

CERTIFICATE OF NEED EVALUATION OF SUNSHINE HEALTH FACILITIES, INC. APPLICATION PROPOSING TO ESTABLISH A MEDICARE CERTIFIED AND MEDICAID ELIGIBLE HOME HEALTH AGENCY IN SPOKANE TO SERVE THE RESIDENTS OF SPOKANE COUNTY.

PROJECT DESCRIPTION

Sunshine Health Facilities, Inc. owns and operates four healthcare facilities that are located on a single campus at 10410 East 9th in the city of Spokane within Spokane County. Those facilities comprises of a nursing home, two boarding care facilities and a physical fitness and therapy center. Information available at the applicant web site states that through those four facilities, Sunshine Health Facilities, Inc. would provide a continuum of care services to the residents of Spokane. [Source: <http://www.sunshinehealthfacilities.com/>]

Listed below, are the names of the four facilities owned and operated by Sunshine Health Facilities, Inc. [Source: Application pages 1- 2 and CN historical files]

Sunshine Care and Rehabilitation.
Sunshine Physical Therapy and Fitness Center.
Sunshine Terrace.
Sunshine House.

This application proposes to establish a Medicare certified home health agency to serve the residents of Spokane County. To accomplish this, the applicant states that if approved the proposed Medicare certified Spokane Valley Home Health Care would be located on the same campus as the other four facilities owned and operated by Sunshine Healthcare Facilities, Inc. [Source: Application Page 1]

The proposed Medicare certified home health agency would provide skilled nursing services, medical social work, physical therapy, respite care and home health services. Sunshine Health Facilities, Inc. states that occupational and speech therapies would be contracted. [Source: Application, page 3]

The estimated capital expenditure associated with the establishment of the proposed Medicare certified home health agency is \$18,365, which is solely related to fixed and moveable equipments essential to the establishment of the agency. [Source: Application, Appendix 3 and Supplemental Information dated August 15, 2007] Upon the approval of Certificate of Need (CN) Spokane Valley Home Health Care would be providing services within ninety days. Under this timeline, the proposed facility first full calendar year of operation is 2009. [Source: Application, Page 3]

For ease of reference, the department will refer to Sunshine Health Facilities, Inc. the applicant as “SHFI” and the proposed Spokane Valley Home Health Care Medicare certified and Medicaid eligible home health agency as “SVHHC”.

APPLICABILITY OF CERTIFICATE OF NEED LAW

This project is subject to Certificate of Need review as the establishment of a new healthcare facility under the provisions of Revised Code of Washington (RCW) 70.38.105(4) (a) and Washington Administrative Code (WAC) 246-310-020(1) (a).

A Medicare certified home health agency is also Medicaid eligible; however, the term “Medicaid eligible” will not be repeated throughout this evaluation. Those agencies that are state licensed, but not Medicare certified, will be referred to as “licensed only”.

CRITERIA EVALUATION

In order to obtain Certificate of Need approval, SVHHC must demonstrate compliance with the criteria found in WAC 246-310-210 (need); 246-310-220 (financial feasibility); 246-310-230 (structure and process of care); 246-310-240 (cost containment), and the State Health Plan, Long Term Performance Standards, (4)(d) (the home health agency projection methodology and standards).¹

APPLICATION CHRONOLOGY

October 23, 2006	Letter of Intent Submitted.
April 26, 2007	Application Submitted
	Department Pre-Review Activities.
May 17, 2007 through August 15, 2007 ²	• 1 st Screening activities and responses.
August 23, 2007	Department Begins Review of Application.
September 28, 2007	Public Hearing /End of Public Comment.
October 29, 2007 ³	Rebuttal Comments Received.
December 13, 2007	Department's Anticipated Decision Date.
March 4, 2008	Department Actual Decision Date.

AFFECTED AND INTERESTED PERSONS

Throughout the review of this project, Family Home Care (FMC) and VNA Home Health Care Services (VNA) both home healthcare services providers in Spokane County sought and received affected person’s status under WAC 246-310-010.

¹ Each criterion contains certain sub-criteria. The following sub criteria are not discussed in this evaluation because they are not relevant to this project: WAC 246-310-210(3), (4), (5), and (6); WAC 246-310-220 (2), (3), and WAC 246-310-240(2) and (3).

