits	Clients	Visits	% clients	% visits	Clients	Visits	% clients	% visits	Clients	Visits	% clients	% visits	Clients	Visits	% clients	% visits
922	15,239	56.8%	64.0%	1,708	33,295	57.9%	66.8%					1,018	18,037	43.4%	50.6%	902	18,316	73.5%	79.7%
105	1,792	6.5%	7.5%	180	3,062	6.1%	6.1%					159	2,523	6.8%	7.1%				
480	5,414	29.6%	22.7%	76	719	2.6%	1.4%	29	240	56.9%	64.5%	318	4,550	13.6%	12.8%	137	1,384	11.2%	6.0%
114	1,176	7.0%	4.9%	931	12,230	31.5%	24.5%	7	20	13.7%	5.4%	35	330	1.5%	0.9%	85	843	6.9%	3.7%
						0.0%	0.0%	14	109	27.5%	29.3%	654	8,876	27.9%	24.9%	5	76	0.4%	0.3%
				33	316	1.1%	0.6%					3	14	0.1%	0.0%	1	4	0.1%	
				24	211	0.8%	0.4%	1	3	2.0%	0.8%	155	1,309	6.6%	3.7%				
2	198	0.1%	0.8%													98	2,371	8.0%	10.3%
												3	11	0.1%	0.0%				
												11	113	0.5%	0.3%				
1,623	**23,819**			**2,952**	**49,833**			**51**	**372**			**2,345**	**35,650**			**1,228**	**22,994**		

Heartland Home Health Care				Professional Nursing Services and Home Health				Total			
Clients	Visits	% clients	% visits	Clients	Visits	% clients	% visits	Clients	Visits	% clients	% visits
1,112	18,481	71.6%	74.6%	37	1,090	44.6%	54.7%	7,723	102,080	62.2%	63.4%
183	2,145	11.8%	8.7%	1	191	1.2%	9.6%	663	10,550	5.3%	6.5%
74	2,228	4.8%	9.0%	34	599	41.0%	30.1%	1,129	13,215	9.1%	8.2%
						0.0%	0.0%	-	-		
120	1,320	7.7%	5.3%	5	62	6.0%	3.1%	1,974	23,266	15.9%	14.4%
						0.0%	0.0%	677	9,090	5.4%	5.6%
1	27	0.1%	0.1%			0.0%	0.0%	62	1,032	0.5%	0.6%
				4	20	4.8%	1.0%	180	1,523	1.4%	0.9%
1	8	0.1%	0.0%			0.0%	0.0%	2	198	0.0%	0.1%
						0.0%	0.0%	-	-		
				1	6	1.2%	0.3%	1	6	0.0%	0.0%
61	549	3.9%	2.2%			0.0%	0.0%	3	11	0.0%	0.0%
				1	24	1.2%	1.2%	11	113	0.1%	0.1%
1,552	**24,758**			**83**	**1,992**			**12,425**	**161,084**		