

EXECUTIVE SUMMARY

EVALUATION OF THE TWO CERTIFICATE OF NEEDS APPLICATIONS SUBMITTED BY CENTRAL WASHINGTON HEALTH SERVICES ASSOCIATION dba CENTRAL WASHINGTON HOSPITAL AND DAVITA, INC. PROPOSING TO ESTABLISH NEW DIALYSIS STATIONS IN DOUGLAS COUNTY.

- **CENTRAL WASHINGTON HEALTH SERVICES ASSOCIATION dba CENTRAL WASHINGTON HOSPITAL IS PROPOSING THE ESTABLISHMENT OF A NEW 22-STATION DIALYSIS CENTER IN THE OF CITY EAST WENATCHEE TO SERVE THE RESIDENTS OF DOUGLAS COUNTY.**
- **DAVITA, INC. IS PROPOSING THE ESTABLISHMENT OF A NEW 22-STATION DIALYSIS CENTER IN THE CITY OF EAST WENATCHEE TO SERVE THE RESIDENTS OF DOUGLAS COUNTY.**

BRIEF PROJECT DESCRIPTIONS

Central Washington Health Services Association dba Central Washington Hospital

Central Washington Health Services Association dba Central Washington Hospital proposes to establish a new 22-station kidney dialysis facility in Douglas County. The new facility would be located on the northwest corner of Grant Road and Georgia Avenue within the city of East Wenatchee, Washington 98802. [Source: Application Page 2] The proposed facility site is also known legally as Douglas County Assessor's Parcel #222012300110. [Source: Application, Page 63, Exhibit 6]

The capital expenditure associated with the establishment of the 22-station facility is \$1,906,343. [Source: Application, Page 34] If this project is approved, Central Washington Health Services Association dba Central Washington Hospital anticipates all 22-stations would become operational by the end of May 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 Page 11] For ease of reference, the department will refer to the applicant Central Washington Health Services Association dba Central Washington Hospital as "Central".

DaVita Inc.

DaVita, Inc. proposes to establish a new 22-station facility in Douglas County. The new facility would be known as DaVita East Wenatchee Dialysis Center and would be located on the northwest corner of 3rd and Colorado Streets within the city of East Wenatchee, WA 98802. The proposed facility site is also known as Douglas County Tax Lots #40100003506 and 40100003516. [Source: Application, Appendix 15]

The capital expenditure associated with the establishment of the 22-station facility is \$1,861,842. [Source: Application, Page 6] If this project is approved, DaVita anticipates all 22-stations would become operational by the end of May 2009. Under this timeline, year 2010 would be the facility's first full calendar year of operation and 2012 would be year three. [Source: DaVita Application, Page 10] For ease of reference, the department will refer to the applicant DaVita, Inc. as "DaVita".

APPLICABILITY OF CERTIFICATE OF NEED LAW

Both Central Washington Health Services Association dba Central Washington Hospital (Central) and DaVita, Inc. (DaVita) projects are 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).

CONCLUSIONS

DaVita Inc.

For the reasons stated in this evaluation, the application submitted on behalf of DaVita, Inc. proposing to establish a new 22-station dialysis center in the City of East Wenatchee within Douglas County to serve the residents of the planning area is consistent with applicable criteria.

If approved, the Department would include terms that DaVita provide for review and approval of the items listed below. Provided that DaVita agrees to the terms identified below, a Certificate of Need would be issued for the establishment of the 22-station DaVita East Wenatchee Dialysis Center to be located in the city of East Wenatchee within Douglas County. The approved capital expenditure associated with the establishment of the dialysis center is \$1,861,842.

Terms

1. Prior to the project commencement, DaVita, Inc. must provide to the department for review and approval an executed copy of the lease agreement to the proposed site located on the northwest corner of 3rd Street and Colorado within the city of East Wenatchee, Washington 98802. The proposed facility site is also known as Douglas County Tax Lots 40100003506 and 40100003516.
2. Prior to providing services DaVita, Inc. must provide to the department for review and approval an executed copy of the Medical Director's agreement. The executed medical director agreement(s) shall be consistent with the draft agreement(s) provided within the application.
3. Prior to providing services at the DaVita East Wenatchee Dialysis Center, DaVita, Inc. will provide an executed copy of the Patient Transfer Agreement for the department's review and approval.

Central Washington Health Services Association dba Central Washington Hospital

For the reasons stated in this evaluation, the application submitted on behalf of Central Washington Health Services Association dba Central Washington Hospital proposing to establish a new 22-station facility in East Wenatchee within Douglas County met all the applicable criteria in WAC 246-310-210 through 240 resulting in the department using tie-breaker criteria in WAC 243-310-288. Using the tie-breaker's criteria, the department determined that Central's application is not the best available alternative and a Certificate of Need is denied.

EVALUATION OF THE TWO CERTIFICATE OF NEEDS APPLICATIONS SUBMITTED BY CENTRAL WASHINGTON HEALTH SERVICES ASSOCIATION dba CENTRAL WASHINGTON HOSPITAL AND DAVITA, INC. PROPOSING TO ESTABLISH NEW DIALYSIS STATIONS IN DOUGLAS COUNTY.

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PROJECT DESCRIPTIONS

Central

Central Washington Hospital is owned by the Central Washington Health Services Association, a not for profit corporation located in Wenatchee. The origin of Central Washington Hospital dates to the early 1900's with the establishment of Central Washington Deaconess Hospital and St. Anthony's Hospital. The two organizations merged in 1974 to form Central Washington Health Services Association. The St. Anthony's facility was renamed Rosewood Hospital in 1978 and the facilities combined their operations at the remodeled and expanded Rosewood Hospital site under the name Central Washington Hospital. [Source: <http://www.cwhs.com/aboutus/history.asp>]

In Washington State, Central owns or operates a hospital, various provider clinics and a kidney dialysis facility in Chelan County. [Source: Application, Page 4] Central's project proposes to establish a new 22-station facility in East Wenatchee. The new facility would be located on the northwest west corner of Grant Road and Georgia Avenue within the city of East Wenatchee, Washington 98802. [Source: Application Page 2] The proposed facility site is also known legally as Douglas County Assessor's Parcel #222012300110. [Source: Application, Page 63 and Exhibit 6]

The capital expenditure associated with the establishment of the 22-station facility is \$1,906,343, of which approximately 68.03 % is related to capital improvements at the site; 27.18 % is related to both fixed and moveable equipment; and the remaining 4.80 % is related to architectural, engineering, application, consulting, and legal fees. [Source: Application, Page 34] If this project is approved, Central anticipates all 22-stations would become operational by the end of May 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, Page 11]

DaVita

DaVita is a for-profit corporation that provides dialysis services in over 1,300 outpatient centers located in 42 states and the District of Columbia. DaVita also provides acute inpatient dialysis services in over 850 hospitals throughout the country. [Source: Application, Page 4]

In Washington State, DaVita owns or operates a total of twenty three kidney dialysis facilities in eleven separate counties Benton, Clark, Franklin, Pacific, Pierce, King, Kittitas, Klickitat, Snohomish, Thurston and Yakima. Listed on the next page, are the twenty three DaVita facilities in Washington. [Source: CN historical files; & Application, Page 1]

Benton

Richland Dialysis Center (new facility)¹*
 Kennewick Dialysis Center (new facility)*

Clark

Vancouver Dialysis Center

Franklin

Mid-Columbia Kidney Center

Pacific

Seaview Dialysis Center

Pierce

Lakewood Community Dialysis Center
 Puyallup Community Dialysis Center
 Tacoma Dialysis Center
 Parkland Dialysis Center (new facility)*
 Graham Dialysis Center

King

Bellevue Dialysis Center
 Federal Way Community Dialysis Center
 Kent Community Dialysis Center
 Olympic View Dialysis Center (management only)
 Westwood Dialysis Center

Kittitas

Ellensburg Dialysis Center
 DaVita Mill Creek Dialysis Center

Klickitat

DaVita Goldendale Dialysis Center*

Snohomish

Everett Dialysis Center (new facility)*

Thurston

Olympia Dialysis Center

Yakima

Mt. Adams Kidney Center
 Union Gap Dialysis Center
 Yakima Dialysis Center

DaVita, Inc. proposes to establish a new 22-station facility in Douglas County to be known as DaVita East Wenatchee Dialysis Center and would be located on the northwest corner of 3rd and Colorado Streets within the city of East Wenatchee, WA 98802. The proposed facility site is also legally known as Douglas County Tax Lots 40100003506 and 40100003516. [Source: Application, Appendix 15]

The capital expenditure associated with the establishment of the 22-station facility is \$1,861,842, of which approximately 58.01 % is related to leasehold improvements at the site; 35.78 % is related to both fixed and moveable equipment; and the remaining 6.22 % is related to architectural, engineering, application, consulting, and legal fees. [Source: Application, Page 6] If this project is approved, DaVita anticipates all 22-stations would become operational by the end of May 2009. Under this timeline, year 2010 would be the facility's first full calendar year of operation and 2012 would be year three. [Source: DaVita Application, Page10]

APPLICABILITY OF CERTIFICATE OF NEED LAW

Both Central Washington Health Services Association dba Central Washington Hospital (Central) and DaVita, Inc. (DaVita) projects are 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).

CRITERIA EVALUATION

To obtain Certificate of Need approval, each applicant 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

¹ *Recently approved facilities not yet operational

must demonstrate compliance with applicable kidney disease treatment center criteria outlined in WAC 246-310-280 through 288²

APPLICATION CHRONOLOGY

As directed under WAC 246-310-282(1) the department accepted both applications under the Kidney Disease Treatment Centers-Concurrent Review Cycle #4. A chronological summary of the review is shown below.