² Applicant requested 45 days extension to supplemental information due date

³ Applicant requested 10 days extension to rebuttal comments due date

SOURCE INFORMATION REVIEWED

- Sunshine Health Facilities, Inc. Application received April 26, 2007.
- Sunshine Health Facilities, Inc. supplemental information dated August 15, 2007.
- The Physicians Clinic of Spokane public comments received September 24, 2007.
- St Joseph Care Center public comments received September 24, 2007.
- Holy Family Hospital public comments received September 25, 2007.
- Sacred Heart Medical Center public comments received September 24, 2007.
- Comments received at the public hearing on September 28, 2007.
- Sunshine Health Facilities, Inc. rebuttal comments received October 29, 2007.
- Providence Health Care/VNA rebuttal comments received October 29, 2007.
- Washington State Health Plan, Volume 1, Health Principals, Goals, and Strategies
- Licensing and/or survey data provided by the Department of Health's Office of Health Care Survey.
- Licensing and compliance history data provided by the Department of Health's Medical Quality Assurance Commission.
- Office of Financial Management population data.
- Federal Register/Vol.72 No. 167/Wednesday, August 29, 2007/ Rules and Regulations—Center for Medicare and Medicaid Services Prospective Payment Refinement System and Rate Update for Calendar Year 2008 Final Rule.
- Certificate of Need historical files.

CONCLUSION

For the reasons stated in this evaluation, the application submitted by Sunshine Healthcare Facilities, Inc. proposing to establish a Medicare/Medicaid eligible agency in Spokane County is not consistent with applicable criteria of the Certificate of Need Program and the application to receive a Certificate of Need is denied.

A. Need (WAC 246-310-210)

Based on the source information reviewed, the department determines that the applicant has not met the need criteria in WAC 246-310-210(1) and (2).

- (1) The population served or to be served has need for the project and other services and facilities of the type proposed are not or will not be sufficiently available or accessible to meet that need.

SHFI states that when it was approached to aid in starting a home health agency for Spokane County, SHFI evaluated need and looked carefully to determine to what degree existing providers are meeting those need. SHFI states that it’s analysis in the original application and supplemented in response information to the department, shows that enough unmet need exists and SHFI very modest proposal will not be enough to meet those needs. [Source: Supplemental Information Response received August 15, 2007, page. 9]

To determine the numeric need for home health agencies in Spokane County, the applicant applied the department’s home health need methodology derived from the Home Health Agencies Need Estimation Method (Washington State Health Plan, Volume II, page B-34).

The department uses the original Home Health Agencies methodology (HHA) a four steps mathematical calculation process found in the Long Term Care Services Performance Standards of the Washington State Health Plan (WSHP); to determine need for Medicare certified home health agencies in a designated service area. In addition to the original HHA methodology, the department also uses a modified version. This modified version attempts to account for the varying age groups cohorts use rates by using an average of 21 visits multiplied by the patient total to arrive at the total number of patient’s visits in a given year. Outlined in Tables 1 through 5, is the Home Health Agency need methodology as it applies to Spokane County.

Modified Methodology

Step 1: as shown in the table below, displays Spokane County projected population for years 2006-2010. [Source: Office of Fiscal Management – Intermediate figures]

**Table 1
Spokane County Population Projections**

Age Cohort	2006	2007	2008	2009	2010
0-64	392,697	396,921	401,144	405,368	409,592
65-79	36,223	37,020	37,817	38,614	39,411
80+	17,218	17,267	17,316	17,365	17,414
Total	446,138	451,208	456,277	461,347	466,417

Step 2: shown in Table 2 below, are the applicable use rates and the age group cohorts to which they applies. The projected population in an age group cohort is multiplied by the use rate and the resulting product indicates the total number of the planning area residents projected to need home health services. [Source: WSHP, page 35]

Table 2
Use Rate Multipliers

Age Cohort	Use Rate
0-64	0.005
65-79	0.044
80+	0.183

Using the rates shown in the table above and rounding the number to the nearest whole unit, the calculations from step 2 are summarized in Table 3 below.

Table 3
Spokane County Use Rate Projections

Age Cohort	Use Rate	2006	2007	2008	2009	2010
0-64	0.005	1,963	1,984	2,005	2,026	2,047
65-79	0.044	1,593	1,628	1,663	1,699	1,734
80+	0.183	3,150	3,159	3,168	3,177	3,186
Total		6,708	6,773	6,838	6,903	6,968

Step 3 requires the multiplication of the total number of the projected population in a year by 21 visits as shown in Table 4 below. By using 21 as an average number of visits per patient, a total number of patient's visits are projected as provided in the WSHP—HHA Methodology. This modification maintains the same age group cohorts use rate, but uses an average of 21 visits per patient. The results of the calculations are shown in Table 4 below. [Source: Department's Home Health Services Methodology based on WSHP]

Table 4
Spokane County Use Rate

Item	2006	2007	2008	2009	2010
# of Patients Total	6,706	6,771	6,836	6,902	6,967
# of Visits	21	21	21	21	21
# Total Patient Visits	140,826	142,191	143,556	144,942	146,307

Step 4 involves the division of the projected total number of visits by the 10,000 minimum required volumes per home health agency. The result of these calculations determines the projected number of home health agencies needed for the projected population in the planning area. Once this number is established, the number of existing CN approved Medicare certified home health agencies available in the planning area or serving residents from the planning area are then subtracted from the total need, resulting in a net need for the planning area. Summarized below in Table 5, is the calculation for Spokane County based on the modified WSHP—HHA Methodology.

