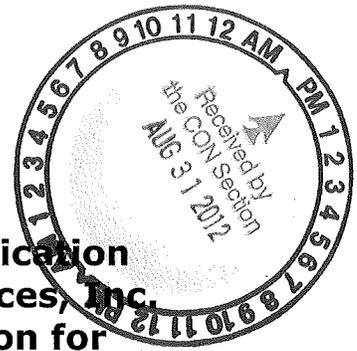


**Comments in Opposition from
HKZ Group, LLC
Regarding a Certificate of Need Application
Submitted by Maxim Healthcare Services, Inc.
in Response to a Need Determination for
Two Home Health Agencies
in the Mecklenburg County Service Area
Submitted July 16, 2012 for August 1, 2012 Review Cycle**



I. Introduction

In accordance with N.C.G.S. Section 131E-185(a1)(1), HKZ Group, LLC submits the following comments regarding a Certificate of Need Application submitted by Maxim Healthcare Services, Inc. in response to a need determination for two Home Health Agencies in the Mecklenburg County Service Area for the August 1, 2012 review cycle.

The following ten CON applications were submitted in response to a need determination for two home health agencies in the Mecklenburg County Service Area in the *2012 State Medical Facilities Plan (2012 SMFP)*:

- F-10005-12: HKZ Group, LLC
- F-10001-12: Vizion One, Inc.
- F-10003-12: Maxim Healthcare Services, Inc.
- F-10004-12: Carolinas Medical Center at Home, LLC d/b/a Healthy @ Home – Carolinas Medical Center
- F-10006-12: Roberson Herring Enterprises, LLC d/b/a AssistedCare of the Carolinas
- F-10007-12: Well Care Home Health, Inc. and Well Care DME, LLC
- F-10008-12: Emerald Care, Inc. d/b/a Emerald Care, an Amedisys Company
- F-10010-12: Continuum II Home Care and Hospice Inc. d/b/a Continuum Home Care of Charlotte
- F-10011-12: United Home Care, Inc. d/b/a UniHealth Home Health Health, Inc. d/b/a UniHealth Home Health
- F-10012-12: Ogadinma Akagha d/b/a J and D Healthcare Services.¹

II. Comparative Analysis

The Comparative Analysis included at the end of these comments shows that the CON Application submitted by **HKZ Group** is the most effective alternative for one of the two Medicare-certified home health agencies in Mecklenburg County.

¹ Legal applicant is Ogadinma Akagha. Parent company is J and D Healthcare Services. Name of proposed agency is J and D Healthcare Services. Employer Identification Number is issued to J and D Healthcare Services, LLC.

III. CON Application of Maxim Healthcare Services, Inc.

Maxim Healthcare Services, Inc. (Maxim) proposes to develop a Medicare-certified home health agency in Charlotte, zip code 28204. Maxim is a Maryland corporation, which is owned by Stephen Bisciotti, Oak Investment Trust, and Oak Investment Trust II.

IV. Maxim Lacks Experience and Knowledge Critical to Operating a Medicare-certified Home Health Agency

Maxim operates a licensed home care agency and unlicensed staffing agencies in North Carolina.

Maxim's representations confirm its lack of experience and knowledge critical to operating a Medicare-certified home health agency. The following are examples of such representations:

- On page 13, Maxim proposes to provide “around-the-clock” care for pediatric patients through the home health model.
 - Medicaid reimburses home health on a per visit basis.
 - Continual 24 hour care is not a visit.
 - Respite care is not reimbursed under home health criteria.
- On page 21, Maxim states that it “strives to carefully match caregivers with patients so that the specific needs of each patient align with the expertise, experience and availability of their caregivers.”
 - A practice of aligning patients with specific individual caregivers is inefficient and results in significantly reducing access.
 - At a minimum, utilizing few staff members per case will reduce management's scheduling flexibility, lower productivity, and increase cost per visit.
- On pages 23 and 29, Maxim highlights matching the right caregiver with the patient, and the importance of the relationship between the caregiver and the patient.
 - This is more tailored to a non-Medicare certified personal care model.
 - Medicare-certified home health agencies do not focus on matching personalities of clinicians and therapists with patients.
 - It is far more important to ensure the clinician in a Medicare-certified agency is well trained and focuses on a positive outcome.
 - The relationship in Medicare-certified home health services must include the patient's primary care provider. Patient, clinician/therapist, and the patient's primary care physician are a team.
- On page 31, Maxim references its Clinical Care system – upgrading its current system.
 - Maxim does not discuss the cost a system upgrade.
- On page 32, it appears that Maxim conducts its own patient satisfaction surveys.
 - Third party results are more reliable and valid.
- On page 106, Maxim states that it will not contract for any services.
 - Generally, contract staff is used when rapid growth occurs, vacation, unexpected illnesses, unexpected terminations and other events.

- On page 108, Maxim says that it “has an on-call coordinator (staff RN) to take telephone calls, educate, reassure, and advise potential patients, and to coordinate or provide intake or assessment, as needed.”²
 - Maxim fails to state that it will provide a nurse who can make visits to patients in the event of an emergency or scheduled weekend visits are required by the plan of care.
 - Maxim’s on-call coverage appears to be nothing more than telephone support for patients, which may work for a non-certified home care agency, but will not work with a Medicare-certified home health agency.

On pages 8, 24, and 49 of the CON Application, Maxim states:

Maxim’s Charlotte licensed home care agency currently maintains over 125 clients. Maxim estimates that out of its 125+ patients, it would be able to provide at least 31 of them with additional therapy (via Medicare certification). Furthermore, Maxim estimates that it refers approximately 100 patients to other Medicare-certified home health agencies each year (in addition to the patients it currently serves) [...].

On pages 49-50, Maxim notes that it

d[id] not utilize [home care patients] as a means to project specific patient projections for the proposed project. Rather, this anecdotal information demonstrates that Maxim has an established referral base in Mecklenburg County for home health patients and can reasonably expect to admit the projected patients per week during the first three project years.

Whether “anecdotal” or otherwise, Maxim’s home care patients and patients referred to other Medicare-certified agencies are **not new patients** for purposes of the Mecklenburg County need determination in the 2012 SMFP, as will be discussed in the context of CON Review Criterion (3).

V. CON Review Criteria

The following comments are submitted based upon the CON Review Criteria found at G.S.131E-183. While some issues impact multiple Criteria, they are discussed under the most relevant review Criteria and referenced in others to which they apply.

G.S. 131E-183 (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

²Maxim modified the description of its “on-call coordinator” on page 100 of its April 2012 CON application for a Medicare-certified home health agency in Wake County. In the April 2012, Maxim states that it will “provide an on-call coordinator to provide intake, or assessment, and to educate, reassure, and advise potential patients as needed.”

limitation on the provision of any health service, health service facility, health service facility beds, dialysis stations, operating rooms, or home health offices that may be approved.

There is one *State Medical Facilities Plan (SMFP)* Policy applicable to the review of Mecklenburg County Home Health Agencies:

- Policy GEN-3: Basic Principles.

As will be discussed in the context of CON Review Criteria (3), (4), (5), (6), (7), (8), (18a), and (20), Maxim does not demonstrate:

- A need for the proposed project;
- That the proposed project will promote equitable access; and
- That the proposed project will maximize health care value for resources expended.

As a result, the Maxim CON Application does not conform to Policy GEN-3 and CON Review Criterion (1).

G.S. 131E-183 (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.

A. Maxim Proposes to Serve More than 50% of the Mecklenburg County Home Health Patient Deficit in Project Year 1

The 2012 SMFP contains a need determination for two Medicare-certified home health agencies in Mecklenburg County, and a total home health patient deficit of 651 in 2013. Approval of Maxim precludes approval of a second agency.

The following table shows the Mecklenburg County unduplicated patients projected by each of the ten applicants in Project Year 1.

**Mecklenburg County Home Health Applicants
Proposed Unduplicated Patients – PY 1**

CON Application	Applicant	Unduplicated Patients
F-10004-12	Healthy @ Home - CMC - North Zone Office	1,789
F-10003-12	Maxim	426
F-10008-12	Emerald Care - Branch Office - Total	330
F-10006-12	AssistedCare	326
F-10007-12	Well Care	325
F-10005-12	HKZ Group	232
F-10001-12	Vizion One	211
F-10011-12	UniHealth	204
F-10010-12	Continuum	74
F-10012-12	J and D Healthcare	*

*Patient origin data not included; projected volume cannot be allocated by county

As shown in the previous table, Maxim proposes that it will serve 426 Mecklenburg County home health patients in Project Year 1, which is **130.7%** (426/326) of the home health patient deficit of 326 per agency in 2013. Maxim overstates its Project Year 1 unduplicated patient volume.

B. No Ramp Up Period Allowance in Project Year 1

Applicants, like Maxim, that do not propose a ramp up period in Project Year 1 assume that from day one, staff will be working at maximum capacity. That is an unrealistic assumption. Every new business requires some level of start up. Maxim’s new business most certainly requires a level of start up because of Maxim’s lack of experience operating a Medicare-certified home health agency in North Carolina.

C. Home Care Patients Served by Maxim’s Non-Certified Agency Cannot be Included in its Medicare-certified Agency Projected Patients

On pages 8, 24, and 49 of the CON Application, Maxim states:

Maxim’s Charlotte licensed home care agency currently maintains over 125 clients. Maxim estimates that out of its 125+ patients, it would be able to provide at least 31 of them with additional therapy (via Medicare certification). Furthermore, Maxim estimates that it refers approximately 100 patients to other Medicare-certified home health agencies each year (in addition to the patients it currently serves) [...].

On pages 49-50, Maxim notes that it

d[id] not utilize [home care patients] as a means to project specific patient projections for the proposed project. Rather, this anecdotal information demonstrates that Maxim has an established referral base in Mecklenburg County

for home health patients and can reasonably expect to admit the projected patients per week during the first three project years.

Whether “anecdotal” or otherwise, Maxim’s home care patients (“at least 31”) and patients referred to other Medicare-certified agencies (“approximately 100”) are **not new patients** for purposes of the Mecklenburg County need determination in the 2012 SMFP. A need for a new Medicare-certified home health agency is based on “the projected **additional** number of home health patients who will need home services in 2013.”³

When 131 (“at least 31” + “approximately 100”) existing patients are subtracted from Maxim’s projection of 426 unduplicated patients, Maxim will serve 295 (426 – 131) unduplicated patients in Project Year 1.

