

**RECONSIDERATION EVALUATION OF THE CERTIFICATE OF NEED APPLICATION
SUBMITTED ON BEHALF OF FRESENIUS MEDICAL CARE PROPOSING TO ESTABLISH
A TEN-STATION DIALYSIS CENTER IN THURSTON COUNTY**

PROJECT DESCRIPTION

Fresenius Medical Care Holdings, Inc. (FMC) is the parent corporation of the following five subsidiaries:

QualiCenters Inc.	Pacific Northwest Renal Services
Inland Northwest Renal Care Group, LLC	Renal Care Group, Inc.
National Medical Care, Inc.	

Under the four of the five subsidiaries listed above, FMC operates dialysis centers in 45 states, the District of Columbia, and Puerto Rico.¹ [source: CN historical files; FMC Applications, pp1-2]

In Washington State, FMC or one of its subsidiaries owns, operates, or manages sixteen kidney dialysis facilities in thirteen separate counties. Below is a listing of the sixteen facilities in Washington.² [CN historical files]

Benton County

Columbia Basin Dialysis Center

Clark County

FMC Fort Vancouver Dialysis Facility
FMC Salmon Creek Dialysis Facility

Grant County

FMC Moses Lake Dialysis Facility

Gray Harbor County

FMC Aberdeen Dialysis Facility

Spokane County

FMC Northpointe Dialysis Facility
FMC Spokane Kidney Center
FMC Valley Dialysis Facility

Cowlitz County

QualiCenters Longview

Stevens County

Colville Dialysis Center

Lewis County

FMC Chehalis Facility

Mason County

FMC Shelton Dialysis Facility

Okanogan County

FMC Omak Dialysis Facility

Thurston County

FMC Lacey Dialysis Facility

Walla Walla County

QualiCenters Walla Walla

Adams County

Othello Dialysis Center

This project, submitted on behalf of the Renal Care Group, Inc. subsidiary, proposes to establish a ten-station dialysis facility in Thurston County. The new facility—to be known as Fresenius Hawks Prairie—would be located at 8729 Commerce Drive Northeast, Suite A, Lot 2, in the city of Lacey within Thurston County. The ten station facility would be established by relocating

¹ The National Medical Care, Inc. subsidiary does not operate any dialysis facilities.

² Three facilities—Colville Dialysis Center, QualiCenters Kelso, and Othello Dialysis Center—were recently approved by the department and are not yet operational.

five stations from FMC's existing 25-station Lacey Dialysis Facility, and adding five new stations. At project completion, Lacey Dialysis Facility—located at 719 Sleater-Kinney Road Southeast #152 in the city of Lacey, within Thurston County—would be operating 20 stations and the proposed Hawks Prairie Facility would be operating 10 stations. [source: Application, p8 and October 31, 2007; supplemental information, p1]

The capital expenditure associated with the establishment of the new 10-station dialysis center is \$860,662, of which approximately 66% is related to architect, engineering and leasehold improvements at the site; 26% is related to fixed and moveable equipment and the remaining 8% is related to application, taxes and fees. [source: Application, p26]

FMC anticipates that all 10-stations would become operational by the end of March 2009. Under this timeline, year 2010 would be the facility's first full calendar year of operation and 2012 would be year three. [source: Application, p10 and October 31, 2007; supplemental information, p2]

BACKGROUND INFORMATION ON THE PROJECT

On August 31, 2007, the Certificate of Need Program (Program) received two separate applications proposing to add dialysis station capacity to Thurston County: this application and a separate application submitted on behalf of DaVita Inc. Both applications were appropriately submitted under the 2007 Kidney Disease Treatment Centers-Concurrent Review Cycle #3 timeline outlined in WAC 246-310-282(1). As directed in that rule, the applications underwent concurrent review.

On March 31, 2008, the Program approved the DaVita, Inc. project and denied FMC's application. The FMC denial was based on its failure to meet the criteria related to financial feasibility and cost containment. On April 28, 2008, FMC submitted its "Request for Reconsideration" related to the department's denial, which included information related to the criteria denied. Within the April 28, request, FMC stated it does not request reconsideration or appeal of the DaVita, Inc. approval. On May 29, 2008, the Program granted FMC's reconsideration request, and on July 25, 2008, conducted a reconsideration public hearing. This document is the evaluation of the reconsideration information.