Action	Central	DaVita
Letter of Intent Submitted	October 31, 2007	October 26, 2007
Application Submitted	November 30, 2007	November 30, 2007
Department's Pre-Review Activities including Screenings and Responses	December 4, 2007 through February 29, 2008	
Beginning of Review	March 17, 2008	
End of Public Comment	May 16, 2008	
Rebuttal Comments Received	June 16, 2008	
Department's Anticipated Decision Date	July 31, 2008	
Department's Actual Decision Date	July 31, 2008	

CONCURRENT REVIEW AND AFFECTED PERSONS

The concurrent review process promotes the expressed public policy goal of RCW 70.38 that the development or expansion of health care facilities is accomplished in a planned, orderly fashion and without unnecessary duplication. For this projects, concurrent review allows the department to review dialysis applications proposing to serve the same planning area or an adjacent planning area where there is no existing facility as defined in WAC 246-310-280(9) and WAC 246-310-284 (a) to simultaneously reach a decision that serves the best interests of the planning area's residents.

In the case of the applications submitted by Central and DaVita, the department will issue one single evaluation regarding whether both, any or none of the applicants should be issued a Certificate of Need. For each application, the other competing applicant sought and received affected person status under WAC 246-310-010. No other entity sought or received affected person status relating to the two projects.

SOURCE INFORMATION REVIEWED

- Central Certificate of Need application submitted November 30, 2007
- DaVita Certificate of Need application submitted November 30, 2007
- Central supplemental information dated February 29, 2008
- DaVita supplemental information dated February 29, 2008
- Central public comments received on May 16, 2008

² 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); and WAC 246-310-287.

- DaVita public comments received on May 14, 2008
- Public comments received from Wenatchee Valley Medical Center dated May 13, 2008
- Central rebuttal comments received June 16, 2008
- DaVita rebuttal comments received June 13, 2008
- Comments received from Wenatchee Valley Medical Center dated June 16, 2008
- Years 2001 through 2006 historical kidney dialysis data obtained from the Northwest Renal Network
- Year 2007 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
- Medical Quality Assurance compliance data

CONCLUSIONS

DaVita Inc.

For the reasons stated in this evaluation, the application submitted on behalf of DaVita, Inc. proposing to establish a new 22-station dialysis center in the City of East Wenatchee within Douglas County to serve the residents of the planning area is consistent with applicable criteria.

If approved, the Department would include terms that DaVita provide for review and approval of the items listed below. Provided that DaVita agrees to the terms identified below, a Certificate of Need would be issued for the establishment of the 22-station DaVita East Wenatchee Dialysis Center to be located in the city of East Wenatchee within Douglas County. The approved capital expenditure associated with the establishment of the dialysis center is \$1,861,842.

Terms

1. Prior to the project commencement, DaVita, Inc. must provide to the department for review and approval an executed copy of the lease agreement to the proposed site located on the northwest corner of 3rd and Colorado Streets within the city of East Wenatchee, Washington 98802. The proposed facility site is also known as Douglas County Tax Lots 40100003506 and 40100003516.
2. Prior to providing services DaVita, Inc. must provide to the department for review and approval an executed copy of the Medical Director's agreement. The executed medical director agreement(s) shall be consistent with the draft agreement(s) provided within the application.
3. Prior to providing services at the DaVita East Wenatchee Dialysis Center, DaVita, Inc. will provide an executed copy of the Patient Transfer Agreement for the department's review and approval.

Central Washington Health Services Association dba Central Washington Hospital

For the reasons stated in this evaluation, the application submitted on behalf of Central Washington Health Services Association dba Central Washington Hospital proposing to establish a new 22-station facility in East Wenatchee within Douglas County met all the applicable criteria in WAC 246-310-210 through 240 resulting in the department using tie-breaker criteria in WAC 243-310-288. Using the tie-breaker's criteria, the department determined that Central's application is not the best available alternative and a Certificate of Need is denied.

A. Need (WAC 246-310-210)

Based on the source information reviewed, the department determines that both applicants have met the need criteria in WAC 246-310-210(1) and (2) and the kidney disease treatment facility methodology and standards in WAC 246-310-280.

(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.

WAC 246-310-284 contains the methodology for projecting numeric need for dialysis stations within a planning area. This methodology, adopted January 1, 2007, projects the need for kidney dialysis treatment stations through a regression analysis of the historical number of dialysis patients residing in the planning area using verified utilization information obtained from the Northwest Renal Network.³

The first step in the methodology calls for the determination of the type of regression analysis to be used to project resident in-center station need [WAC 246-310-284(4) (a)]. This is derived by calculating the annual growth rate in the planning area using the year-end number of resident in-center patients for each of the previous six consecutive years, concluding with the base year. In planning areas experiencing high rates of growth in the dialysis population (6% or greater growth in each of the last five annual change periods), the method uses exponential regression to project future need. In planning areas experiencing less than 6% growth in any of the last five annual change periods, linear regression is used to project need.

Once the type of regression is determined as described above, the next step in the methodology is to determine the projected number of resident in-center stations needed in the planning area based on the planning area's previous five consecutive years NRN data, again concluding with the base year. [WAC 246-310-284(4) (b) and (c)]

WAC 246-310-284(5) identifies that for all planning areas except Adams, Columbia, Douglas, Ferry, Garfield, Jefferson, Kittitas, Klickitat, Lincoln, Okanogan, Pacific, Pend Oreille, San Juan, Skamania, Stevens, and Wahkiakum counties, the number of projected patients is divided by 4.8 to determine the number of stations needed in the planning area. For the specific counties listed above, the number of projected patients is divided by 3.2 to determine needed stations. Additionally, the number of stations projected as needed in the target year is rounded up to the nearest whole number.

Finally, once station need has been calculated for the project years, the number of CN approved in-center stations are then subtracted from the total need, resulting in a net need for the planning area. [WAC 246-310-284(4) (d)]

Central

Central proposes to establish a 22-station kidney dialysis facility in the City of East Wenatchee to serve patients in Douglas County. Consistent with WAC 246-310-280 (9), Central applied the numeric methodology for the planning area using non-linear regression. Given that the facility would be located in Douglas County, the number of projected patients was divided by 3.2 to determine the number of stations needed in the planning area. [Source: Application Page 21]

³ Northwest Renal Network was established in 1978 and is a private, not-for-profit corporation independent of any dialysis company, dialysis unit, or transplant center. It is funded by Centers for Medicare and Medicaid Services, Department of Health and Human Services. Northwest Renal Network collects and analyzes data on patients enrolled in the Medicare ESRD programs, serves as an information resource, and monitors the quality of care given to dialysis and transplant patients in the Pacific Northwest. [source: Northwest Renal Network website]

DaVita’s Application of the Numeric Methodology

DaVita proposes to establish a 22-station kidney dialysis facility in the City of East Wenatchee to serve patients in Douglas County. Consistent with WAC 246-310-280 (9), DaVita applied the numeric methodology for the planning area using non-linear regression. Given that the facility would be located in Douglas County, the number of projected patients was divided by 3.2 to determine the number of stations needed in the planning area. [Source: Application Pages 17 and 18]

The Department Application of the Numeric Methodology

Based on the calculation of the annual growth rate of the planning area the department also used non-linear regression to project need. For Douglas County, the number of projected patients is divided by 3.2 to determine the number of stations needed in the planning area. Table 1 below, is a summary of the department’s application of the numeric methodology for Douglas County. [Source: Appendix A attached to this evaluation]

Based on the numeric methodology, Table 1 below depicts a summary of the projected net need provided by each of the applicant’s and the department’s projected net need for Douglas County. The department’s numeric methodology for Douglas County is attached to this evaluation as Appendix A.

Table 1
Summary of Douglas County Numeric Methodology

	3.2 in-center patients per station			
	2010 Projected # of stations	Minus Current # of stations	2010 Net Need	2010 Net Need (Rounded)
Central	21.58	0	21.58	22
DaVita	21.58	0	21.58	22
DOH	21.57	0	21.57	22

When comparing the applicant’s and department projection results shown in Table 1 above, it is noted that the results of both Central and DaVita’ projections matched the department’s projections.

WAC 246-310-284(5) requires that all CN approved stations in the planning area must be operating at 3.2 in-center patients per station before new stations can be added. Currently there is no dialysis facility in operating in Douglas County. Therefore, this sub-criterion is met.

WAC 246-310-284(6) requires new in-center dialysis stations be operating at a required number of in-center patients per approved station by the end of the third full year of operation. For Douglas County, the requirement is 3.2 in-center patients per approved station. Both Central and DaVita propose new dialysis stations to be established within Douglas County, as a result; both applicants must demonstrate compliance with this criterion using the 3.2 in-center patient per station. Further, both Central and DaVita third full year of operation is year 2012. A summary of both Central and DaVita’s projected utilization for year 2012 is shown in Table 2.

Table 2
Year 2011 Projected Facility Utilization

Facility Name	Year 3	#of Stations	# of Pts	Pts/Station
Central	2012	22	72	3.27
DaVita East Wenatchee Dialysis Center	2012	22	83	3.77

As shown in Table 2, both Central and DaVita’s projections meet this standard. [Source: Central—Application, Exhibit 10, and DaVita— Supplemental information, Attachment 2]

During the review of both applications, the department received comments from Central regarding DaVita’s need projections. Summarized below are the comments provided by Central.

Central’s concerns regarding DaVita need projections

- Consistent with the methodology contained in WAC 246-310-284, both Central and DaVita utilized a non-linear (exponential) regression to project need for 22 stations in 2010. In its application, DaVita states, “The department of Health has defined a Douglas County planning area that is currently not served by any dialysis provider”. This statement is simply not accurate. While there is no provider physically located within Douglas County, the Douglas County patients have been, and will continue to be served by the existing program at Central.
- As outlined in our application, the new dialysis projection methodology fails to explicitly recognize the capacity that we recently (2002) designed, built and currently operate for the benefit of Douglas County residents because it is located six miles away from East Wenatchee in adjacent Chelan County.
- We believe that our application will result in managing the excess capacity that will result in Chelan County and address what WAC 246-310-284 suggests is the “need” for Douglas County by preserving and protecting the high quality, cost efficient end-stage renal disease regional services and expertise that Central provides to the benefit of all North Central Washington dialysis patients and providers. DaVita has put forth an application to address a mathematically calculated “need” for additional dialysis stations in Douglas County, but its tactics addressing that need are likely to disrupt and damage the current delivery system.
- We believe that DaVita’s proposal will only serve to fragment and duplicate resources contrary to the basic purpose of the entire certificate of need process. [Source: Public comments received May 16, 2008]

In response to the issues raised by Central summarized below, are the rebuttal comments provided by DaVita to the department.