**Table 5
Spokane County Agency Need**

Item	2006	2007	2008	2009	2010
# Total Patient Visits	140,826	142,191	143,556	144,942	146,307
<i>Quotient of 10,000</i>	<i>14</i>	<i>14</i>	<i>14</i>	<i>14</i>	<i>14</i>

Further, to determine if there is need for another home health agency in Spokane, the department reviewed the number of existing providers. Listed below in Table 6, are the names of the “licensed only” and the Medicare certified agencies providing home health services in Spokane County. The department notes that 28 of the 29 agencies listed in the table below are located within the county.

**Table 6
Spokane County Home Health Agencies**

“Licensed only” Agencies		Medicare Certified Agencies
A New Hope	Integrated Health Professionals	Family Home Care
Affordable Homecare	Interim Healthcare of Spokane, Inc.	Gentiva Health Services/Certified
Beneficial In-Home Care	Kelly Home Care Services, Inc.	Intrepid USA Healthcare Services
Comfort Keepers	Lifecare Solutions	N.E. Washington Health Programs
Evergreen Home Care	Lincare, Inc.	Option HHC Services/Certified
Family Home Care/Private Duty	Maxim Healthcare Services, Inc.	VNA Home Health Care Services
Gentiva Health Services/PP	North South Valley Caregivers	Waterford Home Health
Havenwood Caregiver Services.	Option Care	
Home Care of Washington, Inc.	Option Home Health Care-PD	
Homewatch.	S & S Health Care	
Independent Services Corp	SL Start	

As shown in the table above, of the 29 agencies serving Spokane County, 7 agencies are eligible to provide a full range of Medicare certified home health services⁴. The remaining 22 agencies are “licensed only” providers. [Source: CN historical files]

For the purpose of this evaluation, the department will base need for Spokane County on the 7 existing agencies licensed to provide a full range of Medicare certified home health services within the county, with the recognition that the 22 additional “licensed only” agencies including the applicant are able to serve the residents of Spokane County.

Using the modified WSHP—HHA Methodology results shown in Table 5, the department identified need for 14 Medicare certified home health agencies in Spokane County from year 2007 through year 2010. Once the existing number of Medicare certified home health agencies (7) is subtracted from the need, the result is a net need of at least seven additional Medicare certified home health agencies in Spokane County.

Sunshine Health Facilities, Inc. Application of the original WSHP Home Health Services Methodology

SHFI proposes to establish a Medicare certified and Medicaid eligible home health agency in Spokane County base on its projected population data of the planning area. Summarized in Table 7 below, is SHFI’s steps 3 and 4 of its application of home health need. [Source: Application page 8]

⁵ Family Home Care, Gentiva Health Services/Certified, Intrepid USA Healthcare Services, Option HHC/Certified, VNA Home Health Care Services, Waterford Home Health and N.E. Washington Health Programs.

Table 7
Steps 3A: SHFI Original WSHP

Age Cohort	Year 2006	Year 2007	Year 2008	Year 2009	Year 2010
0-64	1964	1985	2006	2027	2048
Multiplier	10	10	10	10	10
Subtotal	19,640	19,850	20,060	20,270	20,480
65-79	1594	1629	1664	1699	1734
Multiplier	14	14	14	14	14
Subtotal	22,316	22,806	23,786	23,786	24,276
80+	3151	3160	3169	3178	3187
Multiplier	21	21	21	21	21
Subtotal	66,171	66,360	66,549	66,738	66,927
Total	108,117	109,016	109,905	110,794	111,683

Table 8
Step 3B: SHFI Modified WSHP

Age Cohort	Year 2006	Year 2007	Year 2008	Year 2009	Year 2010
0-64	1964	1985	2006	2027	2048
Multiplier	21	21	21	21	21
Subtotal	41,244	41,685	42,126	42,567	43,008
65-79	1594	1629	1664	1699	1734
Multiplier	21	21	21	21	21
Subtotal	33,474	34,209	34,944	35,679	36,414
80+	3151	3160	3169	3178	3187
Multiplier	21	21	21	21	21
Subtotal	66,171	66,360	66,549	66,738	66,927
Total	140,889	142,254	143,619	144,984	146,349
<i>Comparison Projected Visits Original WSHP Vs Modified WSHP</i>					
Original	108,117	109,016	109,905	110,794	111,683
Modified	140,889	142,254	143,619	144,984	146,349