Maxim projected that it will serve 503 unduplicated patients in Project Year 2, which is an 18.1% increase from its projected 426 unduplicated patients in Project Year 1.

Using Maxim’s assumption of 18.1% growth in unduplicated patients, it is reasonable to adjust Maxim’s projected 503 unduplicated patients to 348 unduplicated patients in Project Year 2 (348 = 295 + 295 x 18.1%).

D. Highest Duplicated to Unduplicated Patient Ratio - Project Years 1 and 2

The following table shows the duplicated to unduplicated patient ratio projected by each of the ten applicants in Project Years 1 and 2.

**Mecklenburg County Home Health Applicants
Duplicated: Unduplicated Patient Ratio – PYs 1 and 2**

Project ID	Applicant	PY 1	PY 2
F-10003-12	Maxim	5.0	5.4
F-10004-12	Healthy @ Home - CMC - North Zone Office	4.3	4.3
F-10001-12	Vizion One	4.0	4.0
F-10010-12	Continuum	2.8	2.5
F-10005-12	HKZ Group	2.3	2.3
F-10006-12	AssistedCare	2.1	2.1
F-10007-12	Well Care	2.1	2.1
F-10011-12	UniHealth	1.2	1.3
F-10012-12	J and D Healthcare	1.2	1.3
F-10008-12	Emerald Care - Branch Office	1.0	1.0

For comparison purposes, the following table shows the average duplicated: unduplicated ratio for existing Mecklenburg County home health agencies in FY 2011.

³ 2012 SMFP, Step 13 of Medicare-certified home health agency need methodology (page 252).

**Mecklenburg County Home Health Agencies
Average Duplicated: Unduplicated Patient Ratio – FY 2011**

Metric	Ratio
Duplicated: Unduplicated Patient Ratio	2.3

Source: 2012 Home Health Agency License Renewal Application Data Supplement

Maxim’s duplicated: unduplicated patient ratio of 5.0 in Project Year 1 is **217.4%** (5.0/2.3) and **234.8%** in Project Year 2 (5.4/2.3) greater than the average duplicated: unduplicated patient ratio reported by existing Mecklenburg County home health agencies in FY 2011.

Maxim’s assumption of an excessively large duplicated: unduplicated patient ratio is unreasonable, and results in overstated duplicated patients. Maxim projects the second highest duplicated patient count of all ten applicants, as shown in the following table.

**Mecklenburg County Home Health Applicants
Proposed Duplicated Patients – PY 2**

CON Application	Applicant	Duplicated Patients
F-10004-12	Healthy @ Home - CMC - North Zone Office	12,775
F-10003-12	Maxim	2,737
F-10001-12	Vizion One	1,305
F-10007-12	Well Care	1,241
F-10010-12	Continuum	1,208
F-10005-12	HKZ Group	900
F-10006-12	AssistedCare	741
F-10011-12	UniHealth	719
F-10008-12	Emerald Care - Branch Office	476
F-10012-12	J and D Healthcare	123

Had Maxim used the average duplicated: unduplicated ratio for existing Mecklenburg County home health agencies in FY 2011 of 2.3 and the lower unduplicated patient count (348 as per Subsection C.), its duplicated patient count would be 800 (348 x 2.3) in Project Year 2.

Maxim’s financial projections in Project Year 2 need to be recalculated to reflect a lower duplicated patient count.

E. Lowest Average Visits per Duplicated Patient in Project Year 2

The following table shows the average visits per duplicated patient projected by each of the ten applicants in Project Year 2.

**Mecklenburg County Home Health Applicants
Average Visits per Duplicated Patient – PY 2**

CON Application	Applicant	Duplicated Patients	Patient Visits	Visits per Duplicated Patient
F-10008-12	Emerald Care - Branch Office	476	12,570	26.4
F-10011-12	UniHealth	719	11,527	16.0
F-10012-12	J and D Healthcare	123	1,482	12.0
F-10005-12	HKZ Group	900	8,578	9.5
F-10007-12	Well Care	1,241	11,268	9.1
F-10006-12	AssistedCare	741	6,159	8.3
F-10010-12	Continuum	1,208	8,556	7.1
F-10001-12	Vizion One	1,305	8,125	6.2
F-10004-12	Healthy @ Home - CMC - North Zone Office	12,775	47,780	3.7
F-10003-12	Maxim	2,737	9,499	3.5

For comparison purposes, the following table shows the range for average visits per duplicated patient by existing Mecklenburg County home health agencies in FY 2011.

**Mecklenburg County Home Health Agencies
Average Visits per Duplicated Patient – FY 2011**

Mecklenburg Low	Mecklenburg High
4.3	9.8

Source: 2012 Home Health License Renewal Application Data Supplement

Maxim’s 3.5 average visits per duplicated patient is **22.9%** (3.5/4.3) lower than the lowest average visits per duplicated patient reported by an existing Mecklenburg County home health agency in FY 2011. Maxim’s assumption of 3.5 average visits per duplicated patient is unreasonable.

For the reasons set forth above, the Maxim CON Application does not document a need for the proposed Medicare-certified home health agency in Mecklenburg County, as required for conformity with CON Review Criterion (3).

G.S. 131E-183 (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.

As discussed in detail in the context of CON Review Criterion (3), Maxim fails to demonstrate the need for the services proposed. As discussed in the context of CON Review Criterion (5), projections of cost and revenue are not based on reasonable projections and exceed costs and revenue proposed by many of the other applicants. Maxim does not demonstrate that it proposed the least costly or most effective alternative as required by CON Review Criterion (4).

G.S. 131E-183 (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.

A. Analysis of Financial Projections

The following table shows the areas of concern in Maxim's financial projections.

Financial Projection/Cost	Page Reference	Comment
Nutritional counseling and Interpreter services	Page 12	<ul style="list-style-type: none">• Expenses not a line item in Form B.• Expenses not listed in Assumptions for Allocation of Corporate Overhead for Form B
Insurance, office supplies, minor equipment, maintenance, and property taxes	Form B	<ul style="list-style-type: none">• Expenses not included in Form B
Miscellaneous Overhead of \$24,410 in PY 1 & \$25,020 in PY 2	Form B	<ul style="list-style-type: none">• No explanation in Assumptions
No Management Contract or Allocation of Corporate Overhead		<ul style="list-style-type: none">• There is no Management Agreement included in the Exhibits

The items set forth in the previous table demonstrate that Maxim's financial projections are incomplete and not based upon reasonable projections of the costs for providing Medicare-certified home health services.

B. Consolidated Financial Statements for 2010 and 2009 – Not the Most Recent Available

Maxim includes Consolidated Financial Statements for years ending December 31, 2010 and 2009 in Exhibit 14. Maxim failed to include a current Consolidated Financial Statement.

C. Taxes and Benefits Projected at 16% of Salary – Very Low

According to Proforma Form B, Maxim projects taxes and benefits at 16% of annual salary for its employees. For comparison purposes, **HKZ Group** projects taxes and benefits at 23% of annual salary for its employees.

D. Only Allocated One Month to Obtain Medicare Certification

Maxim allocated one month to obtain Medicare certification. As part of the Medicare certification process, Maxim must provide services to Medicare patients for which no reimbursement will be received. Medicare certification can take 2 to 6 or more months. Before the initial Medicare certification survey, the agency must provide care for patients so that compliance can be determined. All patient care before the certification/survey date is non-reimbursable. Revenue can be generated beginning on the date the agency is determined to be in compliance. Assignment of the provider number, NPI number, and submitter identifications

takes additional time. While revenue is generated from the certification date, claims cannot be filed and payments will not be made until all provider authorizations are approved and processed by NC DHHS, CMS, NPI Enumerator, and the agency's Fiscal Intermediary. Therefore, start-up capital is required as the cash cycle does not begin quickly.

E. Second Highest Net Revenue per Patient Visit - Project Year 2

The following table shows a comparison of the ten applicants based on each applicant's net revenue per visit in Project Year 2. Net revenue per visit was calculated by dividing projected net revenue from Proforma Form B by the projected number of patient visits from Section IV. of each application, as shown in the following table.

**Mecklenburg County Home Health Applicants
Net Revenue per Patient Visit – PY 2**

CON Application	Applicant	Total Patient Visits	Net Revenue	Net Revenue per Visit
F-10012-12	J and D Healthcare	1,482	\$1,664,138	\$1,123
F-10010-12	Continuum	8,556	\$1,610,678	\$188
F-10003-12	Maxim	9,499	\$1,528,574	\$161
F-10007-12	Well Care	11,268	\$1,740,941	\$155
F-10008-12	Emerald Care - Branch Office	12,570	\$1,937,552	\$154
F-10011-12	UniHealth	11,527	\$1,752,640	\$152
F-10006-12	AssistedCare	6,159	\$931,653	\$151
F-10004-12	Healthy @ Home - CMC - North Zone Office	47,780	\$7,008,529	\$147
F-10005-12	HKZ Group	8,578	\$1,224,203	\$143
F-10001-12	Vizion One	8,125	\$1,140,200	\$140

As shown in the previous table, Maxim projects the highest net revenue per patient visit, second to Continuum. J and D Healthcare proposes an agency that is not financially viable, and cannot be used for purposes of comparison with other applications.

F. Highest Ratio of Net Revenue per Visit to Average Total Operating Cost per Visit in Project Year 2

The following table shows a comparison of the 10 applicants based on each applicant's ratio of net revenue per visit to average total operating cost per visit in Project Year 2. The ratio in the following table is calculated by dividing the net revenue per visit by the average total operating cost per visit.

**Mecklenburg County Home Health Applicants
Ratio of Net Revenue per Visit to Average Total Operating Cost per Visit - PY 2**

CON Application	Applicant	Total Patient Visits	Net Revenue per Visit	Average Total Operating Cost per Visit	Ratio of Net Revenue to Average Total Operating Cost per Visit
F-10003-12	Maxim	9,499	\$161	\$124	1.30
F-10010-12	Continuum	8,556	\$188	\$152	1.24
F-10008-12	Emerald Care - Branch Office - Total	12,570	\$154	\$132	1.17
F-10007-12	Well Care	11,268	\$155	\$133	1.16
F-10006-12	AssistedCare	6,159	\$151	\$140	1.08
F-10001-12	Vizion One	8,125	\$140	\$131	1.07
F-10004-12	Healthy @ Home - CMC - North Zone Office - Total	47,780	\$147	\$142	1.04
F-10011-12	UniHealth	11,527	\$152	\$148	1.02
F-10005-12	HKZ Group	8,578	\$143	\$140	1.02
F-10012-12	J and D Healthcare	1,482	\$1,123	\$2,103	0.53

As shown in the previous table, Maxim’s ratio is 1.30, which is highest of all 10 applicants.