DaVita response

- Central strenuously opposes our application characterizing the projected need in Douglas County as reflecting only “mathematically need” and not actual patients who need dialysis treatment in that area. Even if our 22-station application is approved, the program projects that station count and station need will nearly balance by 2011, fewer than three years from now. The remarkable growth is overwhelming in Douglas County.
- Central fails to offer any empirical demonstration of excess capacity is not surprising because the evidence forcefully repudiates Central’s main contention. Using the most current data available, rapidly increasing station needs will soon match the increased number of stations in each Chelan County and Douglas County in 2012.

- Central has an obvious economic interest in maintaining high levels of volume at its Wenatchee facility. That economic interest however should not trump the clear benefit of placing new stations in Douglas County to serve the dialysis needs of the rapidly growing dialysis patient's population currently residing and projected to reside there. Central's argument that no facility or only a bare-bones satellite facility is needed in Douglas County, does not survive scrutiny. [Source: Rebuttal comments received June 13, 2008]

The Department response

Many of the comments submitted by Central regarding DaVita need projections would be appropriate had this application been submitted under the ESRD rules prior to January 1, 2007. However, with the adoption of the new rules Chelan and Douglas counties are no longer considered a single planning Area. The same is true of the Tri-City area of Benton and Franklin counties. WAC 246-310-285 requires that existing providers in the planning area be at that planning area's respective station utilization. WAC 246-310-285 excludes the utilization of existing stations in neighboring planning areas. Therefore, the department agrees that DaVita's proposal to establish a new 22-station dialysis facility in East Wenatchee to serve the residents of Douglas County is reasonable. Based on the information contained in Table 1, the department's conclusions regarding both projects are as follows.

Central

Central proposes to establish a 22-station dialysis center in East Wenatchee to serve the residents of Douglas County. Based on the above standard and criteria, Central's project is consistent with applicable criteria of the Certificate of Need Program. This sub-criterion is met.

DaVita

DaVita proposes to establish a 22-station dialysis center in East Wenatchee to serve the residents of Douglas County. Based on the above standard and criteria, DaVita's project is consistent with applicable criteria of the Certificate of Need Program. This sub-criterion is 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, both applicants currently provide dialysis services to residents of specific service areas within Washington State, including low-income, racial and ethnic minorities, handicapped and other underserved groups. To determine whether all residents of the service areas would continue to have access to an applicant's proposed services, the department requires applicants to provide a copy of its current or proposed admission policy. The admission policy provides the overall guiding principles of the facility as to the types of patients that are appropriate candidates to use the facility and any assurances regarding access to treatment.

To determine whether low income residents would have access to the proposed services, the department uses the facility's Medicaid eligibility or contracting with Medicaid as the measure to make that determination. To determine whether the elderly would have access or continue to have access to the proposed services, the department uses Medicare certification as the measure to make that determination.

A facility's charity care policy should confirm that all residents of the service area including low-income, racial and ethnic minorities, handicapped and other underserved groups have, or would have, access to healthcare services of the applicant. The policy should also include the process one must use to access charity care at the facility.

To determine whether all residents of the service areas will have access to an applicant's proposed services, the department requires applicants to provide a copy of its proposed admission policy. The admission Policy provides the overall guiding principles of the facility as to the types of patients that are appropriate candidates to use the facility and any assurances regarding access to treatment.

Central

To demonstrate compliance with this sub-criterion, Central provided a copy of its current Patient Admission and Charity Care policies that would be used at the proposed dialysis facility in Douglas County. The Patient Admission Policy outlines the process and criteria that the new facility would use to admit patients for treatment and ensures that patients receive appropriate care at the dialysis facility. The Patient Admission Policy states that any patient with end stage renal disease needing dialysis are accepted for treatment at the facility without regard to race, color, national origin, sex, age, religion, or disability. [Source: Application, Exhibits 9]

A review of the Admission and Charity Care policies for the proposed dialysis facility in Douglas County shows that the proposed facility's financial resources include both Medicare and Medicaid revenues. [Source: Application, Exhibit 10]]

Additionally, Central demonstrated its intent to provide charity care to the residents of the planning area by providing a copy of its Charity Care Policy that is currently being used at its Chelan County dialysis facility and patients using healthcare services at Central Washington Hospital and affiliated providers. The Charity Care Policy outlines the process a patient would use to access service. Further, Central's pro-forma income statement included charity care as line item and as deduction from revenue within its pro-forma income statement. [Source: Application, Exhibit 10]

Based on the above information, the department concludes that all residents of Douglas County would have reasonable access to healthcare services at the proposed dialysis center. This sub-criterion is met.

DaVita

To demonstrate compliance with this sub-criterion, DaVita provided a copy of its current admission and indigent care policies that would also be used at the proposed DaVita East Wenatchee Dialysis Center. The Admission policy outlines the process and criteria the new facility would use to admit patients for treatment and ensures that patients receive appropriate care at the dialysis center. The Admission Policy also states that any patient with end stage renal disease needing chronic hemodialysis will be accepted for treatment at the dialysis center without regard to race, color, national origin, sex, age, religion, or disability. [Source: Application, Appendix 14]

A review of the Admission and Charity Care policies for the proposed DaVita East Wenatchee Dialysis Center shows that the proposed facility financial resources include both Medicare and Medicaid revenues. [Source: Application, Appendix 14]

Additionally, DaVita demonstrated its intent to provide charity care to the residents of Douglas County by submitting its Charity Care Policy that outlines the process a patient would use to access service. Further, DaVita's pro-forma financial statement included a charity care line item as a deduction from revenue within the pro-forma. [Source: Application, Appendix 9]

Based on the above information, the department concludes that all residents of the service area would have reasonable access to health services at the proposed DaVita East Wenatchee Dialysis Center. This sub-criterion is met.

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

Based on the source information reviewed, the department determines that:

- Central’s project has met the financial feasibility criteria in WAC 246-310-220; and
- DaVita’s project has met 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.

Central.

As stated in the project description portion of this evaluation, if this project is approved, Central anticipates all 22-station would become operational by the end of May 2009. Under this timeline, year 2010 would be the proposed dialysis center first full calendar year of operation and 2012 would be year three. [Source: Application, Page11] Summarized in Table 3, is Central’s year one through year three projected financial revenue, expenses, and net income for the proposed dialysis center as a 22-station dialysis facility. [Source: Application, Exhibit 10]

**Table 3
Central’s Dialysis Center
Projected Revenue and Expenses Years (1 through 3)**

	Partial Year 2009	Full Year 2010	Full Year 2011	Full Year 2012
# of Stations	22	22	22	22
# of Treatments [1]	3,744	8,112	9,828	11,232
# of Patients [2]	36	52	63	72
Utilization Rate [2]	1.64	2.36	2.86	3.27
Net Patient Revenue[1]	\$1,199,010	\$2,613,798	\$3,183,573	\$3,684,284
Total Operating Expenses [1, 3]	\$1,019,702	\$2,057,251	\$2,428,932	\$2,765,715
Net Profit or (Loss)[1]	\$179,308	\$556,547	\$754,641	\$918,569
Operating Revenue / Treatment [1]	\$300.58	\$295.61	\$291.46	\$282.17
Operating Exp./ Treatment [1]	\$255.63	\$232.67	\$222.37	\$211.82
Net Profit per Treatment [1]	\$44.95	\$62.94	\$69.09	\$70.35

[1] Includes both in-center and home dialysis patients; [2] in-center patients only; [3] includes bad debt, charity care and allocated costs.

As shown in Table 3, at the projected volumes identified above, the proposed kidney dialysis facility by Central Washington Hospital would be operating the 22-stations dialysis center at a profit in partial year 2009 through the third full year of operations or year 2012. Central states that the proposed project capital costs were based upon its recent health care construction projects in Chelan/Douglas market. To show that Central has control of the proposed site known as Douglas County Assessor’s Parcel #222012300110, Central provided an executed statutory warranty deed. A review of the document provided shows that Central Washington Health Services dba Central Washington Hospital owns the property identified as Douglas County Assessor’s Parcel #222012300110. [Source: Application, Exhibit 7]

During the review of this application, DaVita provided comments to the department regarding Central’s proposed project. Summarized below, are the comments provided by DaVita.

Central's general and administrative overhead allocation cost is low

- At least one element of Central's financial pro-forma is suspect. Central presents a general and administrative overhead allocation for its project that is only approximately 6% of overall expenses. This low percentage allocation and the description Central uses "contribution margin" indicate that Central may not have included allocations for all indirect costs. [Source: DaVita Public comment, received May 14, 2008, page 3]

Below is Central's response to the concern raised by DaVita regarding overhead allocated costs.

Central's response to overhead allocation cost

- Central's allocated cost is based on a reasonable allocation of indirect costs, which is approximately 6% of overall expenses as stated by DaVita. Based on supplemental information provided by DaVita, its 8.5% overhead allocation percentages is reasonably comparable to Central. [Source: Central rebuttal comment, received June 16, 2008, page 4]

The Department response

The department agrees with Central's assertions that its overhead allocated costs are similar to that of DaVita. However, the department notes that DaVita is a for-profit entity and Central is non-profit and both operate different allocating cost methods. Therefore, the department would expect that since both projects rely on different accounting methods of overhead allocation, both entities allocation percentages would be different. A review of Central's financial pro-forma's by the department shows that the project is profitable. Based on the information presented the department concludes that the proposed project by Central Washington Hospital is financially feasible. This sub-criterion is met.