Table 9
Step 4: SHFI Total Number of Visits

	Year 2006	Year 2007	Year 2008	Year 2009	Year 2010
<i>Quotient 10, 000 minimum visit Original Method</i>	108,117	109,016	109,905	110,794	111,683
	10	10	10	11	11
<i>Quotient 10, 000 minimum visit Modified Method</i>	140,889	142,254	143,619	144,984	146,349
	14	14	14	14	14

Using the WSHP upon application of this final step, the result is a total need for 14 Medicare certified home health agencies in Spokane County from year 2006 through year 2010.⁵ Once the existing number of Medicare certified home health agencies (7) is subtracted from the identified need (14) the result is a need of an additional 7 Medicare certified home health agencies in the county. In summary, whether the department uses the original WSHP—HHA Methodology or the modified version, the results indicate that numeric need exists for Medicare certified home health services in Spokane County.

As shown in the tables above, the applicant also identified that numeric need exists for Medicare certified home health agencies in Spokane County starting from year 2006 through year 2010. When comparing the results of the tables above, it is noted that both SHFI's and the department's projections are the same.

In June 2006, the department conducted a utilization data survey of all home health agencies serving Spokane County. The department received responses from 9 “licensed only” and 5 CN approved Medicare certified home health agencies⁶. Waterford on South Hill⁷ a CN approved Medicare certified agency was unable to provide the department with utilization data because at the time, Waterford was not yet operational, however since the survey was conducted; Waterford on South Hill has since been providing services.

The department also received utilization data from NE Washington Health Programs a CN approved Medicare certified home health agency located in Stevens County and providing home health services to the residents of Spokane County. To account for the lack of utilization data from Waterford, the department elected to use the projections data provided by Waterford in its CN application. This data is inserted as part of the Spokane County Medicare certified home health agencies market share calculations summarized in Table 11.

Summarized in Table 10 below, is the unduplicated number of patients and the anticipated total visits projected by SHFI for Spokane County during its first three years of operations.

Table 10
SHFI Unduplicated Visits projections Year 1 to Year 3.

Item	Year 1	Year 2	Year 3
# unduplicated Patients	120	162	225
# Of Visits	1800	2430	3375

Based upon the projections in Table 10 above, the department calculated the market share percentages that SHFI would capture if the projections stated in the table above, were to materialize. The calculations below assumed that for the next three years, the current providers in

⁵ Numbers are rounded

⁶ Responses to the department's survey of all Spokane County home health agencies dated June 7, 2006

“Licensed only” agencies—Affordable Homes Inc, Family Home Care, Havenwood Caregiver Services, Home Care of Washington, Inc, Homewatch., Independent Services Corp, Interim Healthcare of Spokane Inc, S L Start and S & S Start. Medicare certified agencies—Family Home Care Private Duty, Gentiva Health Services, Interpid USA Health Services, VNA Home Health Caregiver Services and N.E. Washington Health Programs

⁷ CN #1311 dated June 28, 2005.

Spokane County will not experience any increase in home health visits than those reported in 2005.

**Table 11
Home Health Agencies Projected Visits and Market Share**

Name	Year 2005	Year 2006	Year 2007	Year 2008	Year 2009
VNA Home Health Care	53,903	47,500	53,903	53,903	53,903
Family Home Care	29,850	18,714	29,850	29,850	29,850
Intrepid USA HCS	2,617	2,043	2,617	2,617	2,617
Gentiva Certified HH	39,055	18,955	39,055	39,055	39,055
Waterford on South Hill ⁸	10,500	0	10,500	10,500	10,500
NE Washington Health	1,362	986	1,362	1,362	1,362
Option HHC Services ⁹	No Data	1,667	No Data	No Data	No Data
Total	137,287	89,865	137,287	137,287	137,287
SHFI	-	-	1,800	2,430	3,378
SHFI Market Share	-	-	1.3%	1.8%	2.5%

Comments received by the department in opposition to the proposed project, states that the project is not needed that SHFI applied the numeric methodology without demonstrating that existing providers in Spokane County are not available and accessible.

Below are the summaries of the concerns received by the department related to the need criteria and SHFI's responses.