APPLICABILITY OF CERTIFICATE OF NEED LAW

The initial Fresenius Medical Care and DaVita, Inc. applications were subject to Certificate of Need review as the establishment of a new health care 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). Reconsideration of this FMC application does not change this applicability requirement.

CRITERIA EVALUATION

To obtain Certificate of Need approval, both DaVita, Inc. and Fresenius Medical Care must demonstrate compliance with the applicable 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). Additionally, each applicant must demonstrate compliance with applicable kidney disease treatment center criteria outlined in WAC 246-310-280 through 288.³

The Program's March 31, 2008, initial decision concluded that the DaVita, Inc. application for a six-station facility met all relevant criteria. On April 4, 2008, conditional CN #1365 was issued to DaVita, Inc. for the establishment of a six-station dialysis center in the county. The March 31, 2008, initial decision, concluded that the FMC application met the applicable criteria in WAC 246-310-210, (need); WAC 246-310-280 through 286 (applicable Kidney Disease Treatment Centers criteria); and WAC 246-310-230 (structure and process of care). However, the initial decision also concluded that the FMC application failed to meet the criteria under WAC 246-310-220 (financial feasibility); and 246-310-240 (cost containment). While this reconsideration evaluation will focus on information related to the criteria previously denied, it also recognizes DaVita, Inc.'s six-station approval.

WAC 246-310-490(2) allows the department to take individual and different action on separable portions of a proposed project. This reconsideration will focus on the 5-station relocation portion of the FMC project.

APPLICATION CHRONOLOGY

The Program accepted this application and an application submitted on behalf of DaVita, Inc. under the 2007 Kidney Disease Treatment Centers-Concurrent Review Cycle #3. A chronological summary of the initial review of both applications is shown below.

Initial Review

Action	DaVita	RCGNW
Letter of Intent Submitted	July 31, 2007	July 31, 2007
Application Submitted	August 31, 2007	August 31, 2007
Department's Pre-Review Activities including Screenings and Responses	September 4, 2007 through October 30, 2007	
Beginning of Review	November 16, 2007	
Public Hearing / End of Public Comment	November 16, 2007 through January 15, 2008	
Rebuttal Comments Received	February 14, 2008	
Department's Anticipated Decision Date	March 31, 2008	
Department's Actual Decision Date	March 31, 2008	

³ 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 246-310-287, and WAC 246-310-288.

Below is a chronological summary of this reconsideration review of this FMC application.

Reconsideration Review

April 28, 2008	Applicant's request for reconsideration
May 29, 2008	Department grants reconsideration request
July 25, 2008	Reconsideration public hearing conducted in Tumwater. Additional information submitted by Fresenius Medical Care
September 8, 2007	Department's anticipated Reconsideration Decision date
September 8, 2007	Department's actual Reconsideration Decision date

AFFECTED PERSONS

The Program accepted this application and an application submitted on behalf of DaVita, Inc. under the 2007 Kidney Disease Treatment Centers-Concurrent Review Cycle #3. Because of the concurrent review of the two applications, both applicants were considered affected persons to one another's applications. During this reconsideration review, DaVita, Inc. has maintained its affected person status.

Given that Fresenius Medical Care provided written assurance that it is not appealing the Program's issuance of CN #1365 to DaVita, Inc. for its project, this reconsideration evaluation will only focus on the Fresenius Medical Care application. It is also appropriate within this reconsideration evaluation to take into consideration DaVita's approval to establish a six-station dialysis center in Thurston County.

SOURCE INFORMATION REVIEWED-INITIAL

- DaVita, Inc. Certificate of Need application submitted August 31, 2007
- RCGNW Certificate of Need application submitted August, 2007
- DaVita, Inc. supplemental information dated October 31, 2007
- RCGNW supplemental information dated October 31, 2007
- DaVita, Inc. public comments received on January 15, 2008
- RCGNW public comments received on January 15, 2008
- DaVita, Inc. rebuttal comments received February 14, 2008
- Community letters of support received by the department on January 15, 2008
- Evergreen Nursing and Rehabilitation Center public comments dated January 15, 2008
- Providence Health and Services Washington/Montana public comments dated January 15, 2008
- Memorial Nephrology Associates public comments dated January 15, 2008
- Years 2001 through 2006 historical kidney dialysis data obtained from the Northwest Renal Network
- Year 2006 Northwest Renal Network 4th Quarter Data
- Licensing and/or survey data provided by the Department of Health's Office of Health Care Survey
- Licensing and/or survey data provided by out of state health care survey programs
- Certificate of Need historical files

