

## EXECUTIVE SUMMARY

### EVALUATIONS OF THE FOLLOWING FOUR CERTIFICATE OF NEED APPLICATIONS PROPOSING TO ADD DIALYSIS STATION CAPACITY TO BENTON COUNTY:

- **DAVITA, INC. PROPOSING ESTABLISH A TEN-STATION DIALYSIS CENTER IN KENNEWICK**
- **DAVITA, INC. PROPOSING ESTABLISH A NINETEEN-STATION DIALYSIS CENTER IN RICHLAND**
- **FRESENIUS MEDICAL CARE PROPOSING TO ESTABLISH A TWELVE-STATION DIALYSIS CENTER IN KENNEWICK**
- **FRESENIUS MEDICAL CARE PROPOSING TO ESTABLISH A SEVENTEEN-STATION DIALYSIS CENTER IN RICHLAND**

### **BRIEF PROJECT DESCRIPTIONS**

#### **DaVita, Inc.-Kennewick**

This application proposes to establish a 10-station facility to be located at 3208 West 19<sup>th</sup> Avenue, #101 in Kennewick. The new dialysis center would be known as Kennewick Dialysis Center (referenced as “D-KDC” in this evaluation) and would serve the residents of Benton County.

The capital expenditure associated with the establishment of the 10-station facility is \$1,359,582. If this project is approved, DaVita anticipates all 10 stations would become operational within eight months of approval—or by February 2009. Under this timeline, year 2010 would be the facility’s first full calendar year of operation. [source: Application, pp3, 6, & 10 and Appendix 7]

#### **DaVita, Inc.-Richland**

This application proposes to establish a 19-station facility to be located at 1351 Aaron Drive in Richland. The new dialysis center would be known as Richland Dialysis Center (referenced as “D-RDC” in this evaluation) and would serve the residents of Benton County.

The capital expenditure associated with the establishment of the 19-station facility is \$1,747,589. If this project is approved, DaVita anticipates all 19 stations would become operational within eight months of approval—or by February 2009. Under this timeline, year 2010 would be the facility’s first full calendar year of operation. [source: Application, pp3, 6, & 10 and Appendix 7; January 30, 2008, supplemental information, p1]

#### **Fresenius Medical Care-Kennewick**

This application proposes to establish a 12-station facility to be located on a parcel of land near the cross streets of 7<sup>th</sup> and Washington in Kennewick. The new dialysis center would be known as Kennewick Dialysis Center<sup>1</sup> and would serve the residents of Benton County.

---

<sup>1</sup> The DaVita application also proposes to name its Kennewick facility “Kennewick Dialysis Center.” To avoid confusion in this evaluation, the department will refer to the DaVita Kennewick Dialysis Center as “D-KDC” and the Fresenius Medical Care Kennewick Dialysis Center as “F-KDC.”

The capital expenditure associated with the establishment of the 12-station facility is \$961,011. If this project is approved, Fresenius Medical Care anticipates all 12 stations would become operational by the end of June 2009. Under this timeline, year 2010 would be the facility's first full calendar year of operation. [source: Application, pp11 & 30; and January 31, 2008, supplemental information, p1]

### **Fresenius Medical Care -Richland**

This application proposes to establish a 17-station facility to be located at 299 Bradley Boulevard in Richland. The new dialysis center would be known as Richland Dialysis Center<sup>2</sup> and would serve the residents of Benton County.

The capital expenditure associated with the establishment of the 17-station facility is \$1,146,154. If this project is approved, Fresenius Medical Care anticipates all 17 stations would become operational by the end of July 2009. Under this timeline, year 2010 would be the facility's first full calendar year of operation. [source: Application, pp11 & 28; January 31, 2008, supplemental information, p1]

### **APPLICABILITY OF CERTIFICATE OF NEED LAW**

All four 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.-Kennewick**

For the reasons stated in this evaluation, the application submitted on behalf of DaVita, Inc. proposing to establish a ten-station dialysis center in the city of Kennewick within Benton County is consistent with applicable criteria of the Certificate of Need Program, provided that DaVita, Inc. provide written agreement to the following three terms:

- 1) Prior to commencement of the project, DaVita, Inc. will provide an executed copy of the Lease Agreement for the site of Kennewick Dialysis Center. The executed agreement must be consistent with the draft agreement provided in the application.
- 2) Prior to providing services at Kennewick Dialysis Center, DaVita, Inc. will provide an executed copy of the Patient Transfer Agreement for the department's review and approval.
- 3) Prior to providing services at Kennewick Dialysis Center, DaVita, Inc. will provide an executed copy of the Medical Director Agreement for the department's review and approval. The executed agreement must be consistent with the draft agreement provided in the application.

The approved capital expenditure associated with the establishment of a ten-station dialysis center is \$1,359,582.

#### **DaVita, Inc.-Richland**

For the reasons stated in this evaluation, the application submitted on behalf of DaVita, Inc. proposing to establish a nineteen-station dialysis center in the city of Richland within Benton

---

<sup>2</sup> The DaVita application also proposes to name its Richland facility "Richland Dialysis Center." To avoid confusion in this evaluation, the department will refer to the DaVita Richland Dialysis Center as "D-RDC" and the Fresenius Medical Care Richland Dialysis Center as "F-RDC."

County is consistent with applicable criteria of the Certificate of Need Program, provided that DaVita, Inc. provide written agreement to the following three terms:

- 1) Prior to commencement of the project, DaVita, Inc. will provide an executed copy of the Lease Agreement for the site of Richland Dialysis Center. The executed agreement must be consistent with the draft agreement provided in the application.
- 2) Prior to providing services at Richland Dialysis Center, DaVita, Inc. will provide an executed copy of the Patient Transfer Agreement for the department's review and approval.
- 3) Prior to providing services at Richland Dialysis Center, DaVita, Inc. will provide an executed copy of the Medical Director Agreement for the department's review and approval. The executed agreement must be consistent with the draft agreement provided in the application.

The approved capital expenditure associated with the establishment of a nineteen-station dialysis center is \$1,747,589.

**Fresenius Medical Care-Kennewick**

For the reasons stated in this evaluation, the application submitted on behalf of Fresenius Medical Care proposing to establish a twelve-station dialysis center in the city of Kennewick within Benton County is not consistent with applicable criteria of the Certificate of Need Program, and a Certificate of Need is denied.

**Fresenius Medical Care -Richland**

For the reasons stated in this evaluation, the application submitted on behalf of Fresenius Medical Care proposing to establish a nineteen-station dialysis center in the city of Richland within Benton County is not consistent with applicable criteria of the Certificate of Need Program, and a Certificate of Need is denied.

**EVALUATIONS OF THE FOLLOWING FOUR CERTIFICATE OF NEED APPLICATIONS PROPOSING TO ADD DIALYSIS STATION CAPACITY TO BENTON COUNTY:**

- **DAVITA, INC. PROPOSING ESTABLISH A TEN-STATION DIALYSIS CENTER IN KENNEWICK**
- **DAVITA, INC. PROPOSING ESTABLISH A NINETEEN-STATION DIALYSIS CENTER IN RICHLAND**
- **FRESENIUS MEDICAL CARE PROPOSING TO ESTABLISH A TWELVE-STATION DIALYSIS CENTER IN KENNEWICK**
- **FRESENIUS MEDICAL CARE PROPOSING TO ESTABLISH A SEVENTEEN-STATION DIALYSIS CENTER IN RICHLAND**

**PROJECT DESCRIPTIONS**

**DaVita Inc.**

DaVita, Inc. (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, p4]

In Washington State, DaVita owns or operates a total of eighteen kidney dialysis facilities in nine separate counties. Below is a listing of the eighteen DaVita facilities located in Washington<sup>3</sup>. [source: Application, p4; CN historical files]

**Clark**

Vancouver Dialysis Center

**Pacific**

Seaview Dialysis Center

**Pierce**

Graham Dialysis Center  
Lakewood Community Dialysis Center  
Puyallup Community Dialysis Center  
Tacoma Dialysis Center

**Yakima**

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

**Franklin**

Mid-Columbia Kidney Center

**Kittitas**

Ellensburg Dialysis Center

**King**

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

**Thurston**

Olympia Dialysis Center

**Snohomish**

Mill Creek Dialysis Center

For Benton County, DaVita proposes to establish two separate facilities—one in Kennewick and one in Richland. For this evaluation, the Kennewick project will be referenced as D-KDC and

---

<sup>3</sup> Five facilities—Ellensburg Dialysis Center, Graham Dialysis Center, Mill Creek Dialysis Center, Olympia Dialysis Center, and Seaview Dialysis Center—were recently approved by the department and are not yet operational.

the Richland project will be referenced as D-RDC. Below is a description of each DaVita project.

**D-KDC**

This application proposes to establish a 10-station facility to be located at 3208 West 19<sup>th</sup> Avenue in Kennewick. The new dialysis center would serve the residents of Benton County. [source: Application, p6]

The estimated capital expenditure for the establishment of D-KDC is \$1,359,582, of which 53% is related to leasehold improvements; 39% is related to both fixed and moveable equipment; and the remaining 8% is related to architect, engineering, application, consulting, and legal fees. [source: Application, Appendix 7]

If this project is approved, DaVita anticipates all 10 stations would become operational by the end of February 2009. Under this timeline, year 2010 would be the facility's first full calendar year of operation; and 2012 would be year three. [source: Application, p10]

**D-RDC**

This application proposes to establish a 19-station facility to be located at 1351 Aaron Drive in Richland. The new dialysis center would serve the residents of Benton County. [source: Application, p6; January 30, 2008, supplemental information, p1 and Attachments 1 & 2]

The estimated capital expenditure for the establishment of D-RDC is \$1,747,589, of which 55% is related to leasehold improvements; 38% is related to both fixed and moveable equipment; and the remaining 7% is related to architect, engineering, application, consulting, and legal fees. [source: Application, p28]

If this project is approved, DaVita anticipates all 19 stations would become operational by the end of February 2009. Under this timeline, year 2010 would be the facility's first full calendar year of operation; and 2012 would be year three. [source: Application, p10]

**Fresenius Medical Care**

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

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

Under the four of the five subsidiaries listed above, FMC operates dialysis centers in 45 states, the District of Columbia, and Puerto Rico.<sup>4</sup> [source: CN historical files; FMC Applications, pp1-2]

In Washington State, FMC or one of its subsidiaries owns, operates, or manages sixteen kidney dialysis facilities in thirteen separate counties. Below is a listing of the sixteen facilities in Washington.<sup>5</sup> [CN historical files; Fresenius Medical Care Application, pp2-4 & Exhibit #1]

---

<sup>4</sup> The National Medical Care, Inc. subsidiary does not operate any dialysis facilities.

<sup>5</sup> Three facilities—Colville Dialysis Center, QualiCenters Kelso, and Othello Dialysis Center—were recently approved by the department and are not yet operational.