VNA Home Health Care Services

The applicant has mechanically applied the state's need methodology for home health agencies for Spokane County, but has not demonstrated any actual unmet need. It has not provided any data or anecdotal information to validate its assertion that a new home health agency is needed. [Source: Rebuttal Comment, October 29, 2007, page 2]

Family Homecare

There are adequate numbers of home health agencies in Spokane County that are able to serve all home health referrals. SHFI's need methodology is based on a 20 years old out-dated document. [Source: Public Comment, September 28, 2007]

SHFI Response

SHFI states that it used the WSHP numeric methodology and the best available data developed by the program in its evaluation of Waterford on the Hill CN application in 2004 to project unmet need. Additionally, SHFI noted that the 2% case load growth factor used in its projections based on assumptions of utilization rates for past years since Waterford CN application was approved. Further, SHFI believes that the positive feedback received from home health referring providers in Spokane County is anecdotes of unmet need. [Source: Rebuttal Comment, October 29, 2007]

⁸ Waterford figures are based upon projections cited in their approved Certificate of Need application

⁹ Option HHC did not respond to the requested survey information

Department's Response

The department concludes SHFI has demonstrated that a mathematical unmet need for Medicare certified home health services exist in Spokane County as shown in Table 9. Additionally, the department's methodology as shown in Table 5, using 10,000 visits as a guideline, also demonstrates that a mathematical exists in Spokane County. However, SHFI failed to demonstrate that the 6 current Medicare certified home health providers located in Spokane County and NE Washington Health Programs a CN approved Medicare certified home health agency located in Stevens County and providing home health services to the residents of Spokane County, are not available and accessible.

The department noted in Table 11 above, that two agencies Option HHC Certified and Intrepid USA Health Care Services total patients visits as stated above, are below the 10,000 minimum number of visits required before a new agency is added in the planning area. Furthermore, the figures for Waterford on South Hill cited in Table 11 above are projections assumed by the department because actual data from this agency is not available. Waterford on South Hill CN was approved in June 2005, but this agency started providing services in July 2007.

Based on source information reviewed, the department concludes that because two of the six CN approved agencies providing services in Spokane County have patient's visits that are currently below the required minimum number of visits, the addition of a new Medicare certified home health agency in the service area is not reasonable. This sub-criterion is not met.

- (2) All residents of the service area, including low-income persons, racial and ethnic minorities, women, handicapped persons, and other underserved groups and the elderly are likely to have adequate access to the proposed health service or services.

As previously stated, SHFI currently provides healthcare services to the residents of Spokane County. To demonstrate compliance with this criterion, SHFI in supplemental information provided a revised copy of the admission and charity care policies that would be used if this project is approved.

SVHHC Admission Policy states the overall guiding principles, the criteria's and the types of patients that are appropriate candidates to use the facility and provides assurances regarding access. The document provided by SHFI stated patients will be accepted for care regardless of age, race, color, national origin, religion, sex, disability, veteran status or any other category protected by law or decisions regarding advance directives. [Source: Supplemental Information, Admission Policies Item III, August 15, 2007, page 12]

To determine whether low income residents would have access to the proposed agency, the department uses Medicaid eligibility or contracting with Medicaid as the measure to make that determination. To demonstrate compliance with this sub-criterion, a summary of SHFI's Financial Hardship Policy states that medically indigent patients will be accepted for care based on the current Federal Poverty Level and will not be billed for services if unable to pay. A review of SVHHC pro-forma financial data indicates that 2% of gross revenues will be used for charity care. [Source: Supplemental Information, Financial Information, August 15, 2007]

Public comments received by the department asserted that SHFI pro-forma financial data charity care amount is not adequate.

SHFI Response

SHFI states that its charity care policy is modeled on policies in use by other providers including hospitals in Spokane County and patients unable to pay deductibles and co-pays would not be billed or sent to collections. [Source: Rebuttal Comment, October 29, 2007]

The department Response

During the screening process, the department asked SHFI to clarify that charity care would be available to patients seeking services at the proposed facility. In supplemental information, SHFI provided a revised pro forma financial data that included a projected 2% line item of its gross revenue designated as charity care. Based on the revised pro-forma charity care projections, the department concludes that the proposed project will be available to low-income, disabled and or elderly residents of Spokane County. Furthermore, the department agrees that SHFI admission policy demonstrates access to home health services for all underserved groups and the department also notes that 2% of SVHHC gross revenue is designated to charity care.

Based on source information reviewed and on documents provided, the department concludes that if approved; all residents of the service area will have adequate access to healthcare services at the Medicare certified home health agency. This sub-criterion is met.