DaVita

If this project is approved, DaVita anticipates all 22-stations would become operational by the end of May 1, 2009. Under this timeline, year 2010 would be the facility first full calendar year of operation and 2012 would be year three. [Source: DaVita Application, Page10] Summarized in Table 4 below, is DaVita's year one through year four projected financial revenue, expenses, and net income for the proposed dialysis center as a 22-station dialysis facility. [Source: Supplemental information, February 29, 2008, Attachment 2]

**Table 4
DaVita East Wenatchee Dialysis Center
Projected Revenue and Expenses Years (partial year and 1 through 4)**

	Partial Year 2009	Full Year 2010	Full Year 2011	Full Year 2012	Full Year 2013
# of Stations	22	22	22	22	22
# of Treatments [1]	3,827	7,724	11,741	12,971	13,873
# of Patients [2]	25	50	74	83	88
Utilization Rate [2]	1.14	2.27	3.36	3.77	4.00
Net Patient Revenue[1]	\$1,643,021	\$3,355,921	\$5,043,842	\$5,772,170	\$6,247,488
Total Operating Expenses [1, 3]	\$1,580,702	\$2,334,460	\$3,205,187	\$3,666,058	\$4,026,444
Net Profit or (Loss)[1]	\$62,319	\$1,021,461	\$1,838,655	\$2,106,112	\$2,221,044
Operating Revenue /Treatment [1]	\$429.32	\$434.48	\$429.59	\$445.01	\$450.33
Operating Exp./ Treatment [1]	\$413.04	\$302.23	\$272.99	\$282.63	\$290.24
Net Profit per Treatment [1]	\$16.28	\$132.25	\$156.60	\$162.38	\$160.09

[1] Includes both in-center and home dialysis patients; [2] in-center patients only; [3] includes interest, charity care.

As shown in Table 4, at the projected volumes identified, the proposed kidney dialysis facility by DaVita would be operating the 22-station dialysis center at a profit in partial years 2009 through the fourth full years of operations or year 2013. DaVita states that the proposed facility will be operated at utilization levels consistent with other facilities. To show that it has site control, DaVita provided a draft lease agreement between EDG-DV East Wenatchee, LLC (lessor) and Total Renal Care, Inc. (lessee) [Source: Application, Appendix 15] A review of the draft lease agreement between EDG-DV East Wenatchee, LLC (lessor) and Total Renal Care, Inc. (lessor) shows that rent costs identified in the draft lease are consistent with the pro-forma financial projections used to prepare the information in Table 4.

The department received comments from Central regarding DaVita's financial feasibility. Summarized below are the comments.

Concerns regarding DaVita's financial feasibility

- The proposed DaVita facility is expected to collect revenue that is 60% higher than Central by year 2012. In addition, overall profitability by DaVita is expected to be 2.3 times higher than Central. The financial data provided by DaVita appears to overstate anticipated revenue from commercial payors.
- DaVita contends that 35% of its revenue from the proposed facility would be commercial insurance. Using year end data for 2006, commercial insurance represented 6% of Central's total patient mix for in-center treatments and that accounts for only 16% of Central's revenue for in-center patients.
- DaVita's pro-forma operating statement does not take into account contractual allowances from commercial payors and its reimbursement per treatment is overstated. DaVita's pro-forma operating statement also contains errors in its revenue assumptions and that make it impossible for the program to determine DaVita's financial projections. If one assumes that contractual allowances have been taken into account in the projections, then the application grossly overstates the reimbursement per treatment. [Source: Central's Public comments received May 16, 2008]

Below are the responses provided to the department by DaVita regarding the concerns raised by Central.

DaVita's response to the financial feasibility concerns by Central

- Central concedes that DaVita satisfied the financial feasibility standards of showing profitability in the third year of operation and states that DaVita will collect more revenue than Central and will be more profitable.
- Payments to Medicare and Medicaid are similar among all dialysis providers in Washington State and are unaffected by capital and operating costs at Washington dialysis centers. For commercial payers DaVita apparently succeeds in negotiating higher reimbursement rates than some dialysis providers. DaVita has no special advantage, but simply negotiates such rates in the competitive market. As a publicly held company, DaVita's company wide revenues and expenses are fully disclosed according to stringent accounting standards.
- According to its comments, Central has negotiated rates substantially below market levels. It erroneously claims these lower reimbursement rates somehow benefits Central's patients and

the community. In fact, Central’s approach to dialysis services actually has imposed substantial additional costs on its patients because its patients are forced to commute longer distances. When Central negotiates lower than market commercial rates, in effect it confers a large subsidy on the big, statewide insurance companies that dominate the commercial market.

- DaVita’s more generous negotiated rates cause no detriment to dialysis patients. Nearly every commercial insurance plan provides catastrophic care benefits that places maximum annual limits on patients and end stage renal disease patients have health care costs that far exceed their annual limit whether they are on dialysis or not. We believe that patients who actually incur significant un-reimbursed out of pocket dialysis treatment costs are rare and possibly non-existent. Any such patients would be eligible for DaVita charity care. [Source: DaVita’s Rebuttal comments received June 13, 2008]

The Department response

The department reviewed the comments submitted by Central and the responses provided by DaVita and concluded that Central’s comments regarding its projections are based on its experience as a hospital based dialysis facility while DaVita projections are based on its experience as a for-profit dialysis provider. Further, the department also recognizes that the majority of reimbursements for dialysis services are through Medicare end stage renal disease entitlements that is administer by that agency payment systems and standards. The department also notes that the majority of both Central and DaVita projected Medicare and Medicaid revenue sources are not cost based reimbursements. The department reviewed DaVita’s pro-forma and that review did not show inconsistency therefore, the department does not agree with all of the concerns raised by Central. If approved, the department would include a term that DaVita provide for review and approval an executed lease agreement contract which includes the relevant terms and compensation as identified in the draft agreement.

Term

Prior to the project commencement, DaVita, Inc. must provide to the department for review and approval an executed copy of the lease agreement to the proposed site located on the northwest corner of 3rd and Colorado Streets within the city of East Wenatchee, Washington 98802. The proposed facility site is also known as Douglas County Tax Lots 40100003506 and 40100003516.

Based on the above information, the department concludes that the proposed project is financially feasible. 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.

Central

Central identified the capital expenditure associated with the establishment of the 22-stations dialysis facility to be \$1,906,343. [Source: Application, Page 34] Summarized in the table below is Central’s capital expenditure.

**Table 5
Central’s Capital Cost**

Item	Cost	% of Total
Leasehold Improvements	\$1,296,800	68.03%
Fixed and Moveable Equipment’s	\$518,086	27.18%
Architect, Engineering and CN Fee’s	\$91,457	4.80%
Total Project Cost	\$1,906,343	100%

The department recognizes that the majority of reimbursements for dialysis services are through Medicare ESRD entitlements. To further demonstrate compliance with this sub-criterion, Central also provided the sources of its patient revenue shown in Table 6 below. [Source: Application, Page 36]

**Table 6
Central's Source of Revenue**

Source of Revenue	Revenue %	Patient %
Medicare	77%	86%
State (Medicaid)	5%	5%
Other	18%	9%
Total	100%	100%

As shown above, the Medicare and State (Medicaid) entitlements are projected to equal 82% of Central's revenue and 91% patients per payor source. The department concludes that the majority of ESRD revenue 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 department concludes that costs associated with this project will not have unreasonable impact on the remaining 18% revenue from other sources and 9% of patients per payor source. Therefore, the department concludes that the cost of the project will not result in an un-reasonable impact on the costs and charges for healthcare services within the service area. This sub-criterion is met.

DaVita

The costs and charges per dialysis for the proposed DaVita East Wenatchee Dialysis Center can be compared to recent kidney dialysis proposals submitted to the department. The estimated capital expenditure associated with the establishment of the 22-station dialysis facility is \$1,861,842. [Source: Application pages 1 and 6] Summarized in Table 7 below, is the capital expenditure.

**Table 7
DaVita East Wenatchee Dialysis Center Capital Cost**

Item	Cost	% of Total
Leasehold Improvements	\$1,080,000	58.01%
Fixed & Moveable Equipment	\$666,082	35.78%
Architect/Engineering and CN fees	\$115,760	6.22%
Total Project Cost	\$1,861,842	100%

The department recognizes that the majority of reimbursements for dialysis services are thorough Medicare ESRD entitlement. To further, demonstrate compliance with this sub-criterion, DaVita provided the sources of its patient revenue shown in the table 8. [Source: Application, Page 8]

**Table 8
DaVita East Wenatchee Dialysis Center Revenue and Payor Source**

Source of Revenue	% of Revenue	% of Patients per Payor
Medicare	58%	78%
Medicaid /State	7%	9%
Insurance / HMO	35%	13%
Total	100%	100%

As shown in Table 8 above, Medicare and state (Medicaid) entitlements as stated by DaVita are projected to equal 65% of revenue and 87% patients per payor source. The projected Medicare and Medicaid revenue sources are not cost based reimbursement. The department concludes that costs associated with this project will not have an unreasonable impact on the remaining 35% of revenue and 13% of patients per payor source.

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

(3) The project can be appropriately financed.

Central

The source of financing for the establishment of the proposed 22-station is Central cash reserves. The department received documentation from Central's board stating that the necessary funds needed to finance the 22-station facility would be provided by the board. [Source: February 29, 2008, Supplemental Information, Attachment 1] Therefore, the department concludes that Central's application proposing to establish a new 22-station facility in Douglas County to serve the residents of the planning area can be appropriately financed. This sub-criterion is met.

DaVita

The source of financing for the proposed DaVita East Wenatchee Dialysis Center is the facility parent company cash reserves. A review of DaVita's historical financial statements for years 2004 through 2006, demonstrates that the funds necessary to finance the project are available. [Source: Application, Exhibit 10]

DaVita's financial reserves as documented by Exhibit 10 are more than adequate to fund the new 22-station dialysis facility. Based on the information provided, the department concludes that DaVita has demonstrated that the establishment of a new dialysis center in Douglas County will not adversely affect DaVita's financial stability. Further, the department concludes that DaVita's application proposing to establish a new facility in East Wenatchee to serve the residents of Douglas County can be appropriately financed. 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:

- Central's project has met the structure and process (quality) of care criteria in WAC 246-310-230; and
- DaVita, Inc.'s proposed project has met 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.

