



Health Facilities Planning & Development

120 1st Avenue W, Suite 100
Seattle, Washington 98119

Phone: (206) 441- 0971

Fax: (206) 441-4823

e-mail: HealthFac@healthfacilitiesplanning.com

MEMORANDUM

To: Janis Sigman, Program Manager
Certificate of Need Program

From: Jody Carona

Date: September 30, 2013

Subj: Puget Sound Kidney Centers' preliminary dialysis
rulemaking comments

On behalf of Puget Sound Kidney Centers (PSKC), attached please find comments regarding needed changes to the current dialysis rules. This memo is being submitted in response to your September 10, 2013 request. As the process moves forward, PSKC reserves the right to modify or expand its comments.

A. 246-310-280 (Definitions)

In this section, PSKC recommends the following:

- 1) Confirming that the zip codes for Snohomish and other planning areas are up to date. And, provide a process/timeline for updating/adding new zip codes to planning areas.

B. 246-310-282(1)

PSKC is not proposing any change to this section.

C. 246-310-284-Methodology

PSKC is not proposing any change to this section, per se but believes that the section WAC 246-310-284(5) be revised to assure that providers have the ability to set up more stations, just never have more patients in chairs than are CN approved and CMS certified. A provider that is willing to provide additional services ie: bedded stations, training rooms, etc., should not be penalized and have access to care for their patients compromised. No other than those that impact Planning Areas without a facility (see section D) below.

D. WAC 246-310-286 Standards for Facilities without an existing facility.

PSKC recommends that the language in sections (3) and (5) be “cleaned up” to reflect that many of the Planning Areas on the list now have facilities.

E. 246-310-287- Exceptions.

This section needs major changes. We offer the following:

- a) For patient benefit and ease of patient access, new language that allows an existing provider to expand if it has reached and sustained a certain occupancy level (PSKC suggests 90% for at least 18 months) should be established. This expansion should occur even if other providers in the planning area that have had CN approval for more than 4 years have not attained 80% occupancy.
 - i. Regardless of whether new stations are needed or not, and regardless of the occupancy of other providers, the existing provider above 4.8 should be able to submit a determination of non-reviewability (not a CN application) to expand by no more than two stations.
 - ii. If there are more than two new stations needed in a planning area, the provider above 4.8 should be able to submit a CN requesting all of these stations.
 - iii. If there are no new stations needed, the provider should be able to submit a CN requesting sufficient stations to bring its utilization to something below 4.8.

- b) The language in this section requiring “all other CN standards to be met” must be eliminated.

F. 246-310-288- Tiebreakers

This section also needs major overhaul, and PSKC recommends the following:

- a) Clarification that tiebreakers are applied only AFTER an analysis of superior alternatives under cost containment. Here, we need to “force” DOH to do its work in cost containment and not use tie-breakers as its cost containment analysis. We need to add language to assure that in cost containment, the analysis of “best available alternative” include factors such as:
 - a. Patient care environment- facility, amenities, etc, should be considered. If a provider is not charging more, providers should be applauded for spending more on patient comfort, not penalized. In other words, currently, providers win a tie-breaker point because they lease and refurbish less expensive buildings, resulting in inferior patient care environments. The provider spending more money on the patients, without charging more, should be the recipient of a tie-breaker point.
 - b. Preferred provider in the market as measured by support from patients, payers, area hospitals and providers. Community support should be weighed heavily, not simply disregarded. Outpatient kidney dialysis centers must have an appropriate professional relationship with existing hospitals, physicians, and other ancillary services. It is a fact that we must work with other health care entities closely.
 - c. For PD training services, the rules should clarify that these services are provided but not requiring providers to ‘dedicate’ a station to PD services.
- b) Revise tiebreakers to:
 - a. Either eliminate capital cost or modify focus on capital expenditure and broaden to include rates and operating margin in order to assess which applicant will have the lowest cost to the health care system.
 - b. If capital costs remain a tie-breaker point, the net present value of the lease should be included as part of the capital expenditure (CN Programs in other states do this).

- c) Tie-breakers must be “declared” at time of application submittal. An applicant can still amend its application, but it loses the ability to gain a tie-breaker point if it does. For example, applicants should not be allowed to change its site or if it does, it loses the ability to be eligible for the geographic access point with the amended site. There should be no more manipulation with multiple LOIs, or CN applications. A provider must be required to conduct their due-diligence prior to filing and then live with their decision. Therefore, whatever location a provider chooses, that is the location that is “declared.”
- d) Clarify that home training needs to be offered by the applicant within 35 miles of the proposed facility (regardless of whether that is in or outside of the planning area). (or inside or outside of the facility).

G. 246-310-289- Relocation

PSKC is not proposing any changes to this section.