B. Financial Feasibility (WAC 246-310-220)

Based on the source information reviewed, the department determines that the application is consistent with the applicable financial feasibility criteria in WAC 246-310-220.

(1) The immediate and long-range capital and operating costs of the project can be met.

To comply with this sub-criterion, SHFI provided a partial year and two full year's pro-forma financial data to the department. Summarized in Table 12 below, is SHFI projected revenue, expenses, and net income per patient visit for partial year 2007 and full calendar years 2008 and 2009. [Source: Supplemental Information, Financial Information, August 15, 2007]

Table 12
SHIF Projected Revenue Years 2007 through 2009

	2007	2008	2009
# of Home Health Visits Per Year	1,800	2,430	3,375
# of Patients	120	162	225
# of Visit's Per Patient	15	15	15
Net Revenue	\$351,600	\$474,660	\$659,250
Total Expenses	\$219,980	\$252,631	\$267,702
Net Profit /(Loss)	\$131,620	\$222,029	\$391,548
Net Revenue Patient Per Visit	\$195.33	\$195.33	\$195.33
Operating Expenses Per Patient Visit	\$122.21	\$103.96	\$79.32
Net Profit Per Patient Visit	\$73.12	\$91.47	\$116.01

At the public hearing conducted in Spokane on September 28, 2007, SHFI was asked by an attendee if its aware of prospective changes to the home health payment systems by the Center for Medicare and Medicaid Services (CMS) and SHFI testified that its is not aware of any such changes by the CMS. On August 29, 2007, CMS in a Federal register published the regulations for the Prospective Payment Refinement System and Rate Update for Calendar Year 2008 Final Rule. CMS states that since the inception of the Home Health Payment Systems, nominal case-mix

growth which is the change that is not due to changes in the underlying health status of Medicare home health patient is 11.75% and to account for the 11.75% increase in the nominal case-mix growth, CMS is finalizing a proposed 2.75% reduction to the national standardized 60-day episode payment rate for the first 3 years beginning in 2008 and 2.71% percent reduction in the fourth year 2012. [Source: <http://www.cms.hhs.gov/apps/media/press/factsheet.asp>]

SHFI projected revenue from year 2007 through 2009 shown in Table 11, are based on a projected per patient episode payment of \$3,000 per patient. According to the CMS Prospective Payment announcements, SHFI projected reimbursement represents a higher amount than that which a home health provider in Spokane County would be reimbursed per patient. SHFI states in its application for CN, *“It is the intent of this project to expand the availability of both skilled and non-skilled Medicare/Medicaid eligible service to the residents of Spokane County”*. [Source: Application, Page 5] Additionally, SHFI also stated that its expected revenue percentages will consist of an average of 83% Medicare and 7% Medicaid patients and only 3% are private pay patients. [Source: Application, Page 15]

Accounting for the 2.75% reimbursement reduction by the CMS to home health providers nationally SHFI per patient visit per episode would be reduced slightly in 2008 and 2009. In summary SHFI net profit per patient visit projected in Table 11, would result in overstatements. However, based on SHFI projections the project would still project a profit.

Summarized below, are the public and rebuttal comments received by the department regarding SHFI financial feasibility.

VNA Home Health Care Services.

VNA states that there are problems with the applicant’s financial pro-forma forecast because they are unreasonably high not explained and they do not reflect known material about CMS prospective payment changes to home health providers. Further, VNA noted that SHFI per patient visit forecast do not reflect current CMS average reimbursements for Spokane County. [Source: VNA Rebuttal Comments, October 29, 2007]

SHFI Response

SHFI has demonstrated both numeric need and financial feasibility in its application and in responses to screening questions. There is more need in Spokane County than demonstrated by SHFI in its early years of operation. An unmet need of 23,000 visits exists and current providers are not meeting this need. SHFI is starting small because of its business model and this is not a reflection of minimal numbers of patients and visit availability. [Source: SHFI Rebuttal Comments, October 29, 2007]

The Department Response

The department notes that SHFI operates four healthcare facilities in Spokane County and among those facilities is a nursing home with patient’s whose reimbursements, are dependent on CMS payments that constitute a major portion of its revenue. The department finds it concerning that SHFI in its testimony at the public hearing conducted in Spokane on September 28, 2007, testified that it is not aware of a prospective payment changes by CMS to home health providers. A review of SHFI pro-forma data indicates that its expected reimbursement per patient visit per episode by CMS for 83% of its projected patients is based on inaccurate payment projections. Based on the source information reviewed, the department concludes that the proposed project’s financial

projections are slightly overstated, but the project will still project a profit. This sub-criterion is met.