Central

To implement this project Central proposes to hire the equivalent of 8.05 new FTE's during the first partial year of operation and thereafter, increase the number of FTE's to 14.55 by the end of the third full year of operation. The proposed FTE breakdown is shown in Table 9. [Source: Supplemental Information received February 27, 2008, Page 2]

**Table 9
Central's Proposed FTE's 2009 – 2012**

Category	Partial 2009	Year 1 2010 Increase	Year 2 2011 Increase	Year 3 2012 Increase	Total FTE's
Director	0.35	0.05	0.10	0.00	0.50
Clinical Manager	0.35	0.05	0.10	0.00	0.50
Outpatient RN	2.00	0.70	0.35	0.30	3.35
Patient Care Tech	4.00	1.20	1.20	1.15	7.55
BioMed Tech	0.25	0.05	0.05	0.05	0.40
Home Training	0.10	0.00	0.00	0.10	0.20
Social Worker	0.20	0.10	0.10	0.05	0.45
Dietician	0.30	0.10	0.05	0.05	0.05
Secretary	0.50	0.20	0.30	0.10	0.80
Total FTE's	8.05	2.45	2.45	1.80	14.55

As shown in Table 9 above, Central expects a steady increase in FTE's to new facility through year 2012. Central states *“In an effort to ensure the skills and expertise of our staff is maintained, we will relocate and/or share staff between the new units. For the new Douglas unit, the total incremental staffing required for our dialysis program defined as our combined Chelan and Douglas units will be significantly less. For example, there will be no increase in the nurse manager, clinical manager, social worker or dietitian positions and at least initially, only very small incremental increases in patient care staff”*. [Source: Application, Page 37]

Central identified Wenatchee Valley Medical Center, PS known as (“the Clinic”) as the medical consultant for the proposed Douglas County ESRD facility and provided a draft medical director's agreement between Central Washington Health Services Association dba Central Washington Hospital known as (the “Hospital”) and the Clinic. The draft medical director agreement provided outlined the roles and responsibilities of both the Hospital and the Clinic. [Source: Application, Exhibit 2] Therefore, the department expects that adequate staffing and a physician would be available for recruitment by Central and concludes that if the project is approved, a term would be included stating that Central provide for review and approval an executed medical director contract which includes the relevant terms and compensation as identified in the draft agreement prior to the facility providing services.

Term

Prior to providing services Central Washington Health Services Association dba Central Washington Hospital must provide to the department for review and approval an executed copy of the Medical Director's agreement. The executed agreements shall be consistent with the draft agreement provided within the application.

Base on the information provided by Central, the department concludes that staffing is expected to be available for recruitment. This sub-criterion is met.

DaVita

To implement this project DaVita proposes to hire the equivalent of 3.7 new staff during the first partial year of operation and thereafter, increase the number of new staff to 17.50 by the end of the fourth full year of operation. The proposed project staff increase is summarized in Table 10.

Table 10
DaVita East Wenatchee Dialysis Center Proposed FTE's 2008 – 2013

Category	Partial Year 2009	Year 1. 2010 Increase	Year 2. 2011 Increase	Year 3. 2012 Increase	Year 4. 2013 Increase	Total FTE's
Medical Director	<i>professional services contract</i>					
Administrator	0.3	0.70	0.00	0.00	0.00	1.00
Registered Nurses	0.7	0.50	0.60	0.10	0.60	2.50
Patient care Tech	1.5	3.00	2.00	2.00	0.50	9.00
Biomedical Tech	0.50	0.20	0.00	0.00	0.00	0.20
Re-Use Technicians	0.50	0.00	0.00	0.00	0.00	0.50
Admin-Assistance	0.00	0.50	0.50	0.50	0.00	1.50
Social Worker	0.20	0.20	0.30	0.10	0.20	1.00
Dietician	0.20	0.20	0.30	0.10	0.20	1.00
LVN	0.00	0.00	0.00	0.00	0.00	0.00
Number of FTE'S	3.70	5.30	4.20	2.80	1.50	17.50

As shown in Table 10 above, after the initial recruitment of FTE's, DaVita expects a steady increase in FTE's for the proposed DaVita East Wenatchee Dialysis Center through year 2013. DaVita states it expects no difficulty in recruiting staff for the new facility because several employees have expressed interest in working at the proposed facility. The applicant also states that it has an extensive employee traveling program guaranteeing that all the appropriate staff would be available to staff its facilities. Further, DaVita asserted that it advertises and post employment opportunity announcements internally and nationally. [Source: Application, Page 24]

DaVita identified Andy Prasad, MD ("Physician") as the medical director for the proposed DaVita East Wenatchee Dialysis Center and provided a draft medical director's agreement between Total Renal Care referred to as the ("Company"). The draft medical director agreement outlines the roles and responsibilities of the Physician and the Company. Additionally, the draft agreement also identifies the annual compensation for the medical director. [Source: Application Exhibit 3 and Supplemental Information received February 29, 2008, Attachment 2]

Summarized below are the comments provided by Central regarding the proposed DaVita East Wenatchee facility staffing pattern.

Comments regarding DaVita's proposed staffing pattern and medical director

- DaVita's application asserts that it anticipates "no difficulty in recruiting the necessary personnel to staff the proposed unit". Its ability to recruit experience nursing staff must be questioned because DaVita is proposing to pay below market wages. In addition, DaVita's staffing pattern confirms that fewer registered nurses would be hired.
- DaVita's proposed medical director services arrangement raises serious questions about its ability to provide medical director services. A letter from Wenatchee Valley Medical Center indicates that Dr. Prasad cannot be DaVita medical director. [Source: Public comments received May 16, 2008]

Summarized below are the rebuttal comments provided by DaVita in response to the comments provided by Central.

DaVita's responses to proposed staffing pattern concerns by Central

- Central asserts nursing shortage in Chelan and Douglas counties forgetting that DaVita recruits nurses internally from within its large organization and externally on a national basis. Central maybe restricted by local recruiting conditions, but we are not. Central also claims that DaVita nursing salaries lag behind the average nursing salary. This appears to be misleading because Central is comparing its specialized nurses earning larger salaries to dialysis nurses earning less salary. DaVita's registered nurses and its facility administrator's salaries are comparable to Central's specialized nurse's salaries.
- DaVita submitted its draft medical director's agreement with Dr. Prasad after direct contact with him and obtaining assurances of his ability to perform medical director services for a new DaVita facility. We were not aware that Wenatchee Valley Medical Center (WVMC) would need to approve Dr. Prasad's agreement.
- After reviewing the letter WVMC provided to the department expressing concerns about some language in our medical director agreement, we contacted WVMC chief executive officer and initiated discussions with them and we expect the discussions will lead to a modification of the non-competition aspects of the agreement that addresses WVMC concerns. WVMC chief executive office has sent a letter to the program asserting that negotiations are ongoing. In the event we are unable to negotiate a final medical director agreement with WVMC, we have obtained a draft medical director agreement with Dr. Fadi Najjar who has agreed to serve as the proposed facility medical director. [Source: Rebuttal comments received June 13, 2008, Page 10 and 11]

The Department response

The department's review of staffing patterns provided by DaVita indicates that the proposed DaVita East Wenatchee facility would be staffed adequately. The department received correspondence from WVMC stating, "*Based on WVMC's review of the proposed medical director agreement (MDA) with Dr. Prasad, WVMC felt it needed to advice DOH that neither Dr. Prasad nor WVMC can sign the MDA attached to DaVita's CON application and serve as the medical director for the Douglas County Dialysis Center. Dr. Andy Prasad is an employee of WVMC and as such, is prohibited from signing an employment agreement with any other healthcare facility or provider*". [Source: WVMC Public comments received May 16, 2008, Attachment 1] On June 16, 2008, WVMC contacted the department by correspondence.

The correspondence received from WVMC by the department states, "*DaVita's representative contacted me directly about a potential Medical Director arrangement to cover their proposed East Wenatchee facility. The representative has indicated willingness to revise the proposed agreement in order to address the concerns I expressed in my previous letter to you. WVMC has made no commitment to the DaVita representative about providing medical director services, but I want to advice you that discussions are underway. If our concerns are satisfied, the medical center would be prepared to enter into a Medical Director Agreement with DaVita*". [Source: WVMC comments received June 16, 2008]

The department noted that DaVita stated in supplemental information provided that it has initiated discussions with WVMC regarding Dr. Andy Prasad providing medical director services at the proposed facility. Additionally, the department also noted that DaVita provided during rebuttal a new draft medical director agreement with another physician (Dr. Fadi Najjar). The new draft medical director agreement provided by DaVita states, "*In the event we are unable to negotiate a final medical director agreement with WVMC, we have obtained a draft medical director*

agreement from Dr. Fadi Najjar. He has agreed to serve as medical director for the facility if needed". [Source: Rebuttal comments received June 13, 2006, page 11]

The department notes that for ESRD facilities, Medicare certification is predicated on the fact that a credentialed medical director is on staff. If approvable, for the proposed DaVita East Wenatchee facility to be Medicare certified, DaVita would be required to obtain the services of a credentialed physician to serve as medical director and the department notes that DaVita is negotiating with WVMC and provided as back-up in case negotiations are not favorable, a medical director agreement with Dr. Fadi Najjar. Since both DaVita and WVMC states, that they are in negotiation and the department has not received any other notification indicating otherwise, the department expects that as a condition for Medical participation, the proposed project would have medical director coverage.

The department reviewed both Dr. Andy Prasad and Dr. Fadi Najjar compliance history and that review did not reveal any recorded sanctions. The department notes that both Dr. Andy Prasad's and Dr. Fadi Najjar's medical director's agreement's outlines the roles and responsibilities of the parties involved. Therefore, the department expects that adequate staffing and a physician would be available for recruitment by DaVita and concludes that if approved, a term would be included stating that DaVita provide for review and approval an executed medical director contract which includes the relevant terms and compensation as identified in the draft agreement prior to the facility providing services.