G. Highest Gain in Project Year 2

The following table shows a comparison of the ten applicants based on each applicant’s gain (loss) in Project Year 2. Gain (loss) was calculated by subtracting total cost from net revenue in Proforma Form B of each application, as shown in the following table.

**Mecklenburg County Home Health Applicants
Gain (Loss) – PY 2**

CON Application	Applicant	Gain (Loss)
F-10003-12	Maxim	\$352,868
F-10010-12	Continuum	\$311,116
F-10008-12	Emerald Care Branch Office	\$278,839
F-10007-12	Well Care	\$246,036
F-10006-12	AssistedCare	\$72,364
F-10001-12	Vizion One	\$72,193
F-10004-12	Healthy @ Home – CMC – North Zone	\$214,608
F-10011-12	UniHealth	\$41,456
F-10005-12	HKZ Group	\$27,523
F-10012-12	J and D Healthcare	-\$1,452,259

As shown in the previous table, Maxim projects the highest gain in Project Year 2. **HKZ Group** projects the lowest gain in Project Year 2. J and D Healthcare proposes an agency that is not financially viable, and cannot be used for purposes of comparison with other applications.

H. Highest Gain per Patient Visit in Project Year 2

The following table shows a comparison of the ten applicants based on each applicant's gain (loss) per patient visit in Project Year 2. Gain (loss) was calculated by subtracting total cost from net revenue in Proforma Form B. Gain (loss) per patient visit was calculated by dividing gain (loss) by the projected number of patient visits from Section IV.2. of each application, as shown in the following table.

Mecklenburg County Home Health Applicants Gain (Loss) per Patient Visit – PY 2

CON Application	Applicant	Gain (Loss)	Total Patient Visits	Gain (Loss) per Visit
F-10003-12	Maxim	\$352,868	9,499	\$37
F-10010-12	Continuum	\$311,116	8,556	\$36
F-10008-12	Emerald Care Branch Office	\$278,839	12,570	\$22
F-10007-12	Well Care	\$246,036	11,268	\$22
F-10006-12	AssistedCare	\$72,364	6,159	\$12
F-10001-12	Vizion One	\$72,193	8,125	\$9
F-10004-12	Healthy @ Home – CMC – North Zone	\$214,608	47,780	\$4
F-10011-12	UniHealth	\$41,456	11,527	\$4
F-10005-12	HKZ Group	\$27,523	8,578	\$3
F-10012-12	J and D Healthcare	-\$1,452,259	1,482	-\$980

As shown in the previous table, Maxim projects the highest gain per patient visit in Project Year 2. **HKZ Group** projects the lowest gain per patient visit in Project Year 2. J and D Healthcare proposes an agency that is not financially viable, and cannot be used for purposes of comparison with other applications.

I. Highest Gain as a Percentage of Net Revenue in Project Year 2

The following table shows a comparison of the ten applicants based on each applicant's gain (loss) as a percentage of net revenue in Project Year 2. Gain (loss) was calculated by subtracting total cost from net revenue in Proforma Form B. Gain (loss) as a percentage of net revenue was calculated by dividing gain (loss) by the projected net revenue, as shown in the following table.

**Mecklenburg County Home Health Applicants
Gain (Loss) as Percentage of Net Revenue – PY 2**

CON Application	Applicant	Gain (Loss)	Net Revenue	Gain (Loss) as Percentage of Net Revenue
F-10003-12	Maxim	\$352,868	\$1,528,574	23.1%
F-10010-12	Continuum	\$311,116	\$1,610,678	19.3%
F-10008-12	Emerald Care Branch Office	\$278,839	\$1,937,522	14.4%
F-10007-12	Well Care	\$246,036	\$1,740,941	14.1%
F-10006-12	AssistedCare	\$72,364	\$931,653	7.8%
F-10001-12	Vizion One	\$72,193	\$1,140,200	6.3%
F-10004-12	Healthy @ Home – CMC – North Zone	\$214,608	\$7,008,529	3.1%
F-10011-12	UniHealth	\$41,456	\$1,752,640	2.4%
F-10005-12	HKZ Group	\$27,523	\$1,224,203	2.2%
F-10012-12	J and D Healthcare	-\$1,452,259	\$1,664,138	-87.3%

As shown in the previous table, Maxim projects the highest gain as a percentage of net revenue in Project Year 2. **HKZ Group** projects the lowest gain as a percentage of net revenue in Project Year 2. J and D Healthcare proposes an agency that is not financially viable, and cannot be used for purposes of comparison with other applications.

For those reasons, Maxim does not demonstrate financial feasibility of the proposal because projections of costs and charges are not based on reasonable projections for providing health services as required by CON Review Criterion (5).

G.S. 131E-183 (6)

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

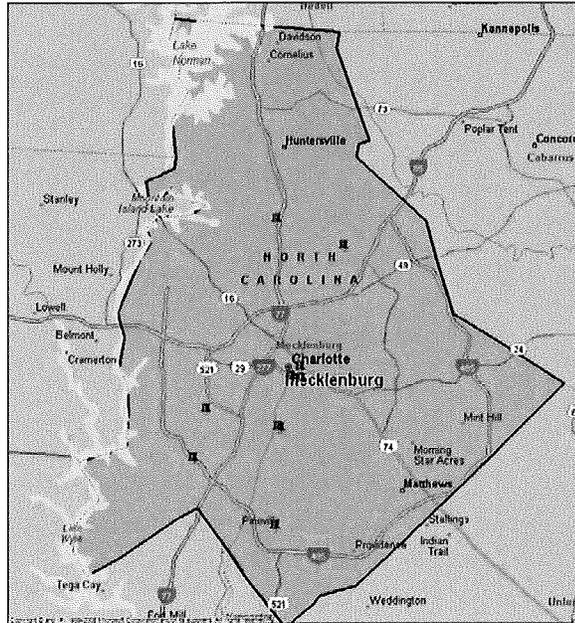
As discussed in the context of CON Review Criterion (3), Maxim fails to demonstrate the need for the services proposed. Consequently, Maxim did not demonstrate that the proposed project will not result in unnecessary duplication of existing or approved health service capabilities or facilities.

Additionally, Maxim proposes to locate at the office of its licensed home care agency at 1300 Baxter Street, Charlotte, zip code 28204. According to Mapquest.com⁴, Maxim’s proposed site is **2 minutes and less than 1 mile** from Innovative Senior Care Home Health (HC0369). Maxim’s proposed location is duplicative of existing health service capabilities and facilities.

HKZ Group undertook a location analysis in order to determine the most effective location for the proposed Mecklenburg County agency. The following map illustrates locations of existing Medicare-certified home health agency in Mecklenburg County.

⁴ <http://www.mapquest.com/>

Existing Medicare-certified Home Health Agency Location



As shown in the previous map, of the ten existing agencies, four are located in central Charlotte. Four agencies are located in southwestern Mecklenburg County. The other two agencies are located in the north-central part of Mecklenburg County. There is no agency in the eastern/southeastern area of Mecklenburg County near the Town of Matthews. **HKZ Group** proposes to locate its agency in the Town of Matthews.

Maxim has not carried its burden to demonstrate that the proposed project will not result in unnecessary duplication of existing and approved capabilities as required by CON Review Criterion (6).

G.S. 131E-183 (7)

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

A. Physical Therapist Salary is Low

The following table shows the annual salary projected by each of the applicants during Project Year 2 for a physical therapist.

**Mecklenburg County Home Health Agency CON Applications
PT Salary – Project Year 2**

CON Application	Applicant	PT Salary
F-10005-12	HKZ Group	\$102,700
F-10008-12	Emerald Care – Branch Office	\$94,585
F-10004-12	Healthy @ Home – CMC – North Zone Office	\$84,445
F-10010-12	Continuum	\$84,144
F-10006-12	AssistedCare	\$83,945
F-10007-12	Well Care	\$83,430
F-10003-12	Maxim	\$80,353
F-10001-12	Vizion One	\$79,310
F-10012-12	J and D Healthcare	\$43,739

As shown in the previous table, Maxim projects the third lowest salary for a physical therapist. It is \$19,720 lower than the highest salary, which was proposed by **HKZ Group**. J and D Healthcare proposes an agency that is not financially viable, and cannot be used for purposes of comparison with other applications.

Salary is a significant contributing factor in recruitment and retention of staff. PT services are critical to the profitability of a Medicare-certified home health agency.

B. Occupational Therapist Salary is Low

The following table shows the annual salary projected by each of the applicants that propose to employ an occupational therapist.

**Mecklenburg County Home Health Applicants
OT Salary – PY 2**

CON Application	Applicant	OT Salary
F-10008-12	Emerald Care - Branch Office	\$83,785
F-10001-12	Vizion One	\$80,718
F-10007-12	AssistedCare	\$79,001
F-10010-12	Continuum	\$78,663
F-10007-12	Well Care	\$77,250
F-10003-12	Maxim	\$73,856
F-10004-12	Healthy @ Home - CMC - North Zone Office	\$72,196
F-10012-12	J and D Healthcare	\$43,722

Maxim projects the second lowest annual salary for an occupational therapist. It is \$1,660 higher than the lowest salary, which was projected by Healthy @ Home - CMC. It is \$9,929 lower than the highest salary, which was proposed by Emerald Care. J and D Healthcare proposes an agency that is not financially viable, and cannot be used for purposes of comparison with other applications.

For that reason, the Maxim CON Application does not conform to CON Review Criterion (7).

G.S. 131E-183 (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.

No Demonstration that the Proposed Service will be Coordinated with the Existing Health Care System

Contrary to its assertion on pages 49-50, Maxim does not have “an established referral base in Mecklenburg County for [Medicare-certified] home health patients.” Maxim receives referrals of patients who need licensed home care services.

Maxim points to Exhibit 19 for letters of support from some of Maxim’s existing referral sources for licensed home care patients, and to Exhibit 20 for a list of physicians and providers from which Maxim receives referrals for licensed home care patients.

Generally, hospitals make 50% of all referrals to certified home health agencies. The CON Criteria and Standards for Home Health Agencies require documentation of attempts made to establish working relationships with the sources of referrals at 10A NCAC 14C .2002 (a)(10). Maxim does not provide the required documentation for Mecklenburg County hospitals.