- (2) The costs of the project, including any construction costs, will probably not result in an unreasonable impact on the costs and charges for health services.

On page 14, SHFI states that capital cost are negligible and will be depreciated over time so there will be minimum impact in any given year from the depreciation costs. Additional, SHFI states that most charges are reimbursed on fixed fee basis and that this would have a zero impact on the cost of service to the patient. [Source: Application, Page 14]

Based on the information provided, the department concludes that the cost of the project that does not require any construction and will not result in an unreasonable impact on the costs and charges for health services within the services area. This sub-criterion is met.

- (3) The project can be appropriately financed.

As summarized in sub-criterion 1 and 2 above, the department concludes that approval of this project will not impact SHFI. Therefore, the department concludes that the proposed financing, if approved is appropriate. This sub-criterion is met.

C. Structure and Process (Quality) of Care (WAC 246-310-230)

Based on the source information reviewed, the department determines that the applicant has met the structure and process (quality) of care criteria in WAC 246-310-230.

As part of its review, the department must conclude that the services to be provided would be provided in a manner that ensures safety and adequate care to the public. To accomplish this, the department reviewed SHFI quality of care compliance history.

In Washington State, SHFI operates four healthcare facilities which are all located in Spokane County and SVHHC is not currently licensed in Washington as home health agency and is not providing Medicaid services. For the compliance history of SHFI facilities in Washington, the department reviewed the Licensing and compliance history data provided by the Department of Health Medical Quality Assurance Commission. Sunshine Gardens one of the four facilities owned by SHFI received a number of compliance issues related to the care and management of the agency. The compliance issues were typical for a Washington State healthcare agency as well as nationally. SHFI provided plans of correction and the corrections were implemented.

[Source: compliance history provided by Medical Quality Assurance Commission]

- (1) A sufficient supply of qualified staff for the project, including both health personnel and management personnel, are available or can be recruited.

SHFI is not currently a provider of home health services in Washington, but is a healthcare provider. SHFI identified and provided to the department for review, staffing plan for SVHHC if this project is approved. Summarized in Table 13 below, is SVHHC proposed staffing for partial year 2007 and calendar years 2008 and 2009.

Table 13
SHFI Projected FTE's

	Year 2007	Contract	Year 2008	Contract	Year 2009	Contract
Medical Director	Contracted					
Admin	1	-	1	-	1	-
Manager/Office Clerical	1	-	1	-	1.5	-
RN	1	0.25	1	0.25	1.5	0.25
H/H Aides	0.5	-	0.5	-	0.5	-
PT	1	-	1	0.75	1	1
OT	-	0.25	-	0.25	-	0.5
Speech Therapist	-	0.25	-	0.25	-	0.25
Social Services	-	0.15	-	0.15	-	0.25
Total FTE's	4.5	0.9	4.5	1.65	5.5	2.25

[Source: Application, page 17]

A summary of public comments received by the department states that SHFI over relied on contract employee to staff the proposed facility.

SHI Response

SHFI states, “So long as contract staffs are held to the same standards as far as being licensed, trained and credentialed; no detrimental effect on continuity of care will occur”. [Source: SHFI Rebuttal Comments, October 29, 2007, Page 7]

The department Response

The department acknowledged that SHFI plan to use as part of its overall staffing plan contract employee’s to staff the proposed agency and agrees that so long as those contract employees are trained and credentialed accordingly, this proposal is agreeable to the department. SHFI anticipates hiring 4.5 FTEs with an additional 1.65 contracted employees during the first year of operation or in year 2008. As shown in the table above, when fully operational, the proposed Medicare certified and Medicaid eligible home health agency will have 5.5 FTEs and 2.25 contracted employees in year 2009. SHFI states that it does not anticipate difficulties in the recruitment of the FTEs to staff the home health agency. To support the addition of staff through the third year of operation, SHFI stated, “*Applicant has developed a list of applicants for various clinical positions and has included contracted services*”. [Source: Application, Page 18]

SHFI identified Suzanne Staudinger, MD as the Medical Director for the proposed SVHHC and provided a draft medical director agreement between SHFI and Dr. Staudinger. The draft Medical Director’s agreement identifies the term of the agreement, role and responsibilities of both parties. [Source: Application, Medical Director Contact Appendix I]

Based on the information reviewed the department concludes there is reasonable assurance that a sufficient supply of qualified staff is available or can be recruited to support this project. This sub-criterion is met.

- (2) The proposed service(s) will have an appropriate relationship, including organizational relationship, to ancillary and support services, and ancillary and support services will be sufficient to support any health services included in the proposed project.