Term

Prior to providing services DaVita, Inc. must provide to the department for review and approval an executed copy of the Medical Director's agreement. The executed medical director agreement(s) shall be consistent with the draft agreement(s) provided within the application.

Base on information provided by DaVita, the department concludes that staffing is expected to be available for recruitment by the applicant when the dialysis center commences services in May 2009. This sub-criterion is met provided that DaVita agrees to the term identified above.

- (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.*

Central

Central states as with existing unit, Central will provide regular social services and dietary support for all patients. Additionally, the applicant states that other typical ancillary and support services utilized by a dialysis program including pharmacy, laboratory and radiology are available through the hospital. As such, Central does not anticipate any difficulties in meeting the clinical service demands of patients that will be cared for in the proposed facility. [Source: Application, Page 38]

The department concludes that Central currently has appropriate relationships with ancillary and support services already in place and concludes that approval of this project is not expected to negatively affect existing relationships. This sub-criterion is met.

DaVita

Information provided by DaVita states that ancillary and support services such as social services, nutrition services, pharmacy, patient and staff education, financial counseling, human resources, material management, administration, and technical services would be provided on site upon the

commencement of services at the proposed facility. The applicant states that services would be coordinated through DaVita's corporate office in El Segundo, California and support offices in Washington. [Source: Application, Page 25] To further demonstrate compliance with this sub-criterion, DaVita provided draft transfer agreement. [Application, Appendix 12]

If this project is approved, the department would include a term requiring DaVita to provide a copy of the executed transfer agreement with a local healthcare provider.

Term

Prior to providing services at the DaVita East Wenatchee Dialysis Center, DaVita, Inc. will provide an executed copy of the Patient Transfer Agreement for the department's review and approval.

Based on this information and with agreement to the term above, the department concludes that DaVita currently has appropriate relationships with ancillary and support services. This sub-criterion would be met.

- (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.*

Central

Central Washington Health Services Association dba Central Washington Hospital is a provider of health services in Washington. The origins of Central Washington Hospital date to the early 1900's with the establishment of Central Washington Deaconess Hospital and St. Anthony's Hospital. The two organizations merged in 1974 to form Central Washington Health Services Association. The St. Anthony's facility was renamed Rosewood Hospital in 1978 and the facilities combined their operations at the remodeled and expanded Rosewood Hospital site under the name Central Washington Hospital. [Source: <http://www.cwhs.com/aboutus/history.asp>]

In Washington State, Central owns or operates a hospital, various provider clinics and a kidney dialysis center in Chelan County. [Source: Application, Page 4] As part of its review, the department must conclude that the proposed services by Central would be provided in a manner that ensures safe and adequate care to the public⁴. To accomplish this task, the department reviewed Central's quality of care compliance history for all healthcare facilities it own or operates.

Within the most recent two years (February 2006), the Department of Health Office of Health Care Survey (OHCS) completed compliance survey for the Central Washington Hospital ESRD facility. The compliance survey did not reveal any non-compliance issue related to the care and management of that facility. [Office of Health Care Survey]

Central states that it will contract with Wenatchee Valley Medical Center, PS to provide medical director services and provided a draft medical director agreement. Central states that currently for its dialysis facility attached to the hospital in Chelan County, Dr. Joseph Anzalone and Dr. Andy Prasad are co-medical directors. The draft medical agreement provided by Central did not disclose whether Dr. Anzalone and Dr. Prasad would be the medical directors of the proposed facility in Douglas County. A compliance history review of both Dr. Anzalone and Dr. Prasad credentials with the Department of Health Medical Quality Assurance Commission reveals no recorded sanctions. [Source: Licensing and compliance history data provided by DOH-Medical Quality Assurance Commission]

⁴ WAC 246-310-230(5)

Based on Central's compliance history and the compliance history of Dr. Joseph Anzalone and Dr. Fadi Prasad, the department concludes that there is reasonable assurance that the proposed dialysis facility would be operated in conformance with state and federal regulations. This sub-criterion is met

DaVita

As stated earlier, DaVita, Inc. is a provider of dialysis services in over 1,300 outpatient centers located in 42 states (including Washington State) and the District of Columbia. [Source: DaVita Webpage] Prior to the October 1, 2005, acquisition of the dialysis operations of Gambro Healthcare US, DaVita operated 665 centers in 37 states and the District of Columbia. Currently within Washington State, DaVita owns and operates kidney dialysis treatment centers.

As part of its review, the department must conclude that the proposed services would be provided in a manner that ensures safe and adequate care to the public⁵. To accomplish this task, in January 2007 the department requested quality of care compliance history from the state licensing and/or surveying entities responsible for the 42 states and the District of Columbia where DaVita, Inc. or any subsidiaries of the parent company has health care facilities. Of the 43 entities, the department received responses from 28 states or 66% of the 42 states.⁶ The compliance history of the remaining 13 states and the District of Columbia is unknown.⁷

Ten of the 28 states responding to the survey indicated that significant non-compliance deficiencies had been cited at DaVita facilities in the past three years. Of those states, with the exception of one facility in Delaware, one in New York and one in Texas, none of the deficiencies were reported to have resulted in fines or enforcement action. All other facilities were reported as currently in compliance with applicable regulations. The Delaware facility had been scheduled for decertification in 2006 due to several condition-level citations, but was operating in compliance at the time of survey. The New York facility was cited with condition-level deficiencies. This facility was voluntarily de-certified and closed by DaVita. In Texas, DaVita's Houston Dialysis was fined \$16,500 for non-compliance issues in 2005. No further fines were identified for this facility.

The department reviewed the concerns provided by Central regarding DaVita's compliance history and states that considering the 1,300 facilities owned/managed by DaVita, few out-of-state facilities listed above demonstrated substantial non-compliance issues, with only three reported as subject to fines or actually decertified. Therefore, the department concludes DaVita's out-of-state compliance surveys are acceptable.

For Washington State, since January 2000, the Department of Health's Office of Health Care Survey (OHCS) has completed more than 32 compliance surveys for the operational facilities that DaVita either owns or manages.⁸ Of the compliance surveys completed, all revealed minor non-compliance issues related to the care and management at the DaVita facilities. These non-

⁵ WAC 246-310-230(5).

⁶ Alabama, Arizona, Connecticut, Delaware, Florida, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Maryland, Michigan, Minnesota, Mississippi, Missouri, Nevada, New Hampshire, New York, Oregon, Pennsylvania, South Dakota, Tennessee, Texas, Utah, Virginia, Washington, West Virginia, and Wisconsin.

⁷ Arkansas, California, Colorado, Georgia, Louisiana, Massachusetts, Nebraska, New Mexico, North Carolina, Ohio, Oklahoma, and South Carolina.

⁸ DaVita's Ellensburg Dialysis Center and Tacoma Dialysis Center are not yet operational. Olympic View Dialysis Center is owned by Group Health and managed by DaVita.

compliance issues were typical of a dialysis facility and DaVita submitted and implemented acceptable plans of correction. [Source: facility survey data provided by the Office of Health Care Survey]

Compliance history review of the proposed medical director Dr. Fadi Najjar or Dr. Andy Prasad did not reveal any recorded sanctions. DaVita provided a draft medical director agreement with Dr. Andy Prasad and a backup agreement with Dr. Najjar. Both agreements outline the roles and responsibilities of the medical director. Given the compliance history of DaVita and that of the Dr. Andy Prasad and Dr. Fadi Najjar, the department concludes that there is reasonable assurance that the proposed DaVita East Wenatchee Dialysis Center would be operated in conformance with state and federal regulation. 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.*

Central

In response to this criterion, Central states, it already has a long and proven history in coordinating with area providers to ensure timely care for dialysis patients. Additionally, Central stated, *“Because of our regional role, we also work closely with existing dialysis providers in Omak and Moses Lake. Dialysis patients from these outlying units receiving outpatient’s procedures in Wenatchee ambulatory care facilities often require dialysis post interventions such as dialysis access revisions. These patients are often same day referrals to our facility and we make every effort to accommodate them”*. [Source: Application, Page 39]

Given Central’s history of providing health care to residents in Washington State, the department concludes that Central has demonstrated it has been participating in relationships with community facilities to provide a variety of medical services. Nothing in the materials reviewed by staff suggests that approval of this project would change the relationships Central has in the community. [Source: CN historical files]

Additionally, the department must consider the results of the kidney disease treatment center numeric methodology and standards outlined in WAC 246-310-284. Application of the numeric methodology by the department shows a need for 22 new dialysis stations in Douglas County. Within its application, Central proposes to establish 22-station dialysis center in Douglas County. Therefore, the department concludes that the approval of Central’s application for 22-stations in East Wenatchee to serve the residents of Douglas County would not cause fragmentation of dialysis services. Based on this information, the department concludes that approval of this project would promote continuity in the provision of healthcare for the planning areas and would not result in an unwarranted fragmentation of services. This sub-criterion is met.

DaVita

In response to this criterion, DaVita provided a summary of its quality and continuity of care indicators used in its quality improvement program. The quality of care program incorporates all areas of the dialysis program, and monitors and evaluates all activities related to clinical outcomes, operations management, and process flow. Further, continuing education for both employees and patients are integral factors in the quality of care program. DaVita also provided examples of its quality index data and its physician, community, and patient services education offered through its quality of care program. [Source: Application, Page 25, Appendices 17]

The department also considered DaVita's history of providing care to residents in Washington State. The department reviewed the concerns provided by Central regarding DaVita's quality of care compliance history and concludes that DaVita has been providing dialysis services to the residents of Washington State for several years and has been appropriately participating in relationships with community facilities to provide a variety of medical services. Nothing in the materials reviewed by staff suggests that approval of this project would change these relationships. [Source: CN historical files]

Additionally, the department must consider the results of the kidney disease treatment center numeric methodology and standards outlined in WAC 246-310-284. Application of the numeric methodology by the department shows a need for 22 new dialysis stations in Douglas County. Within its application, DaVita proposes to establish 22-station dialysis center in Douglas County. Therefore, the department concludes that the approval of DaVita's application for 22-stations in East Wenatchee to serve the residents of Douglas County would not cause fragmentation of dialysis services. Based on this information, the department concludes that approval of this project would promote continuity in the provision of healthcare for the planning areas and would not result in an unwarranted fragmentation of services. This sub-criterion is 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.*

For both projects, 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:

- Central's application has met the cost containment criteria in WAC 246-310-240; and
- DaVita's application also met the cost containment criteria in WAC 246-310-240.