- Data obtained from the Washington Secretary of State website
- Medical Quality Assurance compliance data

ADDITIONAL SOURCE INFORMATION REVIEWED--RECONSIDERATION

- Fresenius Medical Care's Request for Reconsideration with supporting documentation received April 28, 2008
- Fresenius Medical Care's rebuttal information submitted at the July 25, 2008, reconsideration public hearing

CONCLUSION

For the reasons stated in this reconsideration evaluation, the application submitted on behalf of Fresenius Medical Care proposing to establish a ten-station dialysis center in the Hawks Prairie area of Thurston County is not consistent with applicable criteria. However, the establishment of a five-station facility is consistent with the applicable criteria, provided that the five station facility is established by relocating five stations from Fresenius Medical Care's Lacey Dialysis Facility. At project completion, Lacey Dialysis Facility will be operating 20 dialysis stations and the new Hawks Prairie Facility will be operating five dialysis stations.

Fresenius Medical Care provided two draft agreements in the application. One draft agreement is the lease agreement for the site as required under Certificate of Need guidelines. To ensure that the lease agreement will be executed consistent with the agreement provided in the application, Fresenius Medical Care must agree to the following term:

Prior to commencement of the project, Fresenius Medical Care will provide a copy of the executed Lease Agreement for the site of Hawks Prairie Facility. The executed agreement must be consistent with the draft agreement provided in the application.

The second draft agreement provided by Fresenius Medical Care is the medical director agreement. To ensure that the medical director agreement will be executed consistent with the agreement provided in the application, Fresenius Medical Care must agree to the following term:

Prior to commencement of the project, Fresenius Medical Care will provide a copy of the executed Medical Director Agreement for medical director services at the Hawks Prairie Facility. The executed agreement must be consistent with the draft agreement provided in the application.

The approved capital expenditure associated with the establishment of the five station facility is \$775,726.

RECONSIDERATION EVALUATION

A. Need (WAC 246-310-210)

Based on the source information reviewed, the department determines that Fresenius Medical Care has met the applicable need criteria in WAC 246-310-210 and the kidney disease treatment standards in WAC 246-310-289.

- (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.

Initial Evaluation Summary

Within the initial evaluation, both applicants and the department calculated a need for six dialysis stations in Thurston County. Given that the FMC application failed to meet the criteria in financial feasibility (WAC 246-310-220) and cost containment (WAC 246-310-240), the DaVita application was approved to establish a six station facility in Olympia.

Reconsideration Evaluation

FMC's application proposed to establish a ten-station facility by relocating five stations from FMC's existing 25-station Lacey Dialysis Facility and adding five new stations. Since DaVita's approval must be recognized in this reconsideration evaluation, the dialysis station numeric need is now zero. WAC 246-310-490(2) allows the evaluation of FMC's five-station relocation separate from the addition of five stations. Given that the dialysis station numeric need is zero, this reconsideration evaluation will focus on the portion of FMC's project related to the five-station relocation.

WAC 246-310-284(1) states that applications for new stations may only address projected station need in the planning area in which the facility is to be located. WAC 246-310-284(2) thru (4) describe the detailed steps then used to calculate the projected station need.

A separable portion of this application is the relocation of existing stations from Lacey Dialysis Facility to a new facility in Hawks Prairie within the same planning area. If approved the FMC project will not increase the number of dialysis stations in the planning area. The five stations to be relocated are currently Medicare certified and patients are being treated in them. Therefore, the department concludes that while a new health care facility would be established, it would not result in new stations to the planning area, and the numeric need methodology is not applicable to this reconsideration.

WAC 246-310-284(5) requires all CN approved stations in the planning area be operating at 4.8 in-center patients per station before new stations can be added. This reconsideration no longer includes adding new stations to the planning area. Therefore the department concludes that this standard is not applicable to this reconsideration.

WAC 246-310-284(6)(a) indicates that by the third full year of operation, new in-center kidney dialysis stations must reasonably project to be operating at 4.8 in-center patients per

station. Since this project no longer includes adding new stations to the planning area, the department concludes that this standard is not applicable to this reconsideration.