SHFI stated that ancillary services will be provided by in-office employees who will perform within their own area of specialization. [Source: Application, Page 19]

SHFI currently operates four healthcare facilities in Spokane County. As an existing entity, it has already established ancillary and support services in Spokane County. The department does not anticipate that SVHHC would have any difficulty in the expansion of existing ancillary or support services put in place by SHFI. However, the department disagrees with SHFI when it states, “In general the home health industry does not work through formal referral agreements. In some jurisdictions these are considered anti-competitive and are forbidden”. [Source: Application, Page 19]

The department notes that the application asks the applicant to document relationship of ancillary support services to meet the service demands of the proposed project. If this project is approved, the department would include a term requiring SHFI to provide a copy of the executed transfer agreement with a local hospital in Spokane County.

Term

- *Prior to providing services SVHHC will provide an executed copy of the Patient Transfer Agreement for the department’s review and approval.*

Based on the evaluation of supporting documents provided and with agreement to the term above, the department concludes that there is reasonable assurance that SVHHC will have appropriate ancillary and support services with a healthcare provider in Spokane County. This sub-criterion is met provided SVHHC agrees to the term identified above.

- (3) There is reasonable assurance that the project will be in conformance with applicable state licensing requirements and, if the applicant is or plans to be certified under the Medicaid or Medicare program, with the applicable conditions of participation related to those programs.

As stated in the project description section of this evaluation, SHFI own and operates four healthcare entities in Washington State with one of the four entities providing nursing home care and services. As part of its review, the department must conclude that the services to be provided at the proposed home health agency would be provided in a manner that ensures safe and adequate care to the public.¹⁰ To accomplish this, the department reviewed SHFI quality of care compliance history from the Department of Health Medical Quality Assurance Commission. SHFI Washington compliance history revealed that SHFI is in compliance with state and federal rules and regulations. [Source: Certificate of Need Program’s compliance surveys]

Compliance history review of the proposed medical director Dr. Suzanne Staudinger revealed recorded sanctions that are currently not in enforcement status. [Source: compliance history provided by Medical Quality Assurance Commission] SHFI provided a draft medical director agreement with Dr. Staudinger. The agreement outlines the roles and responsibilities of the medical director. Given the compliance history of SHFI and that of the proposed medical director, the department concludes that there is reasonable assurance that the Medicare certified home health agency would

¹⁰ WAC 246-310-230(5)

be operated in conformance with applicable state and federal requirements and with the applicable conditions of participation for Medicare and Medicaid. This sub-criterion is met.

- (4) The proposed project will promote continuity in the provision of health care, not result in an unwarranted fragmentation of services, and have an appropriate relationship to the service area's existing health care system.

SHFI stated, "The applicant will establish relationships with referrers through letters and visits, professional association activities of owners and managements. Those relationships will be reinforced with feedback and patient progress". [Source: Application, Page 19]

In the need section of this evaluation, the department concluded that two of the current six CN approved agencies in the planning area are currently operating below the minimum patients visit standard. Therefore, the addition of a new Medicare certified home health agency in the planning area is not reasonable. The department concludes that the addition of another agency will result in an unwarranted fragmentation of services. This sub-criterion is not met.

- (5) There is reasonable assurance that the services to be provided through the proposed project will be provided in a manner that ensures safe and adequate care to the public to be served and in accord with applicable federal and state laws, rules, and regulations.

This sub-criterion is addressed in sub-section (3) above and is considered met.

D. Cost Containment (WAC 246-310-240)

Based on the source information reviewed, the department determines that the applicant has not met the cost containment criteria in WAC 246-310-240(1).

- (1) Superior alternatives, in terms of cost, efficiency, or effectiveness, are not available or practicable.

SHFI stated that it considers several options and rejected them due to the following facts:

- Cost was not a significant barrier to proceeding
- There is sufficient need for additional certified providers in Spokane
- No legal restriction on CN applications
- There are significant advantage to referring agencies and patients in the form of additional choice and no disadvantages
- There is clinical and business staff availability in the services area.

Additionally, SHFI stated that postponing action was not a valid option because the operating model of home health agency is stand alone and shared services arrangements are not feasible as home health is presently structured. [Source: Application, Page 21]

The department acknowledges SHFI considerations of alternatives to the proposed project, but disagrees that this is the best available alternative. The department determined that a mathematical need was demonstrated however, two of the current six CN approved agencies in the planning area are currently operating below the minimum patients visit standard as required. As a result, the approval of this project could jeopardize the viability of SHFI. Based on the information provided, the department concludes that this project is not the best alternative. This sub-criterion is not met.

Appendix