**Benton County**  
Columbia Basin Dialysis Center

**Clark County**  
FMC Fort Vancouver Dialysis Facility  
FMC Salmon Creek Dialysis Facility

**Grant County**  
FMC Moses Lake Dialysis Facility

**Gray Harbor County**  
FMC Aberdeen Dialysis Facility

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

**Cowlitz County**  
QualiCenters Longview

**Stevens County**  
Colville Dialysis Center

**Lewis County**  
FMC Chehalis Facility

**Mason County**  
FMC Shelton Dialysis Facility

**Okanogan County**  
FMC Omak Dialysis Facility

**Thurston County**  
FMC Lacey Dialysis Facility

**Walla Walla County**  
QualiCenters Walla Walla

**Adams County**  
Othello Dialysis Center

For Benton County, FMC proposes to establish two separate facilities—one in Kennewick and one in Richland to be operated under the QualiCenters Inland Northwest subsidiary. For this evaluation, the Kennewick project will be referenced as F-KDC, and the Richland project will be referenced as F-RDC. Below is a description of each FMC project.

### **F-KDC**

This application proposes to establish a 12-station facility to be located on a vacant parcel of land near the cross streets of 7<sup>th</sup> and Washington in Kennewick. While the postmaster has not yet assigned an address to the site, FMC provided a legal description; the Benton County Assessor office parcel number assigned to the site is #101894040002006. The new dialysis center would serve the residents of Benton County. [source: F-KDC Application, p8; January 31, 2008, supplemental information, p1 and Attachments 1 & 3]

The estimated capital expenditure for the establishment of F-KDC is \$951,011<sup>6</sup>, of which 62% is related to building construction; 35% is related to both fixed and moveable equipment; and the remaining 3% is related to architect, engineering, application, consulting, and legal fees. [source: F-KDC Application, p30]

If this project is approved, FMC anticipates all 12 stations would become operational by the end of June 2009. Under this timeline, year 2010 would be the facility's first full calendar year of operation; and 2012 would be year three. [source: F-KDC Application, p11]

### **F-RDC**

This application proposes to establish a 17-station facility to be located at 299 Bradley Boulevard in Richland. The new dialysis center would serve the residents of Benton County.

---

<sup>6</sup> QualiCenters identified an estimated capital cost of 959,459; however, the cost breakdown provided in the application sums to \$961,011. This is the cost that will be used in this evaluation.

[source: F-RDC Application, p8; January 31, 2008, supplemental information, p1 and Attachments 1 & 3]

The estimated capital expenditure for the establishment of F-RDC is \$1,146,154, of which 60% is related to building construction; 37% is related to both fixed and moveable equipment; and the remaining 3% is related to architect, engineering, application, consulting, and legal fees. [source: F-RDC Application, p28]

If this project is approved, FMC anticipates all 17 stations would become operational by the end of July 2009. Under this timeline, year 2010 would be the facility's first full calendar year of operation; and 2012 would be year three. [source: F-RDC Application, p11]

In summary, both DaVita and FMC submitted applications to establish a new facility in Kennewick and Richland. Table 1 below is a summary of each project as described above.

**Table 1  
Summary of All Four Projects**

<b>Facility/# of stations</b>	<b>Address/City</b>	<b>Est. Cost</b>	<b>Month Operational</b>	<b>First CY of operation</b>
DaVita-KDC 10-stations	3208 West 19 <sup>th</sup> Avenue, #101 Kennewick	\$ 1,359,582	February 2009	CY 2010
DaVita-RDC 19-stations	1351 Aaron Drive Richland	\$ 1,747,589	February 2009	CY 2010
FMC-F-KDC 12-stations	7 <sup>th</sup> & Washington; Parcel #101894040002006 Kennewick	\$ 961,011	June 2009	CY 2010
FMC-F-RDC 17 stations	299 Bradley Boulevard Richland	\$ 1,146,154	July 2009	CY 2010

As shown in Table 1 above, both applicants propose to add a total of 29 stations to Benton County, and anticipate their new dialysis centers would become operational in year 2009, with calendar year 2010 as the first full year of operation.

**APPLICABILITY OF CERTIFICATE OF NEED LAW**

All four 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 for each project 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 must demonstrate compliance with applicable kidney disease treatment center criteria outlined in WAC 246-310-280 through 288.<sup>7</sup>

---

<sup>7</sup> Each criterion contains certain sub-criteria. The following sub-criteria are not discussed in this evaluation because they are not relevant to this project: WAC 246-310-210(3), (4), (5), and (6); WAC 246-310-286 and 287.

## **APPLICATION CHRONOLOGY**

As directed under WAC 246-310-282(1) the department accepted these four projects under the year 2007 Kidney Disease Treatment Centers-Concurrent Review Cycle #4. DaVita submitted all documents related to its two projects at the same time. FMC also submitted all documents related to both of its projects at the same time. As a result, the chronologic summary of the four projects is broken down by applicant, rather than by project.

<b>Action</b>	<b>DaVita</b>	<b>FMC</b>
Letter of Intent Submitted	October 31, 2007	October 31, 2007
Application Submitted	November 30, 2007	November 30, 2007
Department's pre-review Activities including screening and responses	December 1, 2007 through February 18, 2008	
Beginning of Review	February 19, 2008	
End of Public Comment	April 21, 2008	
Rebuttal Comments Received	May 21, 2008	
Department's Anticipated Decision Date	July 7, 2008	
Department's Actual Decision Date	July 11, 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 dialysis projects, concurrent review allows the department to review dialysis applications proposing to serve the same planning area [as defined in WAC 246-310-280(9)] simultaneously to reach a decision that serves the best interests of the planning area's residents.

In the case of these projects submitted by DaVita and Fresenius Medical Care, the department will issue one single evaluation regarding whether all four, any, or none of the projects should be issued a Certificate of Need.

## **SOURCE INFORMATION REVIEWED**

- DaVita, Inc.'s Certificate of Need application for Kennewick submitted November 30, 2007
- DaVita, Inc.'s Certificate of Need application for Richland submitted November 30, 2007
- Fresenius Medical Care's Certificate of Need application for Kennewick submitted November 30, 2007
- Fresenius Medical Care's Certificate of Need application for Richland submitted November 30, 2007
- DaVita, Inc.'s supplemental information for the Kennewick project dated January 30, 2008
- DaVita, Inc.'s supplemental information for the Richland project dated January 30, 2008
- Fresenius Medical Care's supplemental information for the Kennewick project dated January 31, 2008
- Fresenius Medical Care's supplemental information for the Richland project dated January 31, 2008
- Public comment received during the course of the review

## **SOURCE INFORMATION REVIEWED (continued)**

- DaVita, Inc.'s rebuttal comments supporting its Kennewick and Richland applications received May 20, 2008
- DaVita, Inc.'s rebuttal comments opposing Fresenius Medical Care' Kennewick and Richland applications received May 20, 2008
- Fresenius Medical Care's rebuttal comments supporting its Kennewick and Richland applications received May 21, 2008
- Fresenius Medical Care's rebuttal comments opposing DaVita's Kennewick and Richland applications received May 20, 2008
- Years 2001 through 2006 historical kidney dialysis data obtained from the Northwest Renal Network
- Year 2007 Northwest Renal Network 3<sup>rd</sup> 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
- Data obtained from DaVita, Inc.'s webpage (www.davita.com)
- Data obtained from Fresenius Medical Care's webpage (www.fmcna.com)
- Data obtained from the Washington Secretary of State offices and webpage
- Data obtained from the Benton County Assessor webpage
- Certificate of Need historical files

## **CONCLUSIONS**

### **DaVita, Inc.-Kennewick**

For the reasons stated in this evaluation, the application submitted on behalf of DaVita, Inc. proposing to establish a ten-station dialysis center in the city of Kennewick within Benton County is consistent with applicable criteria of the Certificate of Need Program, provided that DaVita, Inc. provide written agreement to the following three terms:

- 1) Prior to commencement of the project, DaVita, Inc. will provide an executed copy of the Lease Agreement for the site of Kennewick Dialysis Center. The executed agreement must be consistent with the draft agreement provided in the application.
- 2) Prior to providing services at Kennewick Dialysis Center, DaVita, Inc. will provide an executed copy of the Patient Transfer Agreement for the department's review and approval.
- 3) Prior to providing services at Kennewick Dialysis Center, DaVita, Inc. will provide an executed copy of the Medical Director Agreement for the department's review and approval. The executed agreement must be consistent with the draft agreement provided in the application.

The approved capital expenditure associated with the establishment of a ten-station dialysis center is \$1,359,582.

### **DaVita, Inc.-Richland**

For the reasons stated in this evaluation, the application submitted on behalf of DaVita, Inc. proposing to establish a nineteen-station dialysis center in the city of Richland within Benton County is consistent with applicable criteria of the Certificate of Need Program, provided that DaVita, Inc. provide written agreement to the following three terms:

- 1) Prior to commencement of the project, DaVita, Inc. will provide an executed copy of the Lease Agreement for the site of Richland Dialysis Center. The executed agreement must be consistent with the draft agreement provided in the application.
- 2) Prior to providing services at Richland Dialysis Center, DaVita, Inc. will provide an executed copy of the Patient Transfer Agreement for the department's review and approval.
- 3) Prior to providing services at Richland Dialysis Center, DaVita, Inc. will provide an executed copy of the Medical Director Agreement for the department's review and approval. The executed agreement must be consistent with the draft agreement provided in the application.

The approved capital expenditure associated with the establishment of a nineteen-station dialysis center is \$1,747,589.

### **Fresenius Medical Care-Kennewick**

For the reasons stated in this evaluation, the application submitted on behalf of Fresenius Medical Care proposing to establish a twelve-station dialysis center in the city of Kennewick within Benton County is not consistent with applicable criteria of the Certificate of Need Program, and a Certificate of Need is denied.

### **Fresenius Medical Care -Richland**

For the reasons stated in this evaluation, the application submitted on behalf of Fresenius Medical Care proposing to establish a nineteen-station dialysis center in the city of Richland within Benton County is not consistent with applicable criteria of the Certificate of Need Program, and a Certificate of Need is denied.

**A. Need (WAC 246-310-210)**

Based on the source information reviewed, the department determines that DaVita's two projects and FMC's two projects 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.<sup>8</sup>

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(3) 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)]

Even though both applicants submitted two applications, the planning area for all four projects is Benton County. DaVita applied the numeric methodology under WAC 246-310-284(4) exactly the same in both of its applications; FMC also applied the numeric

---

<sup>8</sup> 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]

methodology exactly the same in both of its projects. As a result, this portion of the evaluation will discuss the numeric methodology by applicant, rather than by project.

DaVita’s Application of the Numeric Methodology

DaVita proposes to establish a 10-station center in Kennewick and a 19 station center in Richland, resulting in a planning area addition of 29 stations. Based on the calculation of the annual growth rate in the planning area as described above, linear regression was used to project need. Given that both facilities would be located in Benton County, the number of projected patients was divided by 4.8 to determine the number of stations needed in the planning area. [source: D-KDC Application, pp16-18; D-RDC Application, pp16-18]

FMC’s Application of the Numeric Methodology

FMC proposes to establish a 12-station dialysis center in Kennewick and a 17–station dialysis center in Richland, resulting in a planning area addition of 29 stations. Based on the calculation of the annual growth rate in the planning area as described above, linear regression was used to project need. Given that both facilities would be located in Benton County, the number of projected patients was divided by 4.8 to determine the number of stations needed in the planning area. [source: F-KDC Application, pp17-19; F-RDC Application, pp16-18]

Department’s Application of the Numeric Methodology

Based on the calculation of the annual growth rate in the planning areas as described above, the department also used linear regression to project need for Benton County. The department divided the projected number of patients by 4.8 to determine the number of stations needed as required under WAC 246-310-284(5).