During the initial review of this project, FMC provided two separate projections for partial year 2009 and full years 2010 through 2012. One projection is based upon a ten-station facility and the second projection is based upon a five-station facility. For the five-station facility, based on 21 patients in partial year 2009 and 25 patients in year 2010, FMC projected to be operating at 5.0 patients per station in full year one (2010). Even though this standard is not applicable to this reconsideration, FMC projects to meet this utilization standard in its first full year of operation or year 2010.

- (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.

In its March 31, 2008, initial evaluation, the department concluded that all residents of the service area including low-income, racial and ethnic minorities, handicapped and other underserved groups currently had access to services at FMC. The department further noted that FMC's proposed station addition or relocation of existing stations would not change this access. [source: FMC initial evaluation, pp11-13] There was no additional information provided during the reconsideration review that would change this conclusion by the department, therefore, this sub-criterion remains met.

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

Based on the source information reviewed, the department determines that Fresenius Medical Care's application meets the financial feasibility criteria in WAC 246-310-220.

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

Initial Evaluation Summary

In the project description portion of the initial evaluation, FMC anticipated all ten stations would become operational by the end of March 2009. Under this timeline, year 2010 would be the facility's first full calendar year of operation and 2012 would be year three. [source: Application, p10; October 31, 2007, supplemental information, p2]

Also within the initial evaluation, the department provided a summary of FMC's projected revenue and expense statement through full year three (2012) and concluded that the ten-station facility would be operating at profit from partial year 2009 through full year 2012. [source: FMC initial evaluation, p16, Table 6; October 31, 2007, supplemental information, Attachment 6]

Further, FMC provided a draft lease agreement for the proposed site between its parent company (Renal Care Group Northwest, Inc. / Inland Northwest Renal Care Group, LLC.) as the tenant and Summit Corporate Park, LLC as the landlord. The costs identified in the lease are consistent with the pro-forma financial projections used to prepare the revenue and expense summary referenced above. [source: FMC initial evaluation, p14, and October 31, 2007, supplemental information, Attachment 2]

Within its initial evaluation, the department concluded that the FMC project did not meet this sub-criterion because FMC provided a revised pro forma revenue and expense statement for the 10-station facility that was determined to be inconsistent with the scope of the changes identified by FMC. [source: FMC's October 31, 2007, supplemental information, Attachment 8]

Based on the unexplained changes in FMC's pro-forma income statements, the department was unable to conclude that it could accurately and reliably evaluate the immediate and long-range capital and operating costs of the project. As a result, the department concluded that this sub-criterion was not met.

Reconsideration Evaluation

As stated in the need section of this reconsideration evaluation, the rules allow separation of FMC's five station relocation from its addition of five new stations. During the initial review of this project, FMC provided two separate financial projections for partial year 2009 through 2012. One projection is based upon a ten-station facility, and the second projection is based upon a five-station facility. Table 1 below is a summary for FMC's Hawks Prairie Facility based on relocating five stations from the Lacey Dialysis Facility. [source: October 31, 2007, supplemental information, Attachment 7]

Table 1
FMC's Hawks Prairie Facility
Projected Revenue and Expenses Calendar Years 2009 - 2012⁴

	Partial Year 2009	Full Year 1 2010	Full Year 2 2011	Full Year 3 2012
# of Stations	5	5	5	5
# of Treatments ^[1]	2,304	3,312	3,816	4,113
# of Patients ^[2]	21	25	28	29
Utilization Rate ^[2]	4.2	5.0	5.6	5.8
Net Patient Revenue ^[1]	\$ 731,879	\$ 1,052,076	\$ 1,212,174	\$ 1,306,403
Total Operating Expense ^[1,3]	\$ 781,070	\$ 1,026,936	\$ 1,151,866	\$ 1,227,113
Net Profit or (Loss) ^[1]	(\$ 49,191)	\$ 25,140	\$ 60,308	\$ 79,290
Net Patient Revenue/Treatment ^[1]	\$ 317.66	\$ 317.66	\$ 317.66	\$ 317.66
Total Operating Exp./Treatment ^[1]	\$ 339.01	\$ 310.07	\$ 301.85	\$ 298.35
Net Profit per Treatment ^[1]	(\$ 21.35)	\$ 7.59	\$ 15.80	\$ 19.28

[1] FMC does not anticipate home dialysis patients; in-center patients only; [2] in-center patients only; [3] includes bad debt, charity care and allocated costs

At the projected volumes identified in the application, FMC anticipates the new Hawks Prairie Facility would be operating at a loss in partial year 2009 and a profit in years 2010 through 2012 as a five-station facility.