For those reasons, Maxim fails to demonstrate conformity to CON Review Criterion (8).

G.S. 131E-183 (18a)

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

As discussed above, Maxim fails to demonstrate conformity with CON Review Criteria (1), (3), (4), (5), (6), (7), (8), and (20). Consequently, Maxim fails to demonstrate that its CON Application is conforming to CON Review Criterion (18a).

G.S. 131E-183 (20)

An applicant already involved in the provision of health services shall provide evidence that quality care has been provided in the past.

In September 2011, Maxim, one of the nation's leading providers of home care services, entered into a settlement agreement to resolve criminal and civil charges relating to a nationwide scheme to defraud Medicaid programs and the Veterans Affairs program of more than \$61 million. Maxim was charged in a criminal complaint with conspiracy to commit health care fraud, and entered into a Deferred Prosecution Agreement (DPA) with the United States Department of Justice. The Agreement allows Maxim to avoid a health care fraud conviction on the charges if it complies with the DPA's requirements. Please see Attachment 1 for additional details. As reflected in Attachment 1, Maxim has not demonstrated the quality care has been provided in the past. For that reason, Maxim fails to demonstrate conformity to CON Review Criterion (20).

VI. North Carolina Criteria and Standards for Home Health Services

10A NCAC 14C .2002(a)(3), (4), and (10)

Projections are based on flawed and unreasonable assumptions. Please see discussion in the context of CON Review Criteria (3), (5) and (8)

10A NCAC 14C .2003

Projections are based on flawed and unreasonable assumptions. Please see discussion in the context of CON Review Criteria (3), (5), and (7).

10A NCAC 14C .2005(a) and (b)

Projections are based on flawed and unreasonable assumptions. Please see discussion in the context of CON Review Criterion (7).

VII. Conclusion

The Maxim CON Application has not demonstrated conformity with the CON Review Criteria and should be denied.

In addition, as reflected in the following Comparative Analysis, the CON Application submitted by **HKZ Group** is a more reasonable alternative and should be approved.

HKZ Group, LLC
Mecklenburg County Medicare-certified Home
Health Agency CON Review

COMPARATIVE ANALYSIS

Pursuant to N.C.G.S. 131E-183(a)(1) and the *2012 State Medical Facilities Plan (2012 SMFP)*, no more than two new home health agencies may be approved for Mecklenburg County in this review. Because each applicant proposes to develop a new home health agency in Mecklenburg County, all ten applicants cannot be approved.

The following comparative analysis of the proposals documents the reasons that **HKZ Group, LLC (HKZ Group)** should be approved for one of the two new home health agencies in Mecklenburg County.

Access by Underserved Groups

The following table compares the percentage of total visits provided to Medicaid recipients in the second year of operation as projected by each applicant in Section VI.12. of the Application.

Percentage of Total Visits to Medicaid Recipients – PY 2

CON Application	Applicant	% of Visits
F-10004-12	Healthy @ Home – CMC North Zone Office	16.2%
F-10005-12	HKZ Group	14.9%
F-10007-12	Well Care	14.48%
F-10001-12	Vizion One	12.92%
F-10011-12	UniHealth	9.2%
F-10003-12	Maxim	8.7%
F-10006-12	AssistedCare	8.2%
F-10010-12	Continuum	8.17%
F-10008-12	Emerald Care – Branch Office	7.4%
F-10012-12	J and D Health Care Services	0.0%

As discussed in **HKZ Group's** Comments in Opposition, Healthy @ Home – CMC projects a higher percentage of total visits to Medicaid recipients in FY 2011 than the 10.9% reported in its 2012 License Renewal Application. There is no explanation provided to justify the difference between actual and projected percentage of total visits to Medicaid recipients. The CON application submitted by Healthy @ Home - CMC is non-conforming with multiple CON Review Criteria. Please see **HKZ Group's** Comments in Opposition to the Healthy @ Home CON application.

As shown in the previous table, **HKZ Group** projects the second highest percentage of total visits provided to Medicaid recipients. The CON application submitted by **HKZ Group** provides assumptions related to the projected payer mix and is the most effective alternative with regard to percentage of total visits provided to Medicaid recipients in Project Year 2.

The following table compares the percentage of total visits provided to Medicare beneficiaries in the second year of operation as projected by each applicant in Section VI.12. of the Application.

Percentage of Total Visits to Medicare Beneficiaries – PY 2

CON Application	Applicant	% of Visits
F-10012-12	J and D Healthcare	89.0%
F-10003-12	Maxim	80.9%
F-10011-12	UniHealth	79.36%
F-10008-12	Emerald Care – Branch Office	77.9%
F-10007-12	Well Care	72.4%
F-10004-12	Healthy @ Home – CMC North Zone Office	72.0%
F-10010-12	Continuum	67.8%
F-10006-12	AssistedCare	67.7%
F-10005-12	HKZ Group	66.8%
F-10001-12	Vizion One	52.98%

J and D Healthcare proposes an agency that is not financially viable, and cannot be used for purposes of comparison with other applications. Please see **HKZ Group's** Comments in Opposition to the J and D Healthcare CON application.

Further, the CON applications submitted by Maxim, UniHealth, Emerald Care, Well Care, Healthy @ Home – CMC, Continuum, and AssistedCare are non-conforming with multiple CON Review Criteria. Please see **HKZ Group's** Comments in Opposition to those CON applications.

For comparison purposes, the ten existing Medicare-certified home health agencies in Mecklenburg County reported an average of **69.4%** total visits provided to Medicare beneficiaries in FY 2011.

The CON application submitted by **HKZ Group** is the most effective alternative with regard to percentage of total visits provided to Medicare beneficiaries in Project Year 2.

The following table compares the percentage of total visits provided to Medicaid recipients and Medicare beneficiaries in the second year of operation as projected by each applicant in Section VI.12 of the Application.

Percentage of Total Visits to Medicaid Recipients and Medicare Beneficiaries – PY 2

CON Application	Applicant	% of Visits
F-10003-12	Maxim	89.6%
F-10012-12	J and D Healthcare	89.0%
F-10011-12	UniHealth	88.56%
F-10004-12	Healthy @ Home – CMC – North Zone Office	88.2%
F-10007-12	Well Care	86.9%
F-10008-12	Emerald Care – Branch Office	85.3%
F-10005-12	HKZ Group	81.7%
F-10010-12	Continuum	76.0%
F-10006-12	AssistedCare	75.9%
F-10001-12	Vizion One	65.9%

The CON applications submitted by Maxim, UniHealth, Emerald Care, Well Care, and Healthy @ Home – CMC are non-conforming with multiple CON Review Criteria. Please see **HKZ Group’s** Comments in Opposition to those CON applications.

Further, J and D Healthcare proposes an agency that is not financially viable, and cannot be used for purposes of comparison with other applications. Please see **HKZ Group’s** Comments in Opposition to the J and D Healthcare CON application.

For comparison purposes, the ten existing Medicare-certified home health agencies in Mecklenburg County reported an average of **79.2%** total visits provided to Medicaid recipients and Medicare beneficiaries in FY 2011.

The CON application submitted by **HKZ Group** is the most effective alternative with regard to percentage of total visits provided to Medicaid recipients and Medicare beneficiaries in Project Year 2.

Average Number of Visits per Unduplicated Patient

The following table shows the average number of visits per unduplicated patient projected by each applicant in the second year of operation of the proposed home health agency.

Average Number of Visits per Unduplicated Patient – PY 2

CON Application	Applicant	Average Number of Visits per Unduplicated Patient
F-10008-12	Emerald Care – Branch Office	26.4
F-10001-12	Vizion One	25.0
F-10005-12	HKZ Group	21.7
F-10011-12	UniHealth	21.0
F-10007-12	Well Care	20.8
F-10003-12	Maxim	18.9
F-10006-12	AssistedCare	17.5
F-10010-12	Continuum	17.4
F-10012-12	J and D Healthcare	16.1
F-10004-12	Healthy @ Home – CMC – North Zone	16.0

The CON applications submitted by Emerald Care and Vizion One are non-conforming with multiple CON Review Criteria. Please see **HKZ Group's** Comments in Opposition to those CON applications.

The visits per unduplicated patient projected by Emerald Care and Vizion One both exceed the historical range of visits per unduplicated patient provided by Mecklenburg County certified agencies in FY 2011. In FY 2011, that range was from 11.9 visits per unduplicated patient to 23.8 visits per unduplicated patients, as reflected in the 2012 Annual Licensure Renewal Applications submitted by Mecklenburg County home health providers.

The application submitted by **HKZ Group** is the most effective alternative with regard to projected number of visits to be provided per unduplicated patient.

Net Revenue per Visit

Net revenue per visit in the second year of operation was calculated by dividing projected net revenue from Form B by the projected number of visits from Section IV. of the Application, as shown in the following table.

Net Revenue per Visit – PY 2

CON Application	Applicant	Total Visits Patients	Net Revenue	Net Revenue per Visit
F-10012-12	J and D Healthcare	1,482	\$1,664,138	\$1,123
F-10008-12	Emerald Care – Branch Office	12,570	\$9,509,999	\$757
F-10010-12	Continuum	8,556	\$1,610,678	\$188
F-10003-12	Maxim	9,499	\$1,528,574	\$161
F-10007-12	Well Care	11,268	\$1,740,941	\$155
F-10011-12	UniHealth	11,527	\$1,752,640	\$152
F-10006-12	AssistedCare	6,159	\$931,653	\$151
F-10004-12	Healthy @ Home – CMC – North Zone Office	47,780	\$7,008,528	\$147
F-10005-12	HKZ Group	8,578	\$1,224,203	\$143
F-10001-12	Vizion One	8,125	\$1,140,200	\$140

The CON application submitted by Vizion One is non-conforming with multiple CON Review Criteria. Please see **HKZ Group's** Comments in Opposition to that CON application.

HKZ Group projected the second lowest net revenue per visit. **HKZ Group** adequately demonstrated that the financial feasibility of its proposal is based on reasonable and supported projections of operating costs and revenues. Therefore, the CON application submitted by **HKZ Group** is the most effective alternative with regard to net revenue per visit.

Average Total Operating Cost per Visit

The average total operating cost per visit in the second operating year was calculated by dividing projected operating costs from Form B by the total number of home health visits from Section IV. of the Application, as shown in the following table.