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

Central

To comply with this sub-criterion, Central stated that it considered three alternatives besides the project. Listed below are the alternatives considered by Central.

- Do nothing
- Downsize the existing Chelan units and relocate stations to Douglas County
- Continue with Central's application for a 15-station facility

Summarized below are the options considered by Central

Alternative 1: Do not add new stations

The first option of doing nothing was ruled out because the possibility of a non-affiliated unit and the impact it would ultimately have on Central's quality, patient's volume, continuity and scope of services regionally would be impacted. For this reasons, Central rejected this option.

Alternative 2: downsizing the existing Chelan unit and relocate stations

Central states, that during conversations with the department, it considered downsizing the Chelan unit and relocating stations to Douglas County, but was told that removing stations from operations in Chelan would not be a factor in the analysis of a Douglas County proposal. For this reasons, Central rejected this option.

Alternative 3: apply for 15-station

Central states, it considered applying for only 15-stations instead of 22-stations, but chose to apply for 22-station because of the projected need in the planning area. Central states that in conversation with the department, it was indicated that the need methodology for Douglas County identified that 22-stations are needed. This option was rejected by Central because applying for 15-stations would not project enough need therefore, it Central chose to amend its application. [Source: Application pages 42]

The department received comments from DaVita stating that Central's proposed project maybe less "*attentive to cost containment*" because Central indicated that it would share staff with its existing Chelan dialysis facility. [Source: Public comment received May 14, 2008, page 4] Summarized below are the rebuttal comments provided by Central.

Central states, "*DaVita has no basis in fact to support its claims that Central is heavily overstaff at our Chelan County facility. Not only is the Chelan County Dialysis Center a low cost, high quality and efficiently run dialysis center, but its most recent survey was deficiency free*". [Source: Rebuttal comments received June 16, 2008, page 5]

The Department response

The department agrees with Central's assertions that the need projection for Douglas County identified 22-stations and amending its application to reflect need in the planning area is in line with WAC language regarding the projection of accurate need in the planning area. In determining the best available alternative, the department considered its findings on the other applicable review criteria and concludes that Central's application meet all other review criteria. Base on these factors, the department concludes that Central's application proposing to establish a new 22-station facility in Douglas County is their best available alternative. Therefore, this criterion is met.

DaVita

To comply with this sub-criterion, DaVita stated that it considered two alternatives besides the project. Summarized and listed below are the alternatives considered by DaVita.

- Do not establish a center in East Wenatchee.
- Establish a 15-station center in East Wenatchee.

Alternative 1: Do not add new stations

Historically Douglas County has been served by dialysis facilities located in other counties and has been underserved. The new dialysis facility certificate of need rules identifies Douglas County as a separate planning area from Chelan or Okanogan planning areas. A review of the demographics in the planning area reveals that the hemodialysis population has been growing at an exponential rate over the last five years periods and a dialysis facility is need to support this population. For this reason, DaVita rejected this alternative.

Alternative 2: establish a 15-station center

Applicants are directed by WAC to apply 3.2 patients per station standard in determining need within this rural planning area. Delay caused by the denial of the needed project now makes a 15-station dialysis project serving Douglas County too small since the non-linear growth trend is continuing. This alternative was rejected and the option to amend to 22-stations was accepted. [Source: Application pages 26]

Base on the alternatives considered and rejected by the applicant, the department concludes that the proposed DaVita East Wenatchee project is their best available alternative. Therefore, this criterion is met.

Summarized below, are the comments received by the department from Central regarding DaVita's proposed project.

DaVita's application does not present the most effective alternative

- DaVita used suspected calculations to assert that it is the most cost effective alternative. DaVita also asserts that it would provide commercial health insurers and local employees a competitive option not previously available in the area. [Source: Rebuttal comments received June 16, 2008, page 5]

Below are DaVita rebuttal comments to the concerns raised by Central regarding its cost containments.

DaVita's response

The DaVita approach represents true cost containment and Central's approach unjustly shifts the cost burden to its patients who currently have only one location to select and no home hemodialysis training option. DaVita offers services based on a commitment to quality rather than limiting services to support a large subsidy for commercial insurers. [Source: Rebuttal comments received June 13, 2008, page 13]

The Department response

The department agrees with DaVita that the need projection for Douglas County identified 22-stations. In determining the best available alternative, the department considered its findings on the other applicable review criteria and concludes that DaVita's application meet all other review criteria. Base on these factors, the department concludes that DaVita's application proposing to establish a new 22-station facility in Douglas County is their best available alternative. Therefore, this criterion is met.

(2) In the case of a project involving construction:

(a) The costs, scope, and methods of construction and energy conservation are reasonable;

Central

As stated in the project description portion of this evaluation, this project involves construction. This sub-criterion is evaluated within the financial feasibility criterion under WAC 246-310-220(2). Based on that evaluation, the department concludes that this sub-criterion is met.

DaVita

As stated in the project description portion of this evaluation, this project involves construction. This sub-criterion is evaluated within the financial feasibility criterion under WAC 246-310-220(2). Based on that evaluation, the department concludes that this sub-criterion is met.

(b) The project will not have an unreasonable impact on the costs and charges to the public of providing health services by other persons.

Central

As stated in the project description portion of this evaluation, this project involves construction. This sub-criterion is evaluated within the financial feasibility criterion under WAC 246-310-220(2). Based on that evaluation, the department concludes that this sub-criterion is met.

DaVita

As stated in the project description portion of this evaluation, this project involves construction. This sub-criterion is evaluated within the financial feasibility criterion under WAC 246-310-220(2). Based on that evaluation, the department concludes that this sub-criterion is met.

E. Tie-breakers (WAC 246-310-288)

This criterion is applied if two or more applications meet all applicable review criteria and there is not enough station need projected for all applications to be approved. Once the department evaluates the applications for compliance with the other applicable review criterion, only then can it determine if this criterion is to be applied.

To determine whether this criterion applies to the two applications under review, the department considered its findings on the other review criteria. Upon completion of that review, the department concluded that both Central Washington Hospital and DaVita, Inc. application's meet the applicable standards outlined in WAC 246-310-210 through 240 and that tie-breakers are necessary.

The department will approve the application accumulating the largest number of points. If sufficient additional stations remain after approval of the first application, the department will approve the application accumulating the next largest number of points, not to exceed the total number of stations projected for a planning area. If the applications remain tied after applying all the tie-breakers, the department will award stations as equally as possible among those applications, without exceeding the total number of stations projected for a planning area.

(1) The department will award one point per tie-breaker to any applicant that meets a tie-breaker criterion in this subsection.

(a) Training services (1 point):

(i) The applicant is an existing provider in the planning area and either offers training services at the facility proposed to be expanded or offers training services in any of its existing facilities within a thirty-five mile radius of the existing facility; or

(ii) The applicant is an existing provider in the planning area that offers training services in any of its existing facilities within thirty-five miles of the proposed new facility and either intends to offer training services at the new facility or through those existing facilities; or

(iii) The applicant, not currently located in the planning area, proposes to establish a new facility with training services and demonstrates a historical and current provision of training services at its other facilities; and

(iv) Northwest Renal Network's most recent year-end facility survey must document the provision of these training services by the applicant.

Central

For training and support services, Central stated that it would share its existing training program located in Chelan County with the proposed facility if approved. In its application Central states, "Sharing an existing high quality training program is superior to duplicating it". [Source: Central's Application, December 31, 2007, Page 29] Based on the statement, provided by Central, the department concludes that Central is not an existing provider in the planning area and according to its statement; it does not intend to provide training at the proposed East Wenatchee facility. To

qualify for this tie-breaker criterion, Central has to be an existing provider located in the planning area or planning to offer training services at an existing facility that is located in the planning area or at a facility located within thirty-five miles radius of the new facility. Since Central is not located in the planning area and it does not intend to offer training services at the proposed facility therefore, it does not qualify for this tie-breaker criteria. No point is awarded.

DaVita

DaVita states it would provide training and support for home hemodialysis and peritoneal treatments as part of the services at the proposed DaVita East Wenatchee Dialysis Center. The departments review of NRN year-end data for 2006 shows that this is currently being practiced by DaVita facilities in Washington. The department expects that if approved, the proposed DaVita East Wenatchee Dialysis Center would provide home hemodialysis and peritoneal treatments. A point is awarded. [Source: Application Page 7 and Appendix 11]

	Tie-Breaker Point Distribution	
	Central	DaVita
1(a) – Training Services	0	1
Cumulative Total	0	1

(b) *Private room(s) for isolating patients needing dialysis (1 point).*

Central

Central states that the proposed facility in Douglas County will include a private isolation room. Central provided a single line drawing of the proposed facility to verify that the proposed facility if approved would have an isolation room. A point is awarded. [Source: Application, Exhibit 5]

DaVita

DaVita also provided information to verify that if approved, the proposed DaVita East Wenatchee Dialysis Center would also have a patient isolation room.[Source: Application, page 7 and Appendix 16] A point is awarded.

	Tie-Breaker Point Distribution	
	Central	DaVita
1(b) – Private Isolation Room	1	1
Cumulative Total	1	2

(c) *Permanent bed stations at the facility (1 point).*

Central

Central states that the proposed facility will have a permanent bed station. To verify that the proposed facility would provide a permanent bed station, Central provided a single line drawing of the proposed facility showing a permanent bed isolation room. A point is awarded. [Source: Application, Page 30 and Exhibit 5]

DaVita

DaVita states, “The East Wenatchee Dialysis Center will provide twenty-two chronic stations and hemodialysis patients requiring dialysis in a permanent bed station would be served”. [Source: Application, Page 7 and Appendix 16, Table 1] A point is awarded.