The draft lease agreement provided in the initial review of this project would not be altered if the in-center stations were reduced from ten to five. As a result, the draft lease agreement would continue to be valid and reliable for this reconsideration review.

⁴ Whole numbers may not add due to rounding.

In summary, the patient census projections provided by FMC are determined to be reasonable for a five-station facility, and the financial projections that rely on the patient census are also considered reasonable. Further, FMC provided a valid lease agreement for the site as required under Certificate of Need guidelines. To ensure that the lease agreement will be executed consistent with the agreement provided in the application, if this project is approved, FMC must agree to the following term. Provided FMC agrees to the term, this sub-criterion is met.

Prior to commencement of the project, Fresenius Medical Care will provide a copy of the executed Lease Agreement for the site of Hawks Prairie Facility. The executed agreement must be consistent with the draft agreement provided in the application.

- (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.

Initial Evaluation Summary

In the initial evaluation, the department concluded that FMC’s project failed this sub-criterion for the 10-station facility. The rationale for this denial was based on the department’s conclusion of the previously sub-criterion which stated, “...because of the unexplained changes in the pro-forma income statement, ...The costs and charges per dialysis for the proposed facility cannot be compared to recent kidney dialysis proposals submitted to the department. The department is not able to calculate the average cost per dialysis with any certainty due to in-consistent pro-forma data.” [source: FMC initial evaluation, pp18-19]

Reconsideration Evaluation

As stated in the previous sub-criterion review, FMC provided financial projections for partial year 2009 through 2012 for the five-station facility in the initial review of this project. Table 2 below is a revenue source summary for FMC’s Hawks Prairie Facility based on relocating five stations from the Lacey Dialysis Center. [source: FMC initial application, p27]

Table 2
FMC’s Hawks Prairie Facility
Sources and Percentages of Revenue

Source of Revenue	Percentage of Revenue
Medicare	73%
State (Medicaid)	5%
Insurance/HMO	22%
Total	100%

As shown above, the Medicare and State (Medicaid) entitlements are projected to equal 78% of the revenue at FMC’s Hawks Prairie Facility. The department concludes that the majority of revenue (78%) is dependent upon entitlement sources that are not cost based reimbursement and are not expected to have an unreasonable impact on charges for services. The remaining 22% will be derived through HMO or other insurance reimbursements. Further, the cost per dialysis for the proposed project was compared to those of recent kidney dialysis proposals, the average cost per dialysis is reasonable.

Based on the information provided, the department concludes that the costs of this project would not result in an unreasonable impact to the costs and charges for health care services. This sub-criterion is met.

(3) The project can be appropriately financed.

Initial Evaluation Summary

In its March 31, 2008, initial evaluation the department acknowledged that financing for the proposed facility would be derived from FMC’s cash reserves. The evaluation also concluded that FMC had the resources to finance the project. [source: FMC initial evaluation, p20]

Reconsideration Evaluation

FMC identified the capital expenditure associated with the establishment of a five-station dialysis center is \$775,726. The capital expenditure is summarized in Table 3 below. [source: October 31, 2007, supplemental information, p99, Attachment 8]

**Table 3
FMC Hawks Prairie Facility Capital Cost**

Item	Cost	% of Total
Building Construction & Tenant Improvements	\$ 570,283	74%
Fixed & Moveable Equipment	\$ 142,700	18%
Sales Tax and Fees	\$ 62,743	8%
Total Project Cost	\$775,726	100%

To demonstrate compliance with this sub-criterion, FMC provided a letter from its West Division CEO demonstrating financial and operational support for the establishment of a five-station dialysis center in Thurston County. The letter assured financial support for the project. [source: October 31, 2007, supplemental information, Attachment 5] Additionally, FMC provided its most recent historical financial statements for years 2004 through 2006. [source: FMC initial application, Appendix 2] That review shows that FMC’s financial reserves are more than adequate to fund the establishment of a five-station dialysis center in Hawks Prairie.

Based on the information provided, the department concludes the costs associated with establishment of a five-station dialysis center by relocating five stations from an existing FMC dialysis center would not adversely affect the financial stability of FMC as a whole. 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 Fresenius Medical Care’s application meets the structure and process (quality) of care criteria in WAC 246-310-230.