Average Total Operating Cost per Visit – PY 2

CON Application	Applicant	Total Patient Visits	Total Operating Costs	Average Total Operating Cost per Visit
F-10012-12	J and D Healthcare	1,482	\$3,116,397	\$2,103
F-10010-12	Continuum	8,556	\$1,299,562	\$152
F-10011-12	UniHealth	11,527	\$1,711,184	\$148
F-10004-12	Healthy @ Home - CMC - North Zone Office -	47,780	\$6,793,650	\$142
F-10005-12	HKZ Group	8,578	\$1,196,680	\$140
F-10006-12	AssistedCare	6,159	\$859,289	\$140
F-10007-12	Well Care	11,268	\$1,494,904	\$133
F-10008-12	Emerald Care - Branch Office	12,570	\$1,658,683	\$132
F-10001-12	Vizion One	8,125	\$1,068,007	\$131
F-10003-12	Maxim	9,499	\$1,175,706	\$124

J and D Healthcare proposes an agency that is not financially viable, and cannot be used for purposes of comparison with other applications. Please see **HKZ Group's** Comments in Opposition to the J and D Healthcare CON application.

Further, the CON applications submitted by Continuum, UniHealth, and Healthy @ Home – CMC are non-conforming with multiple CON Review Criteria. Please see **HKZ Group's** Comments in Opposition to those CON applications.

HKZ Group adequately demonstrated that the financial feasibility of its proposal is based on reasonable and supported projections of operating costs and revenues. Therefore, the CON application submitted by **HKZ Group** is the most effective alternative with regard to average operating cost per visit.

Average Direct Care Cost per Visit

The average direct care cost per visit in the second operating year was calculated by dividing projected direct care expenses from Form B by the total number of home health visits from Section IV. of the Application, as shown in the following table.

Average Direct Care Cost per Visit – PY 2

CON Application	Applicant	Total Patient Visits	Total Direct Care Costs	Average Direct Care Cost per Visit
F-10012-12	J and D Healthcare	1,482	\$2,887,897	\$1,949
F-10010-12	Continuum	8,556	\$966,142	\$113
F-10004-12	Healthy @ Home - CMC – North Zone Office	47,780	\$4,895,971	\$102
F-10011-12	UniHealth	11,527	\$1,043,442	\$91
F-10007-12	Well Care	11,268	\$971,064	\$86
F-10005-12	HKZ Group	8,578	\$734,997	\$86
F-10006-12	AssistedCare	6,159	\$529,668	\$86
F-10008-12	Emerald Care - Branch Office	12,570	\$1,059,192	\$84
F-10003-12	Maxim	9,499	\$783,753	\$83
F-10001-12	Vizion One	8,125	\$564,614	\$69

The CON applications submitted by AssistedCare, Emerald Care, Maxim, and Vizion One are non-conforming with multiple CON Review Criteria. Please see **HKZ Group's** Comments in Opposition to those CON applications.

HKZ Group adequately demonstrated that the financial feasibility of its proposal is based on reasonable and supported projections of operating costs and revenues. Therefore, the CON application submitted by **HKZ Group** is the most effective alternative with regard to average direct care cost per visit.

Average Administrative Cost per Visit

The average administrative cost per visit in the second operating year was calculated by dividing projected administrative expenses from Form B by the total number of home health visits from Section IV.1. of the Application, as shown in the following table.

Average Administrative Cost per Visit – PY 2

CON Application	Applicant	Total Patient Visits	Total Administrative Costs	Average Administrative Cost per Visit
F-10012-12	J and D Healthcare	1,482	\$228,500	\$154
F-10001-12	Vizion One	8,125	\$503,392	\$62
F-10011-12	UniHealth	11,527	\$667,742	\$58
F-10005-12	HKZ Group	8,578	\$461,683	\$54
F-10006-12	AssistedCare	6,159	\$329,621	\$54
F-10008-12	Emerald Care - Branch Office	12,570	\$599,491	\$48
F-10007-12	Well Care	11,268	\$523,840	\$46
F-10003-12	Maxim	9,499	\$391,953	\$41
F-10004-12	Healthy @ Home - CMC - North Zone Office	47,780	\$1,897,679	\$40
F-10010-12	Continuum	8,556	\$333,420	\$39

The CON applications submitted by Emerald Care, Well Care, Maxim, Healthy @ Home – CMC, and Maxim are non-conforming with multiple CON Review Criteria. Please see **HKZ Group's** Comments in Opposition to those CON applications.

HKZ Group adequately demonstrated that the financial feasibility of its proposal is based on reasonable and supported projections of operating costs and revenues. Therefore, the CON application submitted by **HKZ Group** is the most effective alternative with regard to average administrative cost per visit.

Ratio of Net Revenue per Visit to Average Total Operating Cost per Visit

The ratio in the following table is calculated by dividing the net revenue per visit by the average total operating cost per visit.

Ratio of Net Revenue per Visit: Average Total Operating Cost per Visit – PY 2

CON Application	Applicant	Total Patient Visits	Net Revenue per Visit	Average Total Operating Cost per Visit	Ratio of Net Revenue to Average Total Operating Cost per Visit
F-10003-12	Maxim	9,499	\$161	\$124	1.30
F-10010-12	Continuum	8,556	\$188	\$152	1.24
F-10008-12	Emerald Care - Branch Office	12,570	\$154	\$132	1.17
F-10007-12	Well Care	11,268	\$155	\$133	1.16
F-10006-12	AssistedCare	6,159	\$151	\$140	1.08
F-10001-12	Vizion One	8,125	\$140	\$131	1.07
F-10004-12	Healthy @ Home - CMC – North Zone Office	47,780	\$147	\$142	1.04
F-10011-12	UniHealth	11,527	\$152	\$148	1.02
F-10005-12	HKZ Group	8,578	\$143	\$140	1.02
F-10012-12	J and D Healthcare	1,482	\$1,123	\$2,103	0.53

J and D Healthcare proposes an agency that is not financially viable, and cannot be used for purposes of comparison with other applications. Please see **HKZ Group's** Comments in Opposition to the J and D Healthcare CON application.

Further, the CON applications submitted by UniHealth and Healthy @ Home – CMC are non-conforming with multiple CON Review Criteria. Please see **HKZ Group's** Comments in Opposition to those CON applications.

HKZ Group projects the lowest ratio of net revenue to the average total operating cost per visit in the second operating year. The CON application submitted by **HKZ Group** is the most effective alternative with regard to the lowest ratio of net revenue per visit to the average total operating cost per visit.

Number of Owned, Operated, and/or Managed Medicare-certified Home Health Agencies in North Carolina

Experience in the ownership, operation, and/or management of Medicare-certified home health agencies in North Carolina is a key factor in the success of a proposed new agency in Mecklenburg County.

The following table shows number of owned, operated, and/or managed Medicare-certified home health agencies in North Carolina of each applicant.

**Number of Owned, Operated, and/or Managed
Medicare-certified Home Health Agencies in North Carolina**

CON Application	Applicant	Owned	Operated	Managed	Total NC Medicare Home Health
F-10008-12	Emerald Care – Branch Office	12	0	0	12
F-10004-12	Healthy @ Home - CMC - North Zone Office	4	0	0	4
F-10005-12	HKZ Group	3	0	0	3
F-10011-12	UniHealth	2	0	0	2
F-10007-12	Well Care	2	0	0	2
F-10006-12	AssistedCare	1	0	0	1
F-10010-12	Continuum	1	0	0	1
F-10003-12	Maxim	0	0	0	0
F-10001-12	Vizion One	0	0	0	0
F-10012-12	J and D Healthcare	0	0	0	0

The CON applications submitted by Emerald Care and Healthy @ Home – CMC are non-conforming with multiple CON Review Criteria. Please see **HKZ Group’s** Comments in Opposition to those CON applications.

HKZ Group’s sister agency, HealthKeeperz, Inc., owns three Medicare-certified home health agencies in North Carolina, which is the third largest number of all ten applicants. In addition, HealthKeeperz, Inc. existing service area is contiguous to Mecklenburg County. Thus, the CON application submitted by **HKZ Group** is the most effective alternative with regard to experience.

Letters of Support for Application

Mecklenburg County Acute Care Hospitals

Generally, hospitals make 50% of all referrals to Medicare-certified home health agencies.

As shown in the following table, only **HKZ Group** has two letters of support from a Mecklenburg County acute care hospital and a Mecklenburg County health care system.

Letter of Support from Mecklenburg County Acute Care Hospital(s)

CON Application	Applicant	Carolinas Healthcare System	Presbyterian Healthcare	Presbyterian Hospital Matthews
F-10005-12	HKZ Group	N	Y	Y
F-10004-12	Healthy @ Home – CMC – North Zone Office	Y	N	N
F-10006-12	AssistedCare	N	N	N
F-10010-12	Continuum	N	N	N
F-10008-12	Emerald Care – Branch Office	N	N	N
F-10012-12	J and D Healthcare	N	N	N
F-10003-12	Maxim	N	N	N
F-10011-12	UniHealth	N	N	N
F-10001-12	Vizion One	N	N	N
F-10007-12	Well Care	N	N	N

As shown in the previous table, only Healthy @ Home - CMC, which is owned by Carolinas Healthcare System, has a letter from Carolinas Healthcare System.

There are nine non-hospital owned applicants. Only **HKZ Group** has a letter from a Mecklenburg County acute care hospital and a hospital system.

Acute Care Hospitals in Counties Served by Related Entity of Applicant

As shown in the following table, **HKZ Group** has letters of support from two acute care hospitals in counties served by its related entity, HealthKeeperz, Inc., which owns three Medicare-certified home health agencies in Cumberland, Robeson, and Scotland counties.

**Letter of Support from Acute Care Hospital(s) in Counties Served by
Related Entity of Applicant**

CON Application	Applicant	CFVMC	Southeastern Regional	Other Hospital
F-10005-12	HKZ Group	Y	Y	N
F-10006-12	AssistedCare	N	N	N
F-10010-12	Continuum	N	N	N
F-10008-12	Emerald Care – Branch Office	N	N	N
F-10004-12	Healthy @ Home – CMC - North Zone Office	N	N	Y
F-10012-12	J and D Healthcare	N	N	N
F-10003-12	Maxim	N	N	N
F-10011-12	UniHealth	N	N	N
F-10001-12	Vizion One	N	N	N
F-10007-12	Well Care	N	N	N

None of the nine applicants has a letter from an acute care hospital in a county served by a related entity of the applicant.

Unique Services Proposed by Applicants

Each applicant’s response to Section II., Question 2. is summarized in the following table.