Based on the numeric methodology, Table 2 below shows a summary of the projected net need provided by each applicant and the department for Benton County.

**Table 2  
Benton County Numeric Methodology Summary of Projected Net Station Need**

	<b>4.8 in-center patients per station</b>			
	<b>2010 Projected # of stations</b>	<b>Minus Current # of stations</b>	<b>2010 Net Need</b>	<b>2010 Net Need (Rounded)</b>
<b>DaVita</b>	41.46	13	28.46	29
<b>FMC</b>	42	13	29	29
<b>DOH</b>	41.458	13	28.458	29

When comparing the applicants’ and department’s results shown in Table 2 above, it shows that the projections of both applicants match the department’s figures. As a result, the net station need for Benton County is 29.

As shown in Table 2 above, currently Benton County has 13 stations operating within the planning area. WAC 246-310-284(5) requires all CN approved stations in the planning area be operating at 4.8 in-center patients per station before new stations can be added. The most recent quarterly modality report, or successor report, from the Northwest Renal Network (NRN) as of the first day of the application submission period is to be used to calculate this standard. The first day of the application submission period for these four projects is November 1, 2007. [WAC 246-310-282] The quarterly modality report from NRN available

at that time was September 30, 2007, which became available on October 31, 2007. All 13 stations are located in one facility—Fresenius Medical Care’s Columbia Basin Dialysis Center.<sup>9</sup> Table 3 below shows the September 30, 2007, utilization of Columbia Basin Dialysis Center demonstrates that this capacity requirement is met.

**Table 3  
September 30, 2007-Facility Utilization Data**

<b>Facility Name</b>	<b># of Stations</b>	<b># of Pts</b>	<b>Pts/Station</b>
Columbia Basin Dialysis Center	13	73	5.62

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 Benton County, the requirement is 4.8 in-center patients per approved station. [WAC 246-310-284(6)(a)] Both DaVita and FMC propose dialysis stations to be located within Benton County as a result, both applicants must demonstrate compliance with this criterion using the 4.8 in-center patient per station for each facility. Further, both applicants’ third full year of operation is year 2012. A summary of both applicants’ projected utilization for year 2012 is shown in Table 4 below. [source: D-KDC Application, January 30, 2008, Attachment 4; D-RDC Application, January 30, 2008, Attachment 3; F-KDC January 31, 2008, supplemental information, Attachment 5; F-RDC January 31, 2008, supplemental information, Attachment 5]

**Table 4  
Year 2012 Projected Facility Utilization**

<b>Facility Name</b>	<b># of Stations</b>	<b># of Pts</b>	<b>Pts/Station</b>
DaVita-Kennewick Dialysis Center	10	55	5.50
DaVita-Richland Dialysis Center	19	110	5.79
FMC- Kennewick Dialysis Center	12	61	5.08
FMC -Richland Dialysis Center	17	86	5.06

As shown in Table 4 above, all four projects meet this standard.

While comments were provided by each applicant in opposition to the other applicant’s project, none of the comments dispute the methodology’s mathematic conclusion of need for additional dialysis stations within Benton County.

Based on the above information and standards, the department’s conclusion regarding this sub-criterion follows.

DaVita-Kennewick Dialysis Center

DaVita proposes to establish a 10-station dialysis center in Kennewick within Benton County. Based on the above standards and criteria, the project is consistent with applicable criteria of the Certificate of Need Program. This sub-criterion is met for DaVita’s Kennewick application.

---

<sup>9</sup> Formerly Tri-Cities Kidney Center.

#### DaVita-Richland Dialysis Center

DaVita proposes to establish a 19-station dialysis center in Richland within Benton County. Based on the above standards and criteria, the project is consistent with applicable criteria of the Certificate of Need Program. This sub-criterion is met for DaVita's Richland application.

#### FMC-Kennewick Dialysis Center

FMC proposes to establish a 12-station dialysis center in Kennewick within Benton County. Based on the above standards and criteria, the project is consistent with applicable criteria of the Certificate of Need Program. This sub-criterion is met for FMC's Kennewick application.

#### FMC-Richland Dialysis Center

FMC proposes to establish a 17-station dialysis center in Richland within Benton County. Based on the above standards and criteria, the project is consistent with applicable criteria of the Certificate of Need Program. This sub-criterion is met for FMC's Richland application.

*(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 health care services to residents of the state of Washington including low-income, racial and ethnic minorities, handicapped and other underserved groups. To determine whether all residents of the service area 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.

#### DaVita, Inc.

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 new Kennewick and Richland facilities. The Admission policy outlines the process/criteria that each facility will use to admit patients for treatment, and ensures that patients will 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 each facility without regard to race, color, national origin, sex, age, religion, or disability. [source: D-KDC application, Appendix 14; D-RDC application, Appendix 14]

#### Fresenius Medical Care

To demonstrate compliance with this sub-criterion, for each project, FMC provided a copy of its current Admission and Indigence policies that would also be used at the new Kennewick and Richland facilities. The documents outline the process/criteria that the dialysis center uses to admit patients for treatment. It is intended to ensure that patients will receive appropriate care at the dialysis center. The Admission criteria states that any patient with end stage renal disease needing treatment will be accepted to a FMC' facility without regard to race, creed, color, age, sex handicap, disability, national origin, social status, or ability to pay. [source: F-KDC application, Exhibits 7 & 8; F-RDC application, Exhibits 7 & 8 ]

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.

#### DaVita, Inc.

DaVita currently provides services to Medicare and Medicaid eligible patients at its existing dialysis centers. It intends to also provide services to Medicare and Medicaid at the proposed Kennewick and Richland facilities. A review of the anticipated revenue indicates that the facility expects to continue to receive both Medicare and Medicaid reimbursements.

#### Fresenius Medical Care

FMC currently provides services to Medicare and Medicaid eligible patients at its existing dialysis centers. It intends to also provide services to Medicare and Medicaid at the proposed Kennewick and Richland facilities. A review of the anticipated revenue indicates that the facility expects to continue to receive both Medicare and Medicaid reimbursements.

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.

#### DaVita, Inc.

DaVita demonstrated its intent to provide charity care to residents at each of its proposed dialysis centers by including a 'charity care' line item as a deduction from revenue within the pro forma income statements documents. [source: D-KDC January 30, 2008, supplemental information, Attachment 3; D-RDC January 30, 2008, supplemental information, Attachment 4]

#### Fresenius Medical Care

FMC demonstrated its intent to provide charity care to residents at each of its proposed dialysis centers by including a 'charity care' line item as a deduction from revenue within the pro forma income statements documents. [source: F-KDC January 31, 2008, supplemental information, Attachment 5; F-RDC application, January 31, 2008, supplemental information, Attachment 5]

Based on the above information and standards, the department's conclusion regarding this sub-criterion follows.

#### DaVita-Kennewick Dialysis Center

The department concludes that all residents of the service area would have adequate access to the health services at the proposed Kennewick facility. This sub-criterion is met.

#### DaVita-Richland Dialysis Center

The department concludes that all residents of the service area would have adequate access to the health services at the proposed Richland facility. This sub-criterion is met.

#### FMC-Kennewick Dialysis Center

The department concludes that all residents of the service area would have adequate access to the health services at the proposed Kennewick facility. This sub-criterion is met.

### FMC-Richland Dialysis Center

The department concludes that all residents of the service area would have adequate access to the health services at the proposed Richland facility. This sub-criterion is met.

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

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

- DaVita, Inc.'s Kennewick project has met the financial feasibility criteria in WAC 246-310-220; and
- DaVita, Inc.'s Richland project has meet the financial feasibility criteria in WAC 246-310-220; and
- Fresenius Medical Care's Kennewick project has not met the financial feasibility criteria in WAC 246-310-220; and
- Fresenius Medical Care's Richland project has not 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.*

For financial review of applications, the department requests data for at least the first three full-years following project completion. Below is a summary of each of the four projects related to this sub-criterion.

### **D-KDC**

For its Kennewick project, DaVita anticipates it will become operational in February 2009. Based on this timeline calendar year (CY) 2010 would be D-KDC's first full year of operation. Using the financial information provided as part of the completed application, Table 5 below illustrates the projected revenue, expenses, and net income for partial CY 2009 and full CYs 2010-2012 for D-KDC. [source: January 30, 2008, supplemental information, Attachment 4]

**Table 5**  
**DaVita's Kennewick Dialysis Center**  
**Projected Revenue and Expenses Calendar Years 2009 - 2012<sup>10</sup>**

	<b>Partial Year 2009</b>	<b>Full Year 1 2010</b>	<b>Full Year 2 2011</b>	<b>Full Year 3 2012</b>
# of Stations	10	10	10	10
# of Treatments <sup>[1]</sup>	3,827	6,266	7,877	8,778
# of Patients <sup>[2]</sup>	25	40	50	55
Utilization Rate <sup>[2]</sup>	2.50	4.00	5.00	5.50
Net Patient Revenue <sup>[1]</sup>	\$ 1,288,936	\$ 1,944,745	\$ 2,002,165	\$ 2,378,902
Total Operating Expense <sup>[1,3]</sup>	\$ 1,381,679	\$ 1,574,812	\$ 2,009,678	\$ 2,320,816
Net Profit or (Loss) <sup>[1]</sup>	(\$ 92,743)	\$ 369,933	(\$ 7,513)	\$ 58,086
Net Patient Revenue/Treatment <sup>[1]</sup>	\$ 344.27	\$ 324.67	\$ 267.38	\$ 288.81
Total Operating Exp./Treatment <sup>[1]</sup>	\$ 369.04	\$ 262.91	\$ 268.39	\$ 281.76
Net Profit per Treatment <sup>[1]</sup>	(\$ 24.77)	\$ 61.76	(\$ 1.00)	\$ 7.05

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

<sup>10</sup> Whole numbers may not add due to rounding.

As shown in Table 5 on the previous page, at the projected volumes identified in the application, DaVita anticipates that the 10-station D-KDC would be operating at a loss in partial year 2009 and CY 2011, and a profit in CY 2010 and 2012. The department also notes that DaVita anticipates a large profit in the first full year of operation (year 2010), which reduces significantly in years two and three.

DaVita selected a site for its Kennewick facility located at 3208 West 19<sup>th</sup> Avenue, #101 in Kennewick. The draft lease provided in the application outlines the terms and the annual rent for the space for 12 years following commencement of the lease. Additionally, DaVita provided a copy of the draft Medical Director Agreement between itself and Wassim Khawandi, MD. The annual lease costs and medical director service costs are substantiated in the application documents used to prepare the summary in Table 5. [source: Application, Appendix 3 and January 30, 2008, supplemental information, Attachment 1]

### **D-RDC**

For its Richland project, DaVita anticipates it will become operational in February 2009. Based on this timeline CY 2010 would be D-RDC's first full year of operation. Using the financial information provided as part of the completed application, Table 6 below illustrates the projected revenue, expenses, and net income for partial CY 2009 and full CYs 2010-2012 for D-RDC. [source: January 30, 2008, supplemental information, Attachment 3]

**Table 6**  
**DaVita's Richland Dialysis Center**  
**Projected Revenue and Expenses Calendar Years 2009 - 2012<sup>11</sup>**

	Partial Year 2009	Full Year 1 2010	Full Year 2 2011	Full Year 3 2012
# of Stations	19	19	19	19
# of Treatments <sup>[1]</sup>	7,045	10,346	15,144	17,697
# of Patients <sup>[2]</sup>	45	65	95	110
Utilization Rate <sup>[2]</sup>	2.37	3.42	5.00	5.79
Net Patient Revenue <sup>[1]</sup>	\$ 1,665,896	\$ 3,305,672	\$ 3,604,687	\$ 4,661,012
Total Operating Expense <sup>[1,3]</sup>	\$ 1,730,807	\$ 2,339,030	\$ 3,181,507	\$ 3,952,801
Net Profit or (Loss) <sup>[1]</sup>	(\$ 64,911)	\$ 966,642	\$ 423,180	\$ 708,211
Net Patient Revenue/Treatment <sup>[1]</sup>	\$ 247.20	\$ 339.60	\$ 253.37	\$ 282.93
Total Operating Exp./Treatment <sup>[1]</sup>	\$ 256.83	\$ 240.29	\$ 223.62	\$ 239.94
Net Profit per Treatment <sup>[1]</sup>	(\$ 9.63)	\$ 99.31	\$ 29.74	\$ 42.99

[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 6 above, at the projected volumes identified in the application, DaVita anticipates that the 19-station D-RDC would be operating at a loss in partial year 2009 and a profit in CY 2010 through 2012. The department also notes that DaVita anticipates a large profit in the first full year of operation (year 2010), which reduces significantly in years two and three.