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

Initial Evaluation Summary

To establish a ten-station dialysis center, FMC proposed to recruit the equivalent of 7.35 FTE's during the first partial year of operation and thereafter, increase the number of new staff to 11.50 by the end of the fourth full year of operation. In its March 31, 2008, initial evaluation the department acknowledged that FMC had the resources to staff the proposed ten-station facility. [source: FMC initial evaluation, p20]

Reconsideration Evaluation

To staff the five-station facility, FMC intends to recruit 4.20 FTEs in partial year 2009. By the end of full year three (2012), FMC anticipates a total of 5.40 FTEs at the Hawks Prairie facility. A breakdown of the proposed FTEs is shown in Table 4 below. [source: October 31, 2007, supplemental information, p4]

Table 4
FMC Hawks Prairie Facility Projected FTEs

Staff/FTEs	2009 Partial Year	2010 Increase	2011 Increase	2012 Increase	Total FTEs
Medical Director	Professional Services Contract				
Nurse Manager	0.50	0.00	0.00	0.00	0.50
Outpatient RN	1.00	0.50	0.00	0.00	1.40
Patient Care Techs	2.00	0.30	0.30	0.00	2.60
Equipment Techs	0.20	0.00	0.05	0.00	0.25
MSW	0.20	0.00	0.05	0.00	0.25
Dietitian	0.15	0.00	0.00	0.00	0.15
Secretary	0.15	0.00	0.00	0.00	0.15
Total FTE's	4.20	0.80	0.40	0.00	5.40

As shown in Table 4 above, FMC expects to add FTEs in years one through three only. FMC states that several months prior to opening the Hawks Prairie facility, FMC will recruit and train staff at the Lacey facility. This process will allow patients transferring to the new facility to already be familiar with staff. Further, several employees have already expressed interest in expanding working hours. [source: FMC initial application, p29]

To demonstrate medical director services at the new Hawks Prairie facility, FMC provided a copy of a draft contract with RVS, LLC, a limited liability company comprised of four physicians—Seth Thaler, MD; Christopher Burtner, MD; Vo Nguyen, MD; and Michael Mondress. The medical director agreement outlines the roles and responsibilities of both FMC and the physicians regarding services. The primary medical director will be Seth Thaler, MD, however, any of the four physicians may provide services as necessary. The annual compensation identified in the draft agreement is substantiated in the pro forma revenue and expense statement provided in the application. [source: October 31, 2007, supplemental information, Attachments 4 and 7]

If this project is approved, the department would include a term requiring FMC to provide for review and approval an executed medical director agreement consistent with the draft

agreement provided in the application. Provided FMC would agree to the term, the department would conclude 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.
- (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.
- (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.
- (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.

In its March 31, 2008, initial evaluation, the department acknowledged that FMC's project met the four sub-criteria outlined above. [source: FMC initial evaluation, pp20-26] There was no additional information provided during the reconsideration review that would change this conclusion by the department, therefore, the four sub-criterion remain met. [source: FMC initial evaluation, pp20-26]

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

Based on the source information reviewed, the department determines that Fresenius Medical Care's application meets the cost containment criteria in WAC 246-310-240.

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

Initial Evaluation Summary

In the initial evaluation, the department concluded that FMC's project failed this sub-criterion. The rationale for this denial was based on the department's conclusion that the project failed to meet the financial feasibility criteria. As a result, the department's conclusion under this sub-criterion stated "*The department cannot conclude that the proposed Hawks Prairie project is the best available alternative. While the department determined that need was demonstrated, the project as proposed failed to meet financial feasibility. Therefore, this criterion is not met.*" [source: FMC initial evaluation, p27]

Reconsideration Evaluation

Department rules allow approval of a separable portion of a project. [WAC 246-310-490(2)] Under that rule, the department conducted its reconsideration evaluation of this project as the establishment of a new facility by relocating five-stations from Lacey Dialysis Facility to this new site in Hawks Prairie.

Documentation provided in the initial application indicates that FMC considered this alternative and provided documentation to allow the department to review its five-station

relocation as a separable project. Growth within the Thurston County service area supports a relocation of a small number of stations because it improves access to care for the Hawks Prairie residents. Based on this reconsideration review, the department concludes the relocation of five stations is the best available option for the community. This sub-criterion is met.