Unique Services Proposed by Applicants

CON Application	Applicant	How will agency differ from existing services in service area?
F-10005-12	HKZ Group	HealthSync Pharmacy Program, North Carolina's only Native American-owned multi-disciplinary post acute community health system focusing on home health agency services; Veterans Administration
F-10006-12	AssistedCare	SHP to manage patient outcomes; CareAnyware electronic medical record; ability to combine behavioral health care with home health patients; pilot site for research study conducted by Martha Bruce, PhD, to train home health staff to provide behavioral health services; CCNC
F-10010-12	Continuum	No specific programs discussed - generic response about being a new provider with "fresh approach"
F-10008-12	Emerald Care – Branch Office	Home health psychiatric program supported by disease management program
F-10004-12	Healthy @ Home – CMC - North Zone	Part of a vertically-integrated health care system, substantial portion of patients are pediatric, operates an award-winning neonatal program, telemonitoring program for cardiac patients, Better Balance Fall Prevention Program, upcoming Diabetes Management program
F-10012-12	J and D Healthcare	Agency will be Medicare-certified, while existing agency is not Medicare-certified (it is a home care agency)
F-10003-12	Maxim	No specific programs discussed - generic response about experience, quality, clinical services delivery, patient-centered care, quality improvement, technology, accreditation, employee engagement and corporate support, Maxim Charitable Foundation provides financial assistance to employees in personal crisis
F-10011-12	UniHealth	No specific programs discussed
F-10001-12	Vizion One	Will provide all 6 core services along with specialized clinical services (cardiac, diabetes, rehab, pain therapy, TPN, HIV/AIDs, Alzheimer's/Dementia, wound care, telehealth)
F-10007-12	Well Care	No specific programs discussed - generic response about a new provider

HealthSync Pharmacy Program

HealthSync Pharmacy Program was developed by HealthKeeperz, Inc. in 2009 based on its recognition of a growing problem among its home health patients known as Polypharmacy, the concurrent use of multiple prescription or over-the-counter medications by a single patient.

HealthSync Pharmacy Program is a coordination of care program under which patients transitioning from an acute care hospital are connected to pharmacists affiliated with HealthKeeperz, Inc. who will review and synchronize each patient's medication to be delivered on one day each month, eliminating multiple trips to a retail pharmacy. In addition to the free delivery, each patient receives:

- A HealthKeeperz PocketCard containing emergency and physician contacts, current prescription information, and known allergies. This card is compact to fit in each patient's wallet and carry with him/her in the event of an emergency.
- Healthy Choices Program allowing each patient to choose a FREE item with his/her monthly delivery. Free items, such as rubbing alcohol, band-aids, vitamins, and more are HealthKeeperz way of helping patients to stay a little healthier and saying thank you.
- HealthSync Medication Report, a summary of a patient's current medications and prescription history will be sent to each patient's doctor every three months or sooner upon request to assist him/her in his/her efforts to stay current and provide each patient with the best care possible.

HealthSync pharmacists and technicians have documented that patients who participate in the HealthSync Pharmacy Program are more compliant with their drug regimen, have greater communication with their physicians regarding medications prescribed, and are more likely to report adverse reactions and other issues encountered with drugs prescribed. In instances where a patient has experienced an adverse reaction or other issue, HealthSync pharmacists and technicians will follow up with that patient's physician. Physicians whose patients participate in the HealthSync Pharmacy Program have expressed their satisfaction with the Program, and often contact HealthSync pharmacists and technicians about patient compliance with prescriptions.

The HealthSync Pharmacy Program has been operational for three years, and focuses on the comorbid patient in order to decrease hospital re-admission. During the last several months, HealthKeeperz, Inc. tracked hospital inpatient admissions for patients participating in the HealthSync Pharmacy Program. From February through May 2012, less than 3% of all HealthSync patients have been hospitalized as reflected in the following table.

HealthSync Patients Admitted to Hospital

	February	March	April	May	Total (4 mo)
#HealthSync Patients	260	262	265	265	1,052
# Patient Hospitalized	8	10	3	8	29
Percent Hospitalized	3.08%	3.82%	1.13%	3.02%	2.76%

Source: CON Application F-10005-12, page 16

While the previous table reflects all payors, patients in the HealthSync Pharmacy Program are predominantly Medicare beneficiaries. Hospital re-admissions for the Medicare population in North Carolina exceeds 18%; nationally, it exceeds 19%⁵.

HealthKeeperz, Inc. has a physician who serves in an advisory role for its three existing agencies. That physician will serve in an advisory role for **HKZ Group**. The Management Service Agreement between **HKZ Group** and HealthKeeperz, Inc. includes compensation for the services of that physician.

Veterans Administration

North Carolina has about 766,000 veterans.⁶ The Salisbury VA Medical Center in Rowan County provides inpatient services to veterans in Mecklenburg and surrounding counties. In addition, the Charlotte Community Based Outpatient Clinic provides care to the over 50,000 veterans in Mecklenburg County⁷. HealthKeeperz, Inc. works with the Veterans Administration Medical Center in Fayetteville to meet the home health care needs of veterans in southeastern North Carolina. **HKZ Group** intends to pursue a similar arrangement with the Veterans Administration services in Mecklenburg County and the Salisbury VA Medical Center to provide home health care services to veterans who are residents of the defined service area. **HKZ Group** will provide the services that each veteran needs, based on a service plan that each veteran, his/her family, and his/her VA health care provider develop.

In FY 2011, only one Medicare-certified home health agency in Mecklenburg County reported serving Veteran Administration patients, as shown in the following table.

**Mecklenburg Medicare-certified Home Health Agencies
Veteran Administration Clients as % of Total Clients
October 1, 2010 – September 30, 2011**

Agency	Payment Source	# Clients	% of Total Clients*
Home Health Professionals	VA	67	11.0%

CON Application F-10005-12, page 18

*Mecklenburg County Medicare-certified home health agencies reported serving a total of 16,165 clients in FY 2011 (page 4 of the Source: 2012 Home Health Agency Annual Data Supplement to License Application)

As shown in the previous table, **HKZ Group's** proposed service to Veteran Administration patients does not duplicate services in Mecklenburg County.

⁵ Kaiser Health Facts <http://www.statehealthfacts.org/profileind.jsp?cat=6&sub=80&rgn=35>

⁶ <http://www.newsobserver.com/2012/06/17/2143293/2-new-veterans-homes-to-open.html>

⁷ http://www.va.gov/vetdata/Veteran_Population.asp

Services to “Other Underserved Population” Proposed by Applicants

Basic Assumption 8. of the Medicare-certified Home Health Need Methodology reads as follows:

8. The North Carolina State Health Coordinating Council encourages home health applicants to:
 - [...]
 - d. address special needs populations.

Each applicant’s response to Section VI., Question 3(g). is summarized in the following table.

Availability of Proposed Home Health to “Other Underserved Populations”

CON Application	Applicant	Availability of Existing and Proposed Home Health to “Other Underserved Population”
F-10005-12	HKZ Group	Native American population
F-10004-12	Healthy @ Home – CMC -North Zone Office	Pediatric population to include neonatal/premature babies
F-10006-12	AssistedCare	No specific population identified
F-10010-12	Continuum	No specific population identified
F-10008-12	Emerald Care – Branch Office	No specific population identified
F-10012-12	J and D Healthcare	No specific population identified
F-10003-12	Maxim	No specific population identified
F-10011-12	UniHealth	No specific population identified
F-10001-12	Vizion One	No specific population identified
F-10007-12	Well Care	No specific population identified

As shown in the previous table, **HKZ Group** is one of two applicants to identify an “underserved population” to which it will provide Medicare-certified home health services. Healthy @ Home is an existing Mecklenburg County agency providing services to a pediatric population that includes neonatal and premature babies.

HealthKeeperz, Inc. is North Carolina’s only Native American-owned multi-disciplinary post acute community health system focusing on home health agency services. With three existing locations, HealthKeeperz, Inc. is experienced in dealing with the health disparities and cultural differences of minority populations. **HKZ Group** also will be a Native American-owned home health agency, and will utilize the experience of HealthKeeperz, Inc. to address Native American and other minority populations in Mecklenburg County.

According to the 2008 US Census, North Carolina has the largest American Indian population east of the Mississippi River and the sixth largest American Indian population in the nation.

According to a report published in July 2010 by the North Carolina Commission of Indian Affairs found that American Indians in North Carolina experience substantially worse health problems than whites. For many health measures, American Indians experience problems similar to those for African Americans in this state. The July 2010 Report made the following findings:

- American Indian death rates were at least twice that of whites for diabetes, HIV disease, motor vehicle injuries, and homicide.
- American Indians were more likely than whites or African Americans to report that they had no health insurance and that they could not see a doctor due to cost.
- American Indians were significantly more likely than whites to smoke, not engage in leisure-time physical exercise, and to be overweight or obese.

The North Carolina American Indian Health Task Force was created in 2004 by the North Carolina Commission of Indian Affairs and the Secretary of the North Carolina Department of Health and Human Services. The purpose of the Task Force was to identify and study American Indian health issues in North Carolina, and to evaluate and strengthen programs and services for American Indians in the state.

HKZ Group is committed to providing home health services to American Indians and other minority populations in Mecklenburg and surrounding counties. Thus, the CON application submitted by **HKZ Group** is the most effective alternative with regard to special needs populations.

Registered Nurse, Home Health Aide, and Licensed Practical Nurse Salaries in Project Year 2

Salaries are a significant contributing factor in recruitment and retention of staff. The following three tables compare the proposed annual salary for registered nurses, home health aides, and licensed practical nurses in the second operating year.

Emerald Care projects the highest annual salary for a registered nurse, as shown in the following table.

Annual Salary for Registered Nurse – PY 2

CON Application	Applicant	Annual Salary
F-10008-12	Emerald Care – Branch Office	\$73,987
F-10003-12	Maxim	\$72,774
F-10011-12	UniHealth	\$72,420
F-10006-12	AssistedCare	\$71,070
F-10007-12	Well Care	\$70,967
F-10005-12	HKZ Group	\$70,627
F-10010-12	Continuum	\$65,938
F-10004-12	Healthy @ Home – CMC -North Zone Office	\$64,951
F-10001-12	Vizion One	\$64,067
F-10012-12	J and D Healthcare	\$43,784

As shown in the previous table, **HKZ Group** projects an annual salary for a registered nurse that is less than 5% lower than Emerald Care.

Maxim projects the highest annual salary for a home health aide, as shown in the following table.