DaVita also selected a site for its Richland facility located at 1351 Aaron Drive in Richland. The draft lease provided in the application outlines the terms and the annual rent for the space for 10 years following commencement of the lease. Additionally, DaVita provided a

<sup>11</sup> Whole numbers may not add due to rounding.

copy of the draft Medical Director Agreement between itself and Wassim Khawandi, MD. The annual lease costs and medical director service costs are substantiated in the application documents used to prepare the summary in Table 6. [source: Application, Appendices 3 & 15]

FMC provided comments related to the financial feasibility criterion, specifically DaVita's pro forma revenue and expense statements, for both projects. FMC's concern centered on DaVita's increase in depreciation expenses. FMC states that in past projects, DaVita has attributed its increased depreciation expenses not to inflation, but to continued capital expenditures. FMC asserts that if DaVita is aware of additional capital expenditures that it would incur, those costs should have been included as part of the capital expenditure of the project, or described within the application under the financial feasibility section of the application form (Question 7 of the application form). [source: FMC's April 21, 2008, public comments, pp6-7]

In response to the comments above, DaVita provided the following statements.

*“Our internal facility performance standards assume the need for routine capital expenditures. As a result, all of our operating statements show a small depreciation expense increase that flows from these future capital expenditures. We believe all applicants incur these costs and should show this additional expense, but others do not do so and obtain a small improvement in pro forma profitability. ..The depreciation expense flows from future routine capital expenditures that are not part of the project development budget. The expenditures are related to normal operations, not facility development, and cannot be identified in advance. We often cannot predict what new equipment an individual facility will need in addition to the standard equipment required for similar facilities, e.g. specialized materials handling equipment, enhanced water treatment equipment, etc. In addition, we may need to make minor interior modifications to improve work or material flows within the facility. Experience has shown that relatively minor expenditures often are required, and the depreciation expense reflects these routine costs. DaVita's reporting of this depreciation expense provides a higher level of accuracy for its operating expense and the Program has never expressed any concern about it.”* [source: DaVita's May 20, 2008, pp6-7]

### **Department Response**

After reviewing the information provided by both FMC and DaVita, the department concludes that FMC's concerns regarding depreciation and the continued capital expenditures were appropriately addressed by DaVita.

A concern not addressed by FMC, but noted by the department, is the large profit in the first full year of operation (year 2010), which reduces significantly in years two and three (2011 and 2012) for both DaVita Benton County projects. Since this net profit spike was identified during the department's screening of DaVita's applications, the department requested DaVita to provide either an explanation of the cause of the net profit spike or a revised pro forma revenue and expense statement with corrections.

DaVita provided the following explanation:

*“DaVita's pro forma model is conservative with respect to variables that may affect future financial performance. The conservative approach is consistent with the model's principal purpose as an internal decision making tool. Looking to the future, DaVita anticipates that payor concentration will increase to the point of reducing*

*commercial payor rates. In other words, we are predicting that future mergers and consolidation among commercial payors will reduce competitive pressures and lead to reductions in commercial rates DaVita negotiates. This prediction about future market conditions is reflected in the model by use of a hypothetical commercial rate limit of \$750 per treatment in and after Year 3. That limit has a substantial effect on facility profit because Medicare and Medicaid rates contribute little toward facility profit, with most profit coming from commercial rates. Imposing a hypothetical limit on future commercial rates in Year 3 and later has the direct effect of limiting predicted profit in those years. This feature of the pro forma explains the profit reduction in Year 3 and later. Significantly, the facility projects substantial profits in each full year despite the conservative assumptions we use in the pro forma.”*

DaVita states it expects its \$750/treatment rate cap to occur in year three or 2011, which is identified in Tables 5 and 6 as “Full Year 2”. Rather than a “net profit spike” as described by the department, the pro forma revenue and expense statements show a reduction in revenue beginning in year 2011 through 2013.<sup>12</sup> For the Kennewick project, partial year 2009 shows a net loss and the anticipated reduction in revenue results in another net loss in year 2011. Projected years 2012 and 2013 return to a profit. For the Richland project, after the partial year 2009 net loss, the anticipated reduction in revenues decreases the net profit, but does not result in a net loss.

For any CN project, the department’s review of this sub-criterion includes any partial years of operation through three years following project completion. It is not unusual for a project to show a net loss in the first 18 to 24 months of operation, however, the focus of the review for this sub-criterion is full year three. For the DaVita Benton County projects, the focus is year 2012. Tables 5 and 6 show a secure net profit for years 2012 for both Kennewick and Richland facilities.

### **F-KDC**

For its Kennewick project, FMC anticipates it will become operational in June 2009. Based on this timeline CY 2010 would be F-KDC’s first full year of operation. On the final day of public comment, FMC submitted information regarding its two Benton County projects. The information states that while preparing its public comment, FMC noted two separate transposition errors within its pro forma revenue and expense statements. Specifically, the lease costs and medical director expenses for each project were entered into the other project’s revenue and expense statement. To correct this error, FMC submitted a third version of F-KDC’s pro forma revenue and expense statement. Noted changes include the total expenses and profitability for years 2009 through 2012. The department has determined that this submission constitutes an inappropriate amendment to the application and will not be considered in this review. [WAC 246-310-090, WAC 246-310-100(6), and WAC 246-310-170]

Using the financial information provided as part of the completed application, Table 7 on the following page illustrates the projected revenue, expenses, and net income for partial CY 2009 and full CYs 2010-2012 for F-KDC. [source: January 31, 2008, supplemental information, Attachment 5]

---

<sup>12</sup> DaVita provided pro forma revenue and expense statements through year 2013, however, Tables 5 and 6 show projections through 2012.

**Table 7**  
**Fresenius Medical Care's Kennewick Dialysis Center**  
**Projected Revenue and Expenses Calendar Years 2009 - 2012<sup>13</sup>**

	Partial Year 2009	Full Year 1 2010	Full Year 2 2011	Full Year 3 2012
# of Stations	12	12	12	12
# of Treatments <sup>[2]</sup>	2,520	5,184	6,768	8,136
# of Patients <sup>[2]</sup>	30	42	52	61
Utilization Rate <sup>[2]</sup>	2.50	3.50	4.33	5.08
Net Patient Revenue <sup>[2]</sup>	\$ 1,060,601	\$ 2,181,808	\$ 2,848,470	\$ 3,424,225
Total Operating Expense <sup>[2,3]</sup>	\$ 739,096	\$ 1,685,779	\$ 2,052,365	\$ 2,323,127
Net Profit or (Loss) <sup>[2]</sup>	\$ 321,505	\$ 496,029	\$ 796,105	\$ 1,101,098
Net Patient Revenue/Treatment <sup>[2]</sup>	\$ 420.87	\$ 420.87	\$ 420.87	\$ 420.87
Total Operating Exp./Treatment <sup>[2]</sup>	\$ 293.29	\$ 325.19	\$ 303.25	\$ 285.54
Net Profit per Treatment <sup>[2]</sup>	\$ 127.58	\$ 95.68	\$ 117.63	\$ 135.34

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

As shown in Table 7 above, at the projected volumes identified in the application, FMC anticipates that the 12-station F-KDC would be operating at a profit in partial year 2009 and CY 2010 through 2012.

FMC also selected a site for its Kennewick facility. Since the postmaster has not yet assigned an address to the site, FMC provided the Benton County Assessor's parcel number (#101894040002006) and the cross streets of 7<sup>th</sup> Street and Washington in Kennewick. The draft lease agreement provided in the application between QualiCenters Inland Northwest, LLC (tenant) and Washington Street Ventures, LLC (landlord) outlines the terms and annual lease amount for the site for 10 years following commencement of the lease. However, the lease amount in the agreement cannot be substantiated in the pro forma revenue and expense statements provided in the application. [source: January 31, 2008, supplemental information, Attachments 1, 3, 4, & 5]

Additionally, FMC provided a copy of the draft Medical Director Agreement between QualiCenters, Inland Northwest, LLC and Mid-Columbia Medical Associates, PS, an affiliate of Kadlec Medical Center. Mid-Columbia Medical Associates is comprised of three nephrologists—Obima Onuorah, MD; Nalini Vassa, MD, and Fareed Arif, MD. The draft agreement identifies an annual cost of \$45,000 for medical director services at F-KDC. However, the medical director costs identified in the draft agreement also cannot be substantiated in the pro forma revenue and expense statement provided in the application. [source: January 31, 2008, supplemental information, Attachments 5 & 6]

### **F-RDC**

For its Richland project, FMC anticipates it will become operational in July 2009. Based on this timeline CY 2010 would be F-RDC's first full year of operation. On the final day of public comment, FMC submitted information regarding its two Benton County projects. The information states that while preparing its public comment, FMC noted two separate transposition errors within its pro forma revenue and expense statements. Specifically, the lease costs and medical director expenses for each project were entered into the other

<sup>13</sup> Whole numbers may not add due to rounding.

project's revenue and expense statement. To correct this error, FMC submitted a third version of F-RDC's pro forma revenue and expense statement. Noted changes include the total expenses and profitability in each for years 2009 through 2012. The department has determined that this submission constitutes an inappropriate amendment to the application and will not be considered in this review. [WAC 246-310-090, WAC 246-310-100(6), and WAC 246-310-170]

Using the financial information provided as part of the completed application, Table 8 below illustrates the projected revenue, expenses, and net income for partial CY 2009 and full CYs 2010-2012 for F-RDC. [source: January 31, 2008, supplemental information, Attachment 5]

**Table 8  
Fresenius Medical Care's Richland Dialysis Center  
Projected Revenue and Expenses Calendar Years 2009 - 2012<sup>14</sup>**

	<b>Partial Year 2009</b>	<b>Full Year 1 2010</b>	<b>Full Year 2 2011</b>	<b>Full Year 3 2012</b>
# of Stations	17	17	17	17
# of Treatments <sup>[1]</sup>	3,384	7,776	9,936	12,096
# of Patients <sup>[2]</sup>	45	60	72	86
Utilization Rate <sup>[2]</sup>	2.65	3.53	4.24	5.06
Net Patient Revenue <sup>[1]</sup>	\$ 1,218,935	\$ 2,823,760	\$ 3,678,514	\$ 4,565,749
Total Operating Expense <sup>[1,3]</sup>	\$ 989,728	\$ 1,956,799	\$ 2,378,363	\$ 2,719,453
Net Profit or (Loss) <sup>[1]</sup>	\$ 229,207	\$ 866,961	1,300,151	\$ 1,846,296
Net Patient Revenue/Treatment <sup>[1]</sup>	\$ 368.04	\$ 373.51	\$ 387.05	\$401.35
Total Operating Exp./Treatment <sup>[1]</sup>	\$ 298.83	\$ 258.84	\$ 250.25	\$ 239.05
Net Profit per Treatment <sup>[1]</sup>	\$ 69.21	\$ 114.68	\$ 136.80	\$ 162.30

[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 8 above, at the projected volumes identified in the application, FMC anticipates that the 17-station F-RDC would be operating at a profit in partial year 2009 and CY 2010 through 2012.