	Tie-Breaker Point Distribution	
	Central	DaVita
1(c) – Permanent Bed	1	1
Cumulative Total	2	3

(d) *Evening shift (1 point): The applicant currently offers, or as part of its application proposes to offer at the facility a dialysis shift that begins after 5:00 p.m.*

Central

Central states that it would have an evening shift beginning after 5:00 p.m. by offering 12 shifts per week of which at least three are evening. A point is awarded. [Source: Application Page 30]

DaVita

DaVita states that hemodialysis patients requiring shifts beginning after 5:00 p.m. would be served at the proposed DaVita East Wenatchee Dialysis Center. A point is awarded. [Source: Application, Page 7]

	Tie-Breaker Point Distribution	
	Central	DaVita
1(d) – Evening Shift.	1	1
Cumulative Total	3	4

(e) *Meeting the projected need (1 point): Each application that proposes the number of stations that most closely approximates the projected need.*

Central

Central’s need projections matched the department’s calculations for 22-stations needed in Douglas County by the year 2012. Central’s project proposes to add 22-stations in Douglas County. A point is awarded.

DaVita

DaVita’s need projection also matches the Department’s calculations for an additional 22-stations needed in Douglas County by the year 2012. DaVita’s project proposes to add 22- stations to the planning area. A point is awarded.

	Tie-Breaker Point Distribution	
	Central	DaVita
1(e) – Meets Need	1	1
Cumulative Total	4	5

(2) *Only one applicant may be awarded a point for each of the following four tie-breaker criteria:*

(a) *Economies of scale (1 point): Compared to the other applications, an applicant demonstrates its proposal has the lowest capital expenditure per new station.*

Central

Central proposes to establish a new 22-station dialysis facility in East Wenatchee within Douglas County for a total cost of \$1,906,343. The department calculated that of the \$1,906,343 projected by Central it would cost the sum of \$86,651.95 per station. Compared to DaVita’s cost per station below, Central’s cost per station is slightly more than DaVita. No point is awarded.

DaVita

DaVita also proposes to establish a new 22-station dialysis facility in East Wenatchee within Douglas County for a total cost of \$1,861,842. The department calculated that of the \$1,861,842 projected by DaVita it would cost the sum of \$84,629.18 per station. Compared to Central’s cost per station above, Central’s cost per station is slightly more than DaVita. A point is awarded.

	Tie-Breaker Point Distribution	
	Central	DaVita
2(a) – Economy of Scale	0	1
Cumulative Total	4	6

(b) Historical provider (1 point):

(i) The applicant was the first to establish a facility within a planning area; and

(ii) The application to expand the existing facility is being submitted within five years of the opening of its facility; or

(iii) The application is to build an additional new facility within five years of the opening of its first facility.

Central

Currently, Douglas County does not have a provider. If approved, the proposed Central’s project would be the first in Douglas County because Central’s proposal is new in the planning area; therefore, its proposal does not qualify for this tie-breaker. No point is awarded. [Source: CN Historical files]

DaVita

DaVita’s intends to provide dialysis services in Douglas County and currently, this planning area does not have a provider. If approved, the proposed DaVita East Wenatchee would also be the first project in Douglas County. Therefore, DaVita’s proposal does not qualify for this tie-breaker. No point is awarded. [Source: CN Historical files]

	Tie-Breaker Point Distribution	
	Central	DaVita
2(b) – Historical Provider	0	0
Cumulative Total	4	6

(c) Patient geographical access (1 point): The application proposing to establish a new facility within a planning area that will result in services being offered closer to people in need of them. The department will award the point for the facility located farthest away from existing facilities within the planning area provided:

(i) The facility is at least three miles away from the next closest existing facility in planning areas that qualify for 4.8 patients per station; or

(ii) The facility is at least eight miles from the next closest existing facility in planning areas that qualify for 3.2 patients per station.

Central

Central’s project if approved, would be a new provider in the planning area therefore, its application does not qualify for patient geographical access. No point is awarded.

DaVita

DaVita’s project if approved, would also be a new provider in the planning area therefore, its application does not qualify for patient geographical access. No point is awarded.

	Tie-Breaker Point Distribution	
	Central	DaVita
2(c) – Geographical Access	0	0
Cumulative Total	4	6

(d) Provider choice (1 point):

- (i) The applicant does not currently have a facility located within the planning area;
- (ii) The department will consider a planning area as having one provider when a single provider has multiple facilities in the same planning area;
- (iii) If there are already two unrelated providers located in the same planning area, no point will be awarded.

Central

Central is proposing to establishment a new facility in Douglas County, a planning area that does not currently have a provider. Central’s application does not qualify for this tie-breaker criterion, because it’s a new provider proposing to serve Douglas County. Therefore, this tie-breaker criterion is not applicable. No point is awarded

DaVita

DaVita is also proposing to establishment a new facility in Douglas County, a planning area that does not currently have a provider. DaVita’s application also does not qualify for this tie-breaker criterion, because it’s a new provider. No point is awarded

	Tie-Breaker Point Distribution	
	Central	DaVita
2(d) – Provider Choice	0	0
Cumulative Total	4	6

At the completion of tie-breaker point allocations, Central Washington Health Services Association dba Central Washington Hospital accumulated a total of four (4) points, while DaVita, Inc. proposal accumulated a total of Seven (6) points. Due to the results of points awarded outlined in this section, the department has determined that the DaVita’s project is the application accumulating the most number of points and is the first application to be considered in the allocation of station to meet the projected need. Since the proposed DaVita, Inc. project, accounts for all 22-stations projected in Douglas County, therefore; are no stations remaining to be award to Central Washington Health Services Association dba Central Washington Hospital as the application earning the next highest point total.

Table 11
WAC 246-310-288 – Tie-Breaker Summary Table

	Tie-Breaker Point Distribution	
	Central	DaVita
1(a) – Training Svc.	0	1
1(b) – Private Room	1	1
1(c) – Permanent Bed	1	1
1(d) – Evening Shift.	1	1
1(e) – Meets Need	1	1
2(a) – Economy of Scale	0	1
2(b) – Historical Provider	0	0
2(c) – Geographical Access	0	0
2(d) – Provider Choice	0	0
Cumulative Total	4	6

Summarized below are the comments provided to the department by Central regarding DaVita’s estimate capital expenditure cost change.

Central’s comments regarding DaVita’s ECE cost change

- On December 31, 2007, after discussions with the department Central submitted an amended certificate of need application to increase the number of stations from 15 to 22. The increase in station triggered capital cost, physical plant and operating cost changes.
- On January 15, 2008, after reviewing Central’s modifications DaVita elected to amend its application as well. DaVita’s application was amended to reduce its capital expenditure from \$1,921,446 to \$1,861,842. DaVita indicated in its cover letter that it reduced costs by eliminating back up machines and other related equipment. DaVita did not give a real rationale as to why it does not need sufficient back-up capacity at a proposed facility that is miles away from the nearest DaVita facility. [Source: Public comments received May 16, 2008, Page 2]

Below are the rebuttals comments provide by DaVita in response to Central assertions that it reduced its capital cost to gain advantage in economies of scale.

DaVita’s response to cost change

- Central omits from its narrative the uncomfortable fact that it vigorously and successfully opposed DaVita’s Q1, 2007 CN application for a 15-station facility. During Q4, 2007 cycle, Central applied for a 15-station facility and upon seeing, that DaVita applied for a 22-station facility Central reluctantly amended its application to match DaVita.
- Throughout, Central has consistently maintained that Douglas County patients would not benefit from a Douglas County facility. Central repeatedly complains that the need in Douglas County is merely a mathematical need and does not represent actual patients who would be better served by a more conveniently located facility.
- The department rules expressly permit one CN applicant to respond to amendments made by another applicant. Central amended its application and increased its proposed station count in order to capture the “meeting projected need” tie-breaker point. In response, DaVita timely amended its application in order to complete for the “economies of scale” tie-breaker. Under the rules, Central had the opportunity to submit another amendment to reduce its capital costs and complete for the economies of scale point and it failed to do so.

- Central criticizes DaVita for eliminating back-up machines from its proposal. The 22-station need is based on 80% of 2-shift utilization. The 2-shift need methodology builds in substantial excess capacity because of the relative ease with which a facility can open a third shift. Under the circumstances, DaVita believes that its proposed facility will have adequate back-up capability through the first three full years of operation without extra machines. [Source: Rebuttal comments received June 13, 2008, Page 2]

The Department response

After reviewing the comments provided by Central and the responses by DaVita, the department disagrees with Central assertions that DaVita did not provide a real reason for amending its capital costs. The department notes that DaVita's cover sheet submitted with its amended application received on January 15, 2008, states, "*DaVita is submitting the following capital expenditure change to the DaVita 22-station Douglas County project CN08-29. The change will reduce the capital expenditure from \$1,921,446 to \$1,861,842 through reduced equipment costs including eliminating back-up dialysis machines and other reduced equipment. This is in recognition that the 2-shift standard applies to a 22-station facility. In addition, DaVita is changing the facility improvement depreciation schedule from 29 years to 10 years*". [Source: Application cover sheet received January 15, 2008]

The department concluded that based on the tie-breaker summary in Table 11 above, DaVita, Inc's application proposing to establish a 22-station dialysis center within the city of East Wenatchee to serve the residents of Douglas County is approvable. Provided that DaVita agrees to the terms identified within the evaluation, a Certificate of Need would be issued for the establishment of the 22-station DaVita East Wenatchee Dialysis Center to be located in the city of East Wenatchee within Douglas County. The approved capital expenditure associated with the establishment of the dialysis center is \$1,861,842.

Additionally, the department also concluded that Central Washington Health Services Association dba Central Washington Hospital application proposing to establish a new 22-station dialysis facility in East Wenatchee to serve the residents of Douglas County is denied.

APPENDIX A