Annual Salary for Home Health Aide – PY 2

CON Application	Applicant	Annual Salary
F-10003-12	Maxim	\$33,313
F-10011-12	UniHealth	\$32,895
F-10008-12	Emerald Care – Branch Office	\$32,493
F-10007-12	Well Care	\$32,188
F-10005-12	HKZ Group	\$30,810
F-10004-12	Healthy @ Home – CMC -North Zone Office	\$30,363
F-10006-12	AssistedCare	\$29,870
F-10010-12	Continuum	\$21,532
F-10012-12	J and D Healthcare	\$20,828
F-10001-12	Vizion One	\$20,659

HKZ Group projects the highest annual salary for a licensed practical nurse, as shown in the following table.

Annual Salary for Licensed Practice Nurse – PY 2

CON Application	Applicant	Annual Salary
F-10005-12	HKZ Group	\$48,269
F-10006-12	AssistedCare	\$45,423
F-10010-12	Continuum	\$43,627
F-10008-12	Emerald Care – Branch Office	\$40,035
F-10012-12	J and D Healthcare	\$39,574
F-10004-12	Healthy @ Home – CMC – North Zone Office	\$36,838
F-10003-12	Maxim	LPN not included in staffing plan
F-10011-12	UniHealth	LPN not included in staffing plan
F-10001-12	Vizion One	LPN not included in staffing plan
F-10007-12	Well Care	LPN not included in staffing plan

Physical Therapist, Occupational Therapist, and Speech Therapist Salaries in Project Year 2

Salaries are a significant contributing factor in recruitment and retention of staff. The following three tables compare the proposed annual salary for physical therapists, occupational therapists, and speech therapists in the second operating year.

Physical therapy drives the profitability of a Medicare-certified home health agency. **HKZ Group** projects the highest annual salary for a physical therapist among the applicants that will employ a physical therapist, as shown in the following table.

Annual Salary for Physical Therapist – PY 2

CON Application	Applicant	Annual Salary
F-10005-12	HKZ Group	\$102,700
F-10008-12	Emerald Care – Branch Office	\$94,585
F-10004-12	Healthy @ Home – CMC -North Zone Office	\$84,445
F-10010-12	Continuum	\$84,144
F-10006-12	AssistedCare	\$83,945
F-10007-12	WellCare	\$83,430
F-10003-12	Maxim	\$80,353
F-10001-12	Vizion One	\$79,310
F-10012-12	J and D Healthcare	\$43,739

Emerald Care projects the highest annual salary for an occupational therapist among the eight applicants that will employ an occupational therapist, as shown in the following table.

Annual Salary for Occupational Therapist – PY 2

CON Application	Applicant	Annual Salary
F-10008-12	Emerald Care – Branch Office	\$83,785
F-10007-12	WellCare	\$83,430
F-10001-12	Vizion One	\$80,718
F-10006-12	AssistedCare	\$79,001
F-10010-12	Continuum	\$78,663
F-10003-12	Maxim	\$73,856
F-10004-12	Healthy @ Home – CMC -North Zone Office	\$72,196
F-10012-12	J and D Healthcare	\$43,722

Emerald Care projects the highest annual salary for a speech therapist among the eight applicants that will employ a speech therapist, as shown in the following table.

Annual Salary for Speech Therapist – PY 2

CON Application	Applicant	Annual Salary
F-10008-12	Emerald Care – Branch Office	\$112,828
F-10004-12	Healthy @ Home – CMC -North Zone Office	\$86,677
F-10003-12	Maxim	\$78,014
F-10006-12	AssistedCare	\$77,765
F-10007-12	WellCare	\$77,250
F-10010-12	Continuum	\$74,551
F-10001-12	Vizion One	\$70,740
F-10012-12	J and D Healthcare	\$43,722

Financial Proforma Comparison Project Year 2

The following tables compare the 10 applications on basic financial measures. Values highlighted in yellow represent the two projects at the high end of each comparative metric and values highlighted in blue represent the two projects at the low end of each comparative metric. As reflected in the following tables, **HKZ Group** is based upon reasonable assumptions in the middle of the range for each metric. They only metrics in which **HKZ Group** is highlighted are lowest revenue per patient visit, lowest net gain, and highest total cost as a percent of revenue.

Financial Proforma
Comparative Analysis

	Project Year 2										F-10012-12 J and D
	F-10001-12 Vizion	F-10003-12 Maxim	F-10004-12 CMC - North	F-10005-12 HKZ	F-10006-12 Assisted	F-10007-12 Well Care	F-10008-12 Emerald	F-10010-12 Continuum	F-10011-12 UniHealth	F-10012-12 J and D	
Unduplicated Patients	325	503	2,993	395	352	542	492	549	92		
Total Patient Visits	8,125	9,499	47,780	8,578	6,159	11,268	8,556	11,527	1,482		
Visit per Patient	25.0	18.9	16.0	21.7	17.5	20.8	17.4	21.0	16.1		
Net Revenue	\$ 1,140,200	\$ 1,528,574	\$ 7,008,529	\$ 1,224,203	\$ 931,653	\$ 1,740,941	\$ 1,610,678	\$ 1,752,640	\$ 1,664,138		
Net Revenue per Patient	\$ 3,508.31	\$ 3,038.91	\$ 2,341.64	\$ 3,099.25	\$ 2,646.74	\$ 3,212.07	\$ 3,273.74	\$ 3,192.42	\$ 18,088.46		
Net Revenue per Visit	\$ 140.33	\$ 160.92	\$ 146.68	\$ 142.71	\$ 151.27	\$ 154.50	\$ 188.25	\$ 152.05	\$ 1,122.90		
Direct Cost	\$ 564,614	\$ 783,753	\$ 4,895,971	\$ 734,997	\$ 529,668	\$ 971,065	\$ 966,142	\$ 1,043,442	\$ 2,887,897		
Direct Cost Per Patient	\$ 1,737.27	\$ 1,558.16	\$ 1,635.81	\$ 1,860.75	\$ 1,504.74	\$ 1,791.63	\$ 1,963.70	\$ 1,900.62	\$ 31,390.18		
Direct Cost Per Visit	\$ 69.49	\$ 82.51	\$ 102.47	\$ 85.68	\$ 86.00	\$ 86.18	\$ 112.92	\$ 90.52	\$ 1,948.65		
Direct Cost % Total Cost	53%	67%	72%	61.4%	62%	65%	74%	61.0%	93%		
Administrative Cost	\$ 503,393	\$ 391,953	\$ 1,897,679	\$ 461,683	\$ 329,621	\$ 523,840	\$ 333,420	\$ 667,742	\$ 228,500		
Adm Cost Per Patient	\$ 1,548.90	\$ 779.23	\$ 634.04	\$ 1,168.82	\$ 936.42	\$ 966.49	\$ 677.68	\$ 1,216.29	\$ 2,483.70		
Adm Cost Per Visit	\$ 61.96	\$ 41.26	\$ 39.72	\$ 53.82	\$ 53.52	\$ 46.49	\$ 38.97	\$ 57.93	\$ 154.18		
Admin Cost % Total Cost	47%	33%	28%	38.6%	38.4%	35%	26%	39.0%	7%		
Total Cost	\$ 1,068,007	\$ 1,175,706	\$ 6,793,650	\$ 1,196,680	\$ 859,289	\$ 1,494,905	\$ 1,299,562	\$ 1,711,184	\$ 3,116,397		
Total Cost Per Patient	\$ 3,286.18	\$ 2,337.39	\$ 2,269.85	\$ 3,029.57	\$ 2,441.16	\$ 2,758.13	\$ 2,641.39	\$ 3,116.91	\$ 33,873.88		
Total Cost Per Visit	\$ 131.45	\$ 123.77	\$ 142.19	\$ 139.51	\$ 139.52	\$ 132.67	\$ 151.89	\$ 148.45	\$ 2,102.83		
Total Cost % Net Revenue	94%	77%	97%	97.8%	92%	86%	81%	97.6%	187%		
Gain (Loss)	\$ 72,193	\$ 352,868	\$ 214,879	\$ 27,523	\$ 72,364	\$ 246,036	\$ 311,116	\$ 41,456	\$ (1,452,259)		
Gain (Loss) Per Patient	\$ 222.13	\$ 701.53	\$ 71.79	\$ 69.68	\$ 205.58	\$ 453.94	\$ 632.35	\$ 75.51	\$ (15,785.42)		
Gain (Loss) Per Visit	\$ 8.89	\$ 37.15	\$ 4.50	\$ 3.21	\$ 11.75	\$ 21.83	\$ 36.36	\$ 3.60	\$ (979.93)		
Gain (Loss) % Revenue	6.3%	23.1%	3.1%	2.2%	7.8%	14.1%	19.3%	2.4%	-87.3%		

Notes:

Blue shaded cells indicate two lowest of the applicants for a particular metric of comparison

Yellow shaded cells indicate the two highest of the applicants for a particular metric of comparison

J and D Healthcare was not included for purposes of comparison with the other applicants because the project is not financially feasible.

Visits and unduplicated patients are not adjusted for any of the discrepancies and other issues identified in the individual Comments in Opposition submitted by HKZ Group

The New York Times

Prescriptions

The Business of Health Care

SEPTEMBER 12, 2011, 3:05 PM

Maxim Healthcare Pays \$150 Million in Fraud Case

By *DUFF WILSON*

Maxim Healthcare Services, a privately held company with 360 offices nationwide offering home health care services, has agreed to pay about \$150 million to settle civil and criminal charges over claims of false billings to Medicaid and the Department of Veterans Affairs, the Department of Justice announced Monday.

In addition, nine current and former Maxim employees, including three senior managers, have pleaded guilty since 2009 to felony charges, the government said.

Federal prosecutors have been highlighting their efforts to root out health care fraud in recent years. The government has added scores of health care investigators and prosecutors since 2009.

Fraudulent billings and false statements to health officials became “a common practice at Maxim from 2003 through 2009,” according to a statement from the United States attorney’s office in Newark, N.J.

The acts included falsification of time sheets, training records and caregiver qualifications, the government said in a criminal complaint. Most of the nine people await sentencing in the United States District Court in Trenton. Two have been sentenced to probation.

Maxim, established in 1988 and based in Columbia, Md., was charged in a criminal complaint unveiled on Monday with conspiracy to commit health care fraud. It entered a deferred prosecution agreement, promising to cooperate with continuing investigations, and a corporate integrity agreement, agreeing to further oversight.

“It is our hope that Maxim, in cleaning up its own house, will be a lighthouse influencing best practices across the industry,” J. Gilmore Childers, acting United States attorney for New Jersey, said in a statement.