FMC selected a site for its Richland facility located at 299 Bradley Boulevard in Richland. The draft lease agreement provided in the application between QualiCenters Inland Northwest, LLC (tenant) and DP Management Enterprises, LLC (landlord) outlines the terms and annual lease amount for the site for 10 years following commencement of the lease. However, the lease amount in the agreement cannot be substantiated in the pro forma revenue and expense statements provided in the application. [source: January 31, 2008, supplemental information, Attachments 1, 3, 4, & 5]

Additionally, FMC provided a copy of the draft Medical Director Agreement between QualiCenters Inland Northwest, LLC and Mid-Columbia Medical Associates, PS, an affiliate of Kadlec Medical Center. Mid-Columbia Medical Associates is comprised of three nephrologists—Obima Onuorah, MD; Nalini Vassa, MD, and Fareed Arif, MD. The draft agreement identifies an annual cost of \$55,000 for medical director services at F-RDC. However, the medical director costs identified in the draft agreement also cannot be

<sup>14</sup> Whole numbers may not add due to rounding.

substantiated in the pro forma revenue and expense statement provided in the application. [source: January 31, 2008, supplemental information, Attachments 5 & 6]

DaVita submitted comments related to the financial feasibility criterion of both FMC projects. The comments focused on two specific issues:

- 1) FMC does not disclose its full cost allocations for either facility and its partial disclosures are inconsistent; and
- 2) FMC's treatment of depreciation expense is inconsistent and unreliable.

Related to cost allocations, DaVita notes that the pro forma revenue and expense statements provided in the application identify a line item entitled "G & A." The department requested clarification of what is included in the line item, and FMC stated the line item included "*direct and allocated overhead.*" Additionally, in response to the department's request related to both applications, FMC provided revised revenue and expense statements in its supplemental information. For its Kennewick and Richland projects, the "G & A" line item was replaced with the line item entitled "*Adm Exclue Regional & BU Alloca.*" Based on the line item description, DaVita assumes that some, but not all, overhead allocation is identified. DaVita notes that FMC offers no explanation of which allocations are reported and which are excluded under this line item. For the Kennewick project, the line item calculates to 3% of net revenue, while the Richland project's line item calculates to 7% of net revenue. DaVita concludes that FMC did not comply with the Program's request to show all cost allocations for each facility. [source: DaVita's April 18, 2008, public comment, pp4-5]

In response, FMC states that its "*Adm Exclue Regional & BU Alloca.*" line item is used to categorize all direct and indirect administration expenses for a given center. To determine the appropriate percentage of direct and indirect administration expenses, FMC uses like-type facilities as a baseline. For its Kennewick facility, the Columbia Basin facility in Kennewick was used as a baseline; for the Richland facility, one of its Spokane facilities was used as a baseline. FMC states that use of two different facilities as a baseline resulted in two different percentages. FMC further assures that it did not exclude any direct or indirect costs. [source: FMC May 21, 2008, rebuttal documents, p8]

DaVita also expressed concern regarding FMC's depreciation expense resulting in an understatement of the capital expenditure for both of its Benton County projects. The basis of the issue was the depreciation values used and noted differences between the application's tally of estimated capital expenditures and the property assets reported on the pro forma balance sheet for the proposed facility. DaVita believes that the result, once this inaccuracy is corrected to show the actual capital costs as they would be in relation to the balance sheet figures, was an increase in capital expenditures in excess of 12% allowable under rule. Thus, both applications should be returned as instructed under WAC 246-310-080(6) for a significant change from the letter of intent. [source: DaVita's April 18, 2008, public comment, pp2-5]

For its Kennewick project, FMC states that while its capital expenditures are accurate, the depreciation expense included in the pro forma revenue and expense statement was inadvertently overstated, therefore the amounts used to prepare the balance sheets for F-KDC were also incorrect. FMC points out that the error affects only the depreciation line item for the Kennewick project. Related to its Richland project, FMC criticizes DaVita's comments, but does not refute them or identify where, if any, errors occurred in the depreciation line item. FMC concludes that its Richland proposal "*is squarely profitable and meets all*

*Certificate of Need criteria.*” As a result, it is unclear whether the depreciation expenses for its Richland project are also inaccurate. [source: FMC May 21, 2008, rebuttal documents, pp5-7]

FMC concludes its comments with the acknowledgement that the accuracy or omission of a balance sheet has not prejudiced a review since the January 2007 implementation of the new ESRD rules. In fact, this point is augmented by DaVita in their rebuttal response for a project in Snohomish County, where DaVita states,

*“A project-specific balance sheet for a single new facility owned by a multi-facility company, such as DaVita or FMC, is a largely hypothetical and meaningless document.”*

[source: CN historical files, CN App #08-0711, DaVita March 7, 2008 rebuttal documents, p7]

### **Department Response**

Regarding the cost allocations, after reviewing the information provided by both DaVita and FMC, the department concludes that DaVita’s concerns regarding cost allocations were appropriately addressed by FMC.

Regarding the depreciation expense resulting in an understatement of the capital expenditure concern, the department, in this particular review, concurs with both applicants. A balance sheet is generally a statement of the financial position of a business at a particular point in time. The department will not prejudice the two FMC applications by holding a different standard of review than DaVita’s or any other multi-facility organization. In addition, the department will not prejudice DaVita’s application for not providing any pro forma balance sheet. It is noted, however, that FMC provided inaccurate data for one, and possibly both, Benton County projects. For the two FMC projects, the inaccurate data does not affect the outcome of the financial feasibility review for its Benton County projects; however, depending on the data and the specifics of facility under review, inaccurate financial data could result in an unfavorable outcome.

Based on the above information, the department’s conclusion regarding this sub-criterion follows.

#### **DaVita-Kennewick Dialysis Center**

Based on the above information, the department concludes that DaVita’s projected revenues and expenses are reasonable and can be substantiated. This sub-criterion is met.

#### **DaVita-Richland Dialysis Center**

Based on the above information, the department concludes that DaVita’s projected revenues and expenses are reasonable and can be substantiated. This sub-criterion is met.

#### **FMC-Kennewick Dialysis Center**

FMC’s lease costs identified in the lease agreement and the medical director costs identified in the medical director agreement cannot be substantiated in the project’s pro formas. As a result, the project cannot be fully evaluated on its long-range capital and operating costs. Therefore, this sub criterion is not met.

#### **FMC-Richland Dialysis Center**

FMC’s lease costs identified in the lease agreement and the medical director costs identified in the medical director agreement cannot be substantiated in the project’s pro formas. As a

result, the project cannot be fully evaluated on its long-range capital and operating costs. Therefore, this sub criterion is not 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.

**D-KDC**

The capital expenditure associated with the establishment of DaVita’s Kennewick facility is \$1,359,582 of which 53% is related to leasehold improvements; 39% for both fixed and moveable equipment; and the remaining 8% is related to architect, engineering, and application fees. The capital cost breakdown is shown below. [source: Application, p7 and Appendix 7]

<b>Item</b>	<b>Cost</b>	<b>% of Total</b>
Leasehold Improvements	\$ 720,000	53%
Fixed & Moveable Equipment (includes tax)	\$ 525,173	39%
Architect & Engineering & CN Fees	\$ 114,409	8%
<b>Total Estimated Capital Costs</b>	<b>\$ 1,359,582</b>	<b>100%</b>

To further demonstrate compliance with this sub-criterion, DaVita provided the following statements:

*“...Funding from previously allocated operations funds is the least costly approach. Debt financing for this project will not be required since there is sufficient cash on hand. Furthermore, the method of financing would have no impact on the amount charged for each unit of service.”* [source: Application, p21]

The department recognizes that the majority of reimbursements for dialysis services is through Medicare ESRD entitlements. To further demonstrate compliance with this sub-criterion, DaVita also provided the sources of patient revenue shown in Table 9 below. [source: Application, p22]

**Table 9**  
**DaVita’s Kennewick Dialysis Center**  
**Sources and Percentages of Revenue**

<b>Source of Revenue</b>	<b>Percentage of Revenue</b>
Medicare	58%
State (Medicaid)	7%
Insurance/HMO	35%
<b>Total</b>	<b>100%</b>

As shown above, the Medicare and State (Medicaid) entitlements are projected to equal 65% of the revenue at DaVita’s Kennewick Dialysis Center. The department concludes that the majority of revenue (65%) is dependent upon entitlement sources that are not cost based reimbursement and are not expected to have an unreasonable impact on charges for services. The remaining 35% will be derived through other or private insurance reimbursements. Further, the cost per dialysis for the proposed project was compared to those of recent kidney dialysis proposals, the average cost per dialysis is reasonable.

**D-RDC**

The capital expenditure associated with the establishment of DaVita’s Richland facility is \$1,747,589 of which 55% is related to leasehold improvements; 39% for both fixed and moveable equipment; and the remaining 7% is related to architect, engineering, and application fees. The capital cost breakdown is shown below. [source: Application, p7 and Appendix 7]

<b>Item</b>	<b>Cost</b>	<b>% of Total</b>
Leasehold Improvements	\$ 960,000	55%
Fixed & Moveable Equipment (includes tax)	\$ 673,180	39%
Architect & Engineering & CN Fees	\$ 114,409	7%
<b>Total Estimated Capital Costs</b>	<b>\$ 1,747,589</b>	<b>100%</b>

To further demonstrate compliance with this sub-criterion, DaVita provided the following statements:

*“...Funding from previously allocated operations funds is the least costly approach. Debt financing for this project will not be required since there is sufficient cash on hand. Furthermore, the method of financing would have no impact on the amount charged for each unit of service.”* [source: Application, p21]

The department recognizes that the majority of reimbursements for dialysis services is through Medicare ESRD entitlements. To further demonstrate compliance with this sub-criterion, DaVita also provided the sources of patient revenue shown in Table 10 below. [source: Application, p22]

**Table 10**  
**DaVita’s Richland Dialysis Center**  
**Sources and Percentages of Revenue**

<b>Source of Revenue</b>	<b>Percentage of Revenue</b>
Medicare	58%
State (Medicaid)	7%
Insurance/HMO	35%
<b>Total</b>	<b>100%</b>

As shown above, the Medicare and State (Medicaid) entitlements are projected to equal 65% of the revenue at DaVita’s Richland Dialysis Center. The department concludes that the majority of revenue (65%) is dependent upon entitlement sources that are not cost based reimbursement and are not expected to have an unreasonable impact on charges for services. The remaining 35% will be derived through other or private insurance reimbursements. Further, the cost per dialysis for the proposed project was compared to those of recent kidney dialysis proposals, the average cost per dialysis is reasonable.

FMC provided comments related to the financial feasibility criterion. FMC states that in past projects, DaVita has attributed its increased depreciation expenses not to inflation, but to continued capital expenditures. This concern raised by FMC was addressed in the previous sub-criterion and will not be re-addressed here.

**F-KDC**

The capital expenditure associated with the establishment of the Kennewick facility is \$961,011 of which 62% is related to construction; 35% for moveable equipment; and the remaining 3% is related to architect and engineering fees. The capital cost breakdown is shown below. [source: Application, p30]

<b>Item</b>	<b>Cost</b>	<b>% of Total</b>
Building Construction (includes tax)	\$ 591,838	62%
Moveable Equipment (includes tax)	\$ 337,673	35%
Architect & Engineering Fees	\$ 31,500	3%
<b>Total Estimated Capital Costs</b>	<b>\$ 961,011</b>	<b>100%</b>

To further demonstrate compliance with this sub-criterion, FMC provided the following statements:

*“This project has no impact on either charges or payment, as reimbursement for kidney dialysis services is based on a prospective composite per diem rate.”* [source: Application, p31]

The department recognizes that the majority of reimbursements for dialysis services is through Medicare ESRD entitlements. To further demonstrate compliance with this sub-criterion, FMC also provided the sources of patient revenue shown in Table 11 below. [source: Application, p22]

**Table 11**  
**FMC-Kennewick Dialysis Center**  
**Sources and Percentages of Revenue**

<b>Source of Revenue</b>	<b>Percentage of Revenue</b>
Medicare	79%
State (Medicaid)	5%
Insurance/HMO	16%
<b>Total</b>	<b>100%</b>

As shown above, the Medicare and State (Medicaid) entitlements are projected to equal 84% of the revenue at F-KDC. The department concludes that the majority of revenue (84%) is dependent upon entitlement sources that are not cost based reimbursement and are not expected to have an unreasonable impact on charges for services. The remaining 16% will be derived through other or private insurance reimbursements.

The costs and charges per dialysis for the proposed facility cannot be compared to recent kidney dialysis proposals submitted to the department. The department is not able to calculate the average cost per dialysis with any certainty due to inconsistent pro-forma data and the reported lease and medical director costs. The department is unable to conclude the average cost per dialysis is reasonable or accurate.

**F-RDC**

The capital expenditure associated with the establishment of the Richland facility is \$1,146,154 of which 60% is related to construction; 37% for moveable equipment; and the remaining 3% is related to architect and engineering fees. The capital cost breakdown is shown on the following page. [source: Application, p28]

<b>Item</b>	<b>Cost</b>	<b>% of Total</b>
Building Construction (includes tax)	\$ 684,239	60%
Moveable Equipment (includes tax)	\$ 427,915	37%
Architect & Engineering Fees	\$ 34,000	3%
<b>Total Estimated Capital Costs</b>	<b>\$ 1,146,154</b>	<b>100%</b>

To further demonstrate compliance with this sub-criterion, FMC provided the following statements:

*“This project has no impact on either charges or payment, as reimbursement for kidney dialysis services is based on a prospective composite per diem rate.”* [source: Application, p29]

The department recognizes that the majority of reimbursements for dialysis services is through Medicare ESRD entitlements. To further demonstrate compliance with this sub-criterion, FMC also provided the sources of patient revenue shown in Table 12 below. [source: Application, p30]

**Table 12**  
**FMC-Richland Dialysis Center**  
**Sources and Percentages of Revenue**

<b>Source of Revenue</b>	<b>Percentage of Revenue</b>
Medicare	79%
State (Medicaid)	5%
Insurance/HMO	16%
<b>Total</b>	<b>100%</b>

As shown above, the Medicare and State (Medicaid) entitlements are projected to equal 84% of the revenue at F-RDC. The department concludes that the majority of revenue (84%) is dependent upon entitlement sources that are not cost based reimbursement and are not expected to have an unreasonable impact on charges for services. The remaining 16% will be derived through other or private insurance reimbursements.

The costs and charges per dialysis for the proposed facility cannot be compared to recent kidney dialysis proposals submitted to the department. The department is not able to calculate the average cost per dialysis with any certainty due to inconsistent pro-forma data and the reported lease and medical director costs. The department is unable to conclude the average cost per dialysis is reasonable or accurate.

Based on the above information, the department’s conclusion regarding this sub-criterion follows.

DaVita-Kennewick Dialysis Center

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

#### DaVita-Richland Dialysis Center

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

#### FMC-Kennewick Dialysis Center

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

#### FMC-Richland Dialysis Center

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

### *(3) The project can be appropriately financed.*

#### **D-KDC**

As previously stated, the capital expenditure associated with the establishment of DaVita's 10-station facility in Kennewick is \$1,359,582. DaVita states that the project will be funded from DaVita's capital expenditure budget. This statement is supported with a letter confirming the commitment of corporate funding. A review of DaVita's consolidated financial statements shows the funds necessary to finance the project are available. [source: Application, p21 and Appendices 6 & 10]

#### **D-RDC**

The capital expenditure associated with the establishment of DaVita's 19-station facility in Richland is \$1,747,589. DaVita states that the project will be funded from DaVita's capital expenditure budget. This statement is supported with a letter confirming the commitment of corporate funding. A review of DaVita's consolidated financial statements shows the funds necessary to finance the project are available. [source: Application, p21 and Appendices 6 & 10]

The department also acknowledges that since January 2008, DaVita has received Certificate of Need approval for four projects proposing to add dialysis station capacity to Washington State. The combined capital expenditures associated with those four projects is approximately \$5.2 million. If DaVita's Kennewick and Richland projects are approved for the amounts identified in the applications, the total capital expenditure would be approximately \$3.1 million. Combined with the previous four projects, DaVita would expend approximately \$8.3 million in Washington State alone since January 2008. A review of DaVita's most recent audited financial statements (December 31, 2006), shows that DaVita has the available capital resources to fund the two Benton County projects, as well as the four projects previously approved. [source: Appendix 10, pp44-46 & 71-72]

#### **F-KDC**

As previously stated, the capital expenditure associated with the establishment of FMC's 12-station facility in Kennewick is \$961,011. FMC states that the project will be funded from its existing reserves. This statement is supported with a letter confirming the commitment of corporate funding. A review of FMC's consolidated financial statements shows the funds necessary to finance the project are available. [source: Application, p31 and Appendix 2; January 31, 2008, supplemental information, Attachment 7]

### **F-RDC**

The capital expenditure associated with the establishment of FMC's 17-station facility in Richland is \$1,146,154. FMC states that the project will be funded from its existing reserves. This statement is supported with a letter confirming the commitment of corporate funding. A review of FMC's consolidated financial statements shows the funds necessary to finance the project are available. [source: Application, p21 and Appendix 2; January 31, 2008, supplemental information, Attachment 7]

The department also acknowledges that since January 2008, FMC or one of its subsidiaries has received Certificate of Need approval for four projects proposing to add dialysis station capacity to Washington State. The combined capital expenditures associated with those four projects is approximately \$3.0 million. If FMC's Kennewick and Richland projects are approved for the amounts identified in the applications, the total capital expenditure would be approximately \$2.1 million. Combined with the previous four projects, FMC would expend approximately \$5.1 million in Washington State alone since January 2008. A review of FMC's most recent audited financial statements (December 31, 2006), shows that FMC's has the available capital resources to fund the two Benton County projects, as well as the four projects previously approved. [source: Appendix 10, pp22-26 & 46-47]

Based on the above information, the department's conclusion regarding this sub-criterion follows.

#### **DaVita-Kennewick Dialysis Center**

Based on the information provided, the department concludes that the costs of this project would not result in an unreasonable impact to the costs and charges for health care services. The department also concludes that approval of one or both of DaVita's Benton County projects would not adversely affect the financial stability of DaVita as a whole. This sub-criterion is met.

#### **DaVita-Richland Dialysis Center**

Based on the information provided, the department concludes that the costs of this project would not result in an unreasonable impact to the costs and charges for health care services. The department also concludes that approval of one or both of DaVita's Benton County projects would not adversely affect the financial stability of DaVita as a whole. This sub-criterion is met.

#### **QualiCenters-Kennewick Dialysis Center**

Based on the information provided, the department concludes that the costs of this project would not result in an unreasonable impact to the costs and charges for health care services. The department also concludes that approval of one or both of FMC's Benton County projects would not adversely affect the financial stability of Fresenius Medical Care as a whole. This sub-criterion is met.

#### **QualiCenters-Richland Dialysis Center**

Based on the information provided, the department concludes that the costs of this project would not result in an unreasonable impact to the costs and charges for health care services. The department also concludes that approval of one or both of FMC's Benton County projects would not adversely affect the financial stability of Fresenius Medical Care as a whole. This sub-criterion is met.

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

Based on the source information reviewed, the department determines that DaVita’s two projects and FMC’s two projects have met the structure and process 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.

**D-KDC**

To staff its proposed 10-station facility, DaVita intends to recruit 5.20 FTEs in partial year 2009, which would increase to a total of 11.30 FTEs by the end of full calendar year three (2012). A breakdown of the proposed FTEs is shown in Table 13 below. [source: Application p23 and Appendix 3]

**Table 13  
DaVita-Kennewick Dialysis Center 2009 – 2012 Projected FTEs**

<b>Staff/FTEs</b>	<b>2009 Partial Year</b>	<b>2010 Increase</b>	<b>2011 Increase</b>	<b>2012 Increase</b>	<b>Total FTEs</b>
Medical Director	Professional Services Contract				
Administrator	0.80	0.20	0.00	0.00	1.00
RN	1.10	0.60	0.60	0.60	2.90
Patient Care Techs	2.20	0.80	1.20	0.30	4.50
Biomedical Techs	0.30	0.00	0.00	0.00	0.30
Re-Use Techs	0.20	0.10	0.20	0.10	0.60
Administrative Assistant	0.00	0.30	0.30	0.20	0.80
MSW	0.30	0.10	0.10	0.10	0.60
Dietitian	0.30	0.10	0.10	0.10	0.60
<b>Total FTE’s</b>	<b>5.20</b>	<b>2.20</b>	<b>2.50</b>	<b>1.40</b>	<b>11.30</b>

As shown in Table 13 above, after the initial recruitment of FTEs, DaVita expects a steady increase in FTEs for D-KDC through year 2012. DaVita states it expects no difficulty in recruiting staff for D-KDC because of its competitive wage and benefit package offered to employees. Further, DaVita posts staff openings nationally both internal and external to DaVita. In addition, DaVita states that several employees have already expressed interest in working at its proposed Kennewick facility. [source: Application, p24] Based on this information, the department concludes that adequate staffing for D-KDC is available or can be recruited.

**D-RDC**

To staff its proposed 19-station facility, DaVita intends to recruit 6.70 FTEs in partial year 2009, which would increase to a total of 21.00 FTEs by the end of full calendar year three (2012). A breakdown of the proposed FTEs is shown in Table 14 on the following page. [source: Application p23 and Appendix 3]

**Table 14**  
**DaVita-Richland Dialysis Center 2009 – 2012 Projected FTEs**

<b>Staff/FTEs</b>	<b>2009 Partial Year</b>	<b>2010 Increase</b>	<b>2011 Increase</b>	<b>2012 Increase</b>	<b>Total FTEs</b>
Medical Director	Professional Services Contract				
Administrator	1.00	0.00	0.00	0.00	1.00
RN	2.10	0.60	1.10	0.60	4.40
Patient Care Techs	2.30	2.90	2.30	2.50	10.00
Biomedical Techs	0.40	0.00	0.00	0.00	0.40
Re-Use Techs	0.30	0.10	0.20	0.40	1.00
Administrative Assistant	0.00	0.80	0.20	1.00	2.00
MSW	0.30	0.40	0.30	0.10	1.10
Dietitian	0.30	0.40	0.30	0.10	1.10
<b>Total FTE's</b>	<b>6.70</b>	<b>5.20</b>	<b>4.40</b>	<b>4.70</b>	<b>21.00</b>

As shown in Table 14 above, after the initial recruitment of FTEs, DaVita expects a steady increase in FTEs for D-RDC through year 2012. DaVita states it expects no difficulty in recruiting staff for D-RDC because of its competitive wage and benefit package offered to employees. Further, DaVita posts staff openings nationally both internal and external to DaVita. In addition, DaVita states that several employees have already expressed interest in working at its proposed Richland facility. [source: Application, p24] Based on this information, the department concludes that adequate staffing for D-RDC is available or can be recruited.

FMC submitted comments related to DaVita's proposed staffing and direct patient care per patient per week (direct patient care/patient/week) for its Richland facility. Specifically, FMC compared both DaVita projects with its own, and concluded that D-RDC would have 12% fewer hours of direct patient care/patient/week when compared to F-RDC; and 3% fewer hours when compared to DaVita's own Kennewick facility. FMC states that both F-KDC and F-RDC are consistent with industry standards for patient care hours that are needed to provide high quality and safe patient care. [source: Fresenius Medical Care public comments, pp7-9]

In response, DaVita asserts that "*FMC makes broad and unverifiable criticisms of our proposed staffing levels, invoking unknown industry standard. Most significantly, it does not argue that we fail to satisfy or exceed any applicable department or federal standards.*" DaVita further states that the department uses its facility certification and ongoing quality review process to assure that dialysis facilities in Washington State provide sufficient staffing, and the department consistently finds that DaVita satisfies all relevant quality criteria, including adequate staffing. [source: DaVita May, 20, 2008, rebuttal documents, pp7-8]

**Department Response**

The department consulted with survey staff responsible for determining whether a facility meets Medicare certification standards. Based upon the review of all the information and in consultation with survey staff, the department concludes that the planning would allow for the required coverage. Further, in recent surveys, there is no indication that any of the DaVita (or FMC facilities) have been cited for non-compliance to either the Washington or

Medicare staffing requirements. [source: Compliance survey data provided by Office of Health Care Survey]

**F-KDC**

To staff its proposed 12-station facility, FMC intends to recruit 6.85 FTEs in partial year 2009, which would increase to a total of 13.60 FTEs by the end of full calendar year three (2012). A breakdown of the proposed FTEs is shown in Table 15 below. [source: January 31, 2008, supplemental information, p5]

**Table 15  
FMC-Kennewick Dialysis Center 2009 – 2012 Projected FTEs**

<b>Staff/FTEs</b>	<b>2009 Partial Year</b>	<b>2010 Increase</b>	<b>2011 Increase</b>	<b>2012 Increase</b>	<b>Total FTEs</b>
Medical Director	Professional Services Contract				
Nurse Manager	1.00	0.00	0.00	0.00	1.00
RN	1.50	1.20	0.30	0.70	3.70
Patient Care Techs	3.00	1.80	0.90	0.60	6.30
Equipment Techs	0.25	0.00	0.15	0.00	0.40
MSW	0.30	0.10	0.10	0.10	0.60
Dietitian	0.30	0.10	0.10	0.10	0.60
Administrative Assistant	0.50	0.00	0.25	0.25	1.00
<b>Total FTE's</b>	<b>6.85</b>	<b>3.20</b>	<b>1.80</b>	<b>1.75</b>	<b>13.60</b>

As shown in Table 15 above, after the initial recruitment of FTEs, FMC expects a slight increase in FTEs for F-KDC through year 2012. FMC states it expects no difficulty in recruiting staff for F-KDC because of its competitive wage and benefit package offered to employees. Several months before opening the new dialysis center, FMC will begin recruitment and staff training, which will occur at Central Basin Dialysis Center, the existing FMC facility located in Benton County. Training at an existing facility will assure FMC will staff its new F-KDC with staff already familiar with clinical processes and corporate philosophies of care. Further, FMC posts staff openings national both internal and external to Fresenius Medical Care. [source: Application, p34] Based on this information, the department concludes that adequate staffing for F-KDC is available or can be recruited.

**F-RDC**

To staff its proposed 17-station facility, FMC intends to recruit 8.25 FTEs in partial year 2009, which would increase to a total of 16.70 FTEs by the end of full calendar year three (2012). A breakdown of the proposed FTEs is shown in Table 16 on the following page. [source: Application, p31]

**Table 16**  
**FMC-Richland Dialysis Center 2009 – 2012 Projected FTEs**

<b>Staff/FTEs</b>	<b>2009 Partial Year</b>	<b>2010 Increase</b>	<b>2011 Increase</b>	<b>2012 Increase</b>	<b>Total FTEs</b>
Medical Director	Professional Services Contract				
Nurse Manager	1.00	0.00	0.00	0.00	1.00
RN	1.20	1.20	0.30	0.90	3.60
Patient Care Techs	4.50	2.40	0.90	1.20	9.00
Equipment Techs	0.25	0.15	0.10	0.00	0.50
MSW	0.40	0.20	0.10	0.10	0.80
Dietitian	0.40	0.20	0.10	0.10	0.80
Administrative Assistant	0.50	0.50	0.00	0.00	1.00
<b>Total FTE's</b>	<b>8.25</b>	<b>4.65</b>	<b>1.50</b>	<b>2.30</b>	<b>16.70</b>

As shown in Table 16 above, after the initial recruitment of FTEs through year 2010, FMC expects a slight increase in FTEs for F-RDC through year 2012. FMC states it expects no difficulty in recruiting staff for F-RDC because of its competitive wage and benefit package offered to employees. Several months before opening the new dialysis center, FMC will begin recruitment and staff training, which will occur at Central Basin Dialysis Center, the existing FMC facility located in Benton County. Training at an existing facility will assure FMC will staff its new F-RDC with staff already familiar with clinical processes corporate philosophies of care. Further, FMC posts staff openings nationally both internal and external to Fresenius Medical Care. [source: Application, p31] Based on this information, the department concludes that adequate staffing for F-KDC is available or can be recruited.

Based on the above information, the department's conclusion regarding this sub-criterion follows.

DaVita-Kennewick Dialysis Center

Based on the information reviewed, the department concludes that adequate staffing for the 10 station facility is available or can be recruited. This sub criterion is met.

DaVita-Richland Dialysis Center

Based on the information reviewed, the department concludes that adequate staffing for the 19-station facility is available or can be recruited. This sub criterion is met.

FMC-Kennewick Dialysis Center

Based on the information reviewed, the department concludes that adequate staffing for the 12-station facility is available or can be recruited. This sub criterion is met.

FMC-Richland Dialysis Center

Based on the information reviewed, the department concludes that adequate staffing for the 17-station facility is available or can be recruited. This sub criterion is met.

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

**D-KDC**

Documentation provided in the application confirms that DaVita maintains, or will maintain, appropriate relationships with ancillary and support services for its eighteen operating and an/or CN approved dialysis centers. For its proposed Kennewick facility, 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. Additional services would be coordinated through DaVita's corporate offices in El Segundo, California and support offices in Tacoma, Washington; Denver, Colorado; Nashville, Tennessee; Berwyn, Pennsylvania; and Deland, Florida. [source: Application, p24]

DaVita acknowledges that since this would be a new facility in Benton County, transfer agreements would have to be established. To further demonstrate compliance with this sub-criterion, DaVita provided examples of draft transfer agreements. [source: Application, p24 and Appendix 12]

Based on this information, the department concludes that DaVita currently has appropriate relationships with ancillary and support services. 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 hospital in Benton County.

**D-RDC**

Documentation provided in the application confirms that DaVita maintains, or will maintain, appropriate relationships with ancillary and support services for its eighteen operating and/or CN approved dialysis centers. For its proposed Richland facility, 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. Additional services would be coordinated through DaVita's corporate offices in El Segundo, California and support offices in Tacoma, Washington; Denver, Colorado; Nashville, Tennessee; Berwyn, Pennsylvania; and Deland, Florida. [source: Application, p24]

DaVita acknowledges that since this would be a new facility in Benton County, transfer agreements would have to be established. To further demonstrate compliance with this sub-criterion, DaVita provided examples of draft transfer agreements. [source: Application, p24 and Appendix 12]

Based on this information, the department concludes that DaVita currently has appropriate relationships with ancillary and support services. 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 hospital in Benton County.

**F-KDC**

Documentation provided in the application confirms that FMC and its subsidiaries currently maintains, or will maintain, appropriate relationships with ancillary and support services for its sixteen operating and/ or CN approved dialysis centers. For its proposed Kennewick

facility, ancillary and support services, such as social services, nutrition services, pharmacy, and dietary support services will be provided on site. Additional required support services would be coordinated through its existing Central Basin Dialysis Center located in Kennewick. [source: Application, p9 & 35]

FMC acknowledges that since this would be a new facility in Benton County, transfer agreements would have to be established. To further demonstrate compliance with this sub-criterion, FMC provided a draft transfer agreement between QualiCenters Inland Northwest, LLC and Kennewick General Hospital. [source: January 31, 2008, supplemental information, Attachment 8]

Based on this information, the department concludes that FMC and its subsidiaries currently have appropriate relationships with ancillary and support services. If this project is approved, the department would include a term requiring FMC to provide a copy of the executed transfer agreement with a local hospital in Benton County.

### **F-RDC**

Documentation provided in the application confirms that FMC and its subsidiaries currently maintains, or will maintain, appropriate relationships with ancillary and support services for its sixteen operating and/or CN approved dialysis centers. For its proposed Richland facility, ancillary and support services, such as social services, nutrition services, pharmacy, and dietary support services will be provided on site. Additional required support services would be coordinated through its existing Central Basin Dialysis Center located in Kennewick. [source: Application, p8 & 33]

FMC acknowledges that since this would be a new facility in Benton County, transfer agreements would have to be established. To further demonstrate compliance with this sub-criterion, FMC provided a draft transfer agreement between QualiCenters Inland Northwest, LLC and Kadlec Medical Center in Richland. [source: January 31, 2008, supplemental information, Attachment 8]

Based on this information, the department concludes that FMC and its subsidiaries currently have appropriate relationships with ancillary and support services. If this project is approved, the department would include a term requiring FMC to provide a copy of the executed transfer agreement with a local hospital in Benton County.

Based on the above information, the department's conclusion regarding this sub-criterion follows.

### **DaVita-Kennewick Dialysis Center**

Provided that DaVita would agree to the following term, this sub-criterion would be met.

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

### **DaVita-Richland Dialysis Center**

Provided that DaVita would agree to the following term, this sub-criterion would be met.

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

#### FMC-Kennewick Dialysis Center

Provided that FMC would agree to the following term, this sub-criterion would be met.

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

#### FMC-Richland Dialysis Center

Provided that FMC would agree to the following term, this sub-criterion would be met.

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

- (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.*

#### **DaVita, Inc - Kennewick and Richland Projects**

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] Currently within Washington State, DaVita owns, operates, or manages eighteen 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 public<sup>15</sup>. 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.<sup>16</sup> The compliance history of the remaining 13 states and the District of Columbia is unknown.<sup>17</sup>

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.

As stated earlier, DaVita owns or manages 1,300 facilities. While the department did not receive responses from all states where DaVita operates, it did have a 66% return rate. The

---

<sup>15</sup> WAC 246-310-230(5).

<sup>16</sup> 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.

<sup>17</sup> Arkansas, California, Colorado, Georgia, Louisiana, Massachusetts, Nebraska, New Mexico, North Carolina, Ohio, Oklahoma, and South Carolina.

noted non-responsive locations equate to 0.23% of DaVita's total facilities. Therefore, the department concludes the 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 30 compliance surveys for the operational facilities that DaVita either owns or manages.<sup>18</sup> Of the compliance surveys completed, all revealed minor non-compliance issues related to the care and management at the DaVita facilities. These non-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]

Wassim Khawandi, MD has agreed to provide medical director services at the proposed dialysis centers in Kennewick and Richland. DaVita provided a copy of the draft medical director agreement between itself and Dr. Khawandi. The agreement outlines the roles and responsibilities of DaVita and the proposed medical director. A review of the compliance history of Dr. Khawandi has shown that his credentials are current and there are no recorded sanctions. [source: D-KDC, Appendix 3; D-RDC, Appendix 3; Medical Quality Assurance Commission compliance data]

The documentation provided in the applications, including the draft medical director agreement, is confirmation that DaVita intends to meet this requirement for both projects. If either project is approved, the department would include a term requiring DaVita to provide a copy of the executed Medical Director agreement.

### **FMC-Kennewick and Richland Projects**

Renal Care Group Northwest, Inc also known as Inland Northwest Renal Care Group, LLC is owned by Renal Care Group. On March 31, 2006, through stock acquisition Fresenius Medical Care Holdings, Inc became the sole owner of Renal Care Group. Inland Northwest Renal Care Group, LLC an indirect subsidiary of Fresenius Medical Care, a German corporation. Inland Northwest Renal Care Group is jointly owned by Renal Care Group Northwest and Sacred Heart Medical Center, a hospital located in Spokane County.

The department's survey of other states revealed minor non-compliance issues typical of a dialysis facility related to the care, medical records, and management at the FMC facilities. In summary, in those states that license and/or survey dialysis facilities, FMC or one of its subsidiaries submitted plans of correction and implemented the required corrections when these non-compliance issues were identified. [source: Licensing and/or survey data provided by out of state health care survey programs]

In Washington State, FMC or one of its subsidiaries owns, operates, or manages sixteen kidney dialysis facilities in thirteen separate counties. The FMC owned or operated facilities in Washington have collectively been surveyed more than 30 times in the last six years. Of the 30+ surveys, one survey revealed a potentially hazardous condition that was promptly corrected and nine surveys revealed no deficiencies. The remaining surveys revealed minor non-compliance issues and FMC submitted plans of corrections for the non-compliance issues within the allowable response time. [source: Office of Health Care Survey compliance survey data]

---

<sup>18</sup> DaVita's Graham Dialysis Center, Ellensburg Dialysis Center, Mill Creek Dialysis Center, Olympia Dialysis Center, and Seaview Dialysis Center are not yet operational. Olympic View Dialysis Center is owned by Group Health and managed by DaVita.

Mid-Columbia Medical Associates, PS, an affiliate of Kadlec Medical Center, has agreed to provide medical director services at the proposed dialysis centers in Kennewick and Richland. FMC provided a copy of the draft medical director agreement between QualiCenters Inland Northwest, LLC and Mid-Columbia Medical Associates, PS. The agreement outlines the roles and responsibilities of both entities. Mid-Columbia Medical Associates is comprised of three nephrologists—Obima Onuorah, MD; Nalini Vassa, MD; and Fareed Arif, MD. A review of the compliance history of all three nephrologists has shown that credentials are current and there are no recorded sanctions. [source: F-KDC, January 31, 2008, supplemental information, Attachment 6; F-RDC, January 31, 2008, supplemental information, Attachment 6; Medical Quality Assurance Commission compliance data]

The documentation provided in the applications, including the draft medical director agreement, is confirmation that FMC intends to meet this requirement for both projects. If either project is approved, the department would include a term requiring FMC to provide a copy of the executed Medical Director agreement.

Based on the above information, the department's conclusion regarding this sub-criterion follows.

#### DaVita-Kennewick Dialysis Center

Provided that DaVita would agree to the following term, this sub-criterion would be met.

Prior to providing services at Kennewick Dialysis Center, DaVita, Inc. will provide an executed copy of the Medical Director Agreement for the department's review and approval. The executed Medical Director Agreement must be consistent with the draft medical director agreement provided in the application.

#### DaVita-Richland Dialysis Center

Provided that DaVita would agree to the following term, this sub-criterion would be met.

Prior to providing services at Richland Dialysis Center, DaVita, Inc. will provide an executed copy of the Medical Director Agreement for the department's review and approval. The executed Medical Director Agreement must be consistent with the draft medical director agreement provided in the application.

#### FMC-Kennewick Dialysis Center

Provided that QualiCenters would agree to the following term, this sub-criterion would be met.

Prior to providing services at Kennewick Dialysis Center, FMC will provide an executed copy of the Medical Director Agreement for the department's review and approval. The executed Medical Director Agreement must be consistent with the draft medical director agreement provided in the application.

#### FMC-Richland Dialysis Center

Provided that QualiCenters would agree to the following term, this sub-criterion would be met.

Prior to providing services at Richland Dialysis Center, FMC will provide an executed copy of the Medical Director Agreement for the department's review and approval. The executed Medical Director Agreement must be consistent with the draft medical director agreement provided in the application.

- (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.

**D-KDC**

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, p24, Appendices 17 & 18]

The department also considered DaVita's history of providing care to residents in Washington State. The department concludes that the applicant 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 considers the results of the kidney disease treatment center numeric methodology and standards outlined in WAC 246-310-284. Application of the numeric methodology shows a need for an additional 29 dialysis stations in Benton County. This project proposes to establish a 10 station facility in Kennewick. Within the application, DaVita demonstrated it met the standards to receive approval to establish a 10-station dialysis center.

**D-RDC**

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, p24, Appendices 17 & 18]

The department also considered DaVita's history of providing care to residents in Washington State. The department concludes that the applicant 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 considers the results of the kidney disease treatment center numeric methodology and standards outlined in WAC 246-310-284. Application of the numeric methodology shows a need for an additional 29 dialysis stations in Benton County. This project proposes to establish a 19 station facility in Richland. Within the application,

DaVita demonstrated it met the standards to receive approval to establish a 19-station dialysis center.

### **F-KDC**

FMC states that it 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. The department concludes that nothing in the materials reviewed by staff suggests that approval of this project would change these relationships. [source: CN historical files]

Additionally, the department considers the results of the kidney disease treatment center numeric methodology and standards outlined in WAC 246-310-284. Application of the numeric methodology shows a need for an additional 29 dialysis stations in Benton County. This project proposes to establish a 12 station facility in Kennewick. Within the application, QualiCenters demonstrated it met the standards to receive approval to establish a 12-station dialysis center.

However, as stated in the financial feasibility portion of this evaluation, inconsistencies in the pro forma revenue and expense statement prevent an accurate evaluation of the facility's forecasted viability. In the long-term this may lead to the unnecessary opening and closing of a facility, resulting in a loss of service. Therefore, the department concludes that approval of this project would have the potential of fragmentation of dialysis services within the service area.

### **F-RDC**

FMC states that it 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. The department concludes that nothing in the materials reviewed by staff suggests that approval of this project would change these relationships. [source: CN historical files]

Additionally, the department considers the results of the kidney disease treatment center numeric methodology and standards outlined in WAC 246-310-284. Application of the numeric methodology shows a need for an additional 29 dialysis stations in Benton County. This project proposes to establish a 17 station facility in Richland. Within the application, FMC demonstrated it met the standards to receive approval to establish a 17-station dialysis center.

However, as stated in the financial feasibility portion of this evaluation, inconsistencies in the pro forma revenue and expense statement prevent an accurate evaluation of the facility's forecasted viability. In the long-term this may lead to the unnecessary opening and closing of a facility, resulting in a loss of service. Therefore, the department concludes that approval of this project would have the potential of fragmentation of dialysis services within the service area.

Based on the above information, the department's conclusion regarding this sub-criterion is summarized on the following page.

#### DaVita-Kennewick Dialysis Center

Approval of this project would promote continuity in the provision of health care for the planning area, and would not result in an unwarranted fragmentation of services. Further, DaVita demonstrated it has, and will continue to have, appropriate relationships to the service area's existing health care system within the planning area. This sub-criterion is met.

#### DaVita-Richland Dialysis Center

Approval of this project would promote continuity in the provision of health care for the planning area, and would not result in an unwarranted fragmentation of services. Further, DaVita demonstrated it has, and will continue to have, appropriate relationships to the service area's existing health care system within the planning area. This sub-criterion is met.

#### FMC-Kennewick Dialysis Center

Because of the inconsistencies in the pro forma revenue and expense statement, the project cannot be fully evaluated on its long-range capital and operating costs. As a result, the project would have the potential of fragmentation of dialysis services within the service area, and this sub criterion is not met.

#### FMC-Richland Dialysis Center

Because of the inconsistencies in the pro forma revenue and expense statement, the project cannot be fully evaluated on its long-range capital and operating costs. As a result, the project would have the potential of fragmentation of dialysis services within the service area, and this sub criterion is not met.

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

#### **DaVita, Inc - Kennewick and Richland Projects**

For both projects, this sub-criterion is addressed in sub-section (3) above and is considered met.

#### **FMC - Kennewick and Richland Projects**

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:

- DaVita, Inc.'s Kennewick project has met cost containment criteria in WAC 246-310-240; and
- DaVita, Inc.'s Richland project has meet the cost containment criteria in WAC 246-310-240; and
- Fresenius Medical Care's Kennewick project has not met the cost containment criteria in WAC 246-310-240; and
- Fresenius Medical Care's Richland project has not 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.

**DaVita, Inc - Kennewick and Richland Projects**

Before submitting applications for Kennewick and Richland, DaVita considered two alternatives. The alternatives and DaVita's rationale for rejecting them are summarized below. [source: D-KDC Application, pp26-27; D-RDC Application, pp26-27]

Alternative #1: Do nothing or status quo

By applying the numeric methodology, DaVita determined need for 29 dialysis stations exists in Benton County; therefore, DaVita rejected this alternative.

Alternative #2: Establish a 29 station center in Richland

This alternative would address the numeric need in the Benton County, however, DaVita asserts that 29 stations located in one area would not address the geographic dispersion of patients in the county.

Based on DaVita's discussions of the alternatives considered before submitting this application and considering the results of the numeric methodology, DaVita concluded that two smaller facilities, rather than one large facility, would better meet the needs of the patients within Benton County.

**FMC - Kennewick and Richland Projects**

Before submitting applications for