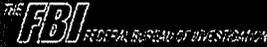
Brad Bennett, Maxim chief executive since October 2009, said in a statement: “While we regret the circumstances that led to these agreements, the resulting enhancements have clearly made Maxim a better and stronger company.”

The company said its illegal activities did not compromise patient care.

The payments include a criminal penalty of \$20 million and civil payments of about \$70 million to the federal government and \$60 million to 42 states.

A whistleblower will receive about \$15.4 million of the civil recovery under the False Claims Act, a federal law that encourages people to report fraud.

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Newark Division

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Former Maxim Healthcare Services Senior Manager Sentenced to Prison for Health Care Fraud

*Eight Others, Including Senior Managers, Previously
Sentenced for Felony Charges Arising out of Maxim's
Activities*

U.S. Attorney's Office
November 21, 2011

District of New Jersey
(973) 645-2700

TRENTON, NJ—A former senior manager and 13-year employee of Maxim Healthcare Services, Inc. ("Maxim"), was sentenced today to five months in prison and five months of home confinement with electronic monitoring for his involvement in the unlicensed operation of Maxim office that billed nearly a million dollars to government health care programs, J. Gilmore Childers, First Assistant U.S. Attorney announced.

Bryan Lee Shipman, 38, of Athens, Ga., pleaded guilty in Trenton federal court on June 17, 2010, to an information charging him with one count of health care fraud. Shipman was charged in connection with his role as a regional account manager supervising Maxim's decision to open and operate Maxim's Gainesville, Ga., office without a license from 2008 through 2009, when he and others directed billings from that office to be submitted for reimbursement by the Medicaid program as if they were from another, licensed office. Shipman entered his guilty plea before U.S. District Judge Anne E. Thompson, who also imposed the sentence today in Trenton federal court.

On Sept. 12, 2011, Maxim—one of the nation's leading providers of home healthcare services—entered into a settlement agreement to resolve criminal and civil charges relating to a nationwide scheme to defraud Medicaid programs and the Veterans Affairs program of more than \$61 million. Maxim was charged in a criminal Complaint with conspiracy to commit health care fraud, and entered into a Deferred Prosecution Agreement ("DPA") with the Department of Justice. The agreement allows Maxim to avoid a health care fraud conviction on the charges if it complies with the DPA's requirements. As required by the DPA, Maxim agreed to pay approximately \$150 million—a criminal penalty of \$20 million and approximately \$130 million in civil settlements in the matter, including to settle federal False Claims Act claims.

Shipman is one of nine individuals—eight former Maxim employees, including three senior managers, and the parent of a former Maxim patient—to have pleaded guilty to and been sentenced on felony charges arising out of the submission of fraudulent billings to government health care programs, the creation of fraudulent documentation associated with government program billings, or false statements to government health care program officials regarding Maxim's activities.

According to documents filed in this and related cases and statements made in court:

Shipman had been employed by Maxim for 13 years, the last eight as a regional account manager. As a regional account manager, Shipman reported directly to one of two nationwide vice presidents, who in turn reported to Maxim's president. He also managed 13 offices in 2008 with hundreds of employees and total annual sales of more than \$42 million, much of which derived from government programs. In his last full year of employment, Shipman earned more than \$325,000, and was among the top 25 individuals at Maxim in terms of compensation out of the more than 80,000 individuals employed by Maxim in that year.

Shipman's annual compensation—which ranked him within the top .03 percent of the Company—was based to a significant degree on meeting sales goals. Shipman said his superiors demanded levels of growth based "not on any market analysis, but simply on a belief that dramatic growth was necessary regardless of market conditions." It was in response to that pressure, Shipman said, that he authorized and supervised the unlicensed operation of the Gainesville office.

At one point, when Maxim employees believed a state regulator would be visiting the office, lower-level employees were directed by Shipman and others to provide false information to the state regulator in an effort to prevent the Medicaid program from learning about the unlicensed operation of the office.

In addition to the prison term, Judge Thompson sentenced Shipman to two years of supervised release and ordered him to pay a \$10,000 fine.

The other eight individuals who pleaded guilty were sentenced by Judge Thompson as follows:

Gregory Munzel, 35, of Charleston, S.C., was employed as a regional account manager, reporting directly to a vice president, responsible for Maxim offices throughout the southeastern United States. He pleaded guilty on Dec. 4, 2009, to one count of making false statements relating to health care fraud matters. During his plea hearing, Munzel admitted that he was aware individuals he supervised were submitting time cards for work that had not actually been done—a practice Munzel said was in response to pressure from Maxim superiors to increase revenue. Munzel also acknowledged forging caregiver credentials such as CPR cards throughout his time at Maxim, in order to make it appear that the caregivers were properly credentialed, when they were not. Munzel indicated he learned the practice from his supervisors when he first joined Maxim, and that those under him engaged in the practice when he took on a leadership role with the company. Munzel was sentenced on Sept. 29, 2011, to three months of home confinement as part of a two-year term of probation. Munzel was also ordered to pay a \$1,000 fine.

Matthew Skaggs, 39, was employed as a regional account manager, reporting directly to a vice president, responsible for Maxim's offices in Texas. He pleaded guilty on Sept. 23, 2010, to making false statements relating to health care fraud matters. During his plea hearing, Skaggs acknowledged having knowingly made false statements to a surveyor from Texas' Medicaid Program, who was investigating the operation of an unlicensed Maxim office in Houston. Skaggs was sentenced on June 10, 2011, to a three-year term of probation and ordered to pay a \$4,000 fine.

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FBI — Former Maxim Healthcare Services Senior Manager Sentenced to Prison for 1

Andrew Sabbaghzadeh, 30, of Clay, N.Y., was employed as an account manager; and Jason Bouche, 27, of Paradise Valley, Ariz., was employed as a recruiter at Maxim's Tempe, Ariz. office. They pleaded guilty to health care fraud on Nov. 4, 2009, and April 23, 2010, respectively. During their plea hearings, Sabbaghzadeh and Bouche acknowledged creating fraudulent time cards in order to bill government programs. They acknowledged that in some instances, Maxim employees cut signatures from legitimate time cards and pasted them onto forged time cards in order to submit them for reimbursement. Sabbaghzadeh was sentenced on Sept. 26, 2011, to six months of home confinement as part of a three-year term of probation. Sabbaghzadeh was also ordered to pay a \$2,000 fine. Bouche was sentenced on Nov. 17, 2011, to a two-year term of probation and ordered to pay a \$500 fine.

Donna Oansey, 49, of Medford, N.J., was employed as a director of clinical services (supervising nurse) in Maxim's Cherry Hill, N.J., office. She pleaded guilty on May 28, 2010, to making false statements relating to health care fraud matters. Oansey, a registered nurse (RN), had responsibility for, among other things, ensuring that Medicaid-required supervisory visits of patients were conducted periodically—meaning that an RN periodically visited each patient to check each patient's condition and the care the patient was receiving from Maxim Home Health Aides, who lack the skills and training of RNs. During her plea hearing, Oansey acknowledged that she fabricated documentation in order to make it appear that other nurses had conducted Medicaid-mandated supervisory visits, when in fact they had not. Oansey stated that she fabricated documentation in response to pressure from her superiors at Maxim, who expected her to make sure that all supervisory visits were completed without providing adequate resources for her to do so. Oansey was sentenced on Oct. 18, 2011, to four months of home confinement as part of a three-year term of probation. Oansey was also ordered to pay a \$2,000 fine.

Mary Shelly Janvier-Pierre, 43, of Lake Worth, Fla., and Sandy Cave, 39, of West Palm Beach, Fla., pleaded guilty to health care fraud on Feb. 1, 2010, and June 21, 2010, respectively. During their plea hearings, Janvier-Pierre, who had been employed by Maxim's West Palm Beach office as a licensed practical nurse; and Cave, the mother of a former pediatric patient of Maxim, admitted to their roles in a scheme to fraudulently bill Medicaid, through Maxim, for services that were not rendered. Janvier-Pierre and Cave acknowledged that they agreed to submit billings as if Janvier-Pierre was taking care of Cave's child, when she was not. Janvier-Pierre and Cave then split the money Janvier-Pierre received for purportedly providing the care. As a result of the scheme, Maxim was paid more than \$70,000 by Florida's Medicaid program. Janvier-Pierre was sentenced on Sept. 21, 2011, to six months of home confinement as part of a three-year term of probation. Cave was sentenced on Nov. 17, 2011, to five months of home confinement as part of a three-year term of probation. Cave was also ordered to pay a \$1,000 fine.

Marion Morton, 45, of North Charleston, S.C., was employed as a home health aide and personal care assistant by Maxim's Charleston, S.C., office. He pleaded guilty on May 3, 2010, to one count of making false statements relating to health care fraud matters. During his plea hearing, Morton acknowledged that, at the instruction of Maxim employees, he fabricated timecards reflecting work he had not done. On multiple occasions, Maxim submitted bills to Medicaid based on timecards which showed he worked more than 24 hours on certain days. Morton was sentenced on May 24, 2011, to a three-year term of probation and ordered to pay a \$5,000 fine.

First Assistant U.S. Attorney Childers credited special agents and investigators from HHS/OIG, under the direction of Special Agent in Charge Thomas O'Donnell; the FBI, under the direction of Special Agent in Charge Michael B. Ward; and VA OIG, under the direction of Special Agent in Charge Jeffrey Hughes for conducting the multi-year investigation. The government is represented by Assistant U.S. Attorney Jacob T. Elberg of the U.S. Attorney's Office Health Care and Government Fraud Unit.

Defense counsel:

Maxim: Laura Laemmle-Weidenfeld Esq.; Robert Luskin Esq., Washington
Gregory Munzel; John Lacey Esq., Roseland, N.J.
Bryan Lee Shipman; Peter Bennett Esq., Middletown, N.J.
Matthew Skaggs; David Sellinger Esq., Florham Park, N.J.
Andrew Sabbaghzadeh: James Hopkins Esq., Syracuse, N.Y.
Jason Bouche: Chester Keller Esq., Assistant Federal Public Defender, Newark
Donna Oansey: Jeffrey Carnoy Esq., Hackensack, N.J.
Mary Shelly Janvier Pierre: Michael Salniek Esq., West Palm Beach, Fla.
Sandy Cave: Chester Keller Esq., Assistant Federal Public Defender, Newark
Marion Morton: John Renner Esq., Marlton, N.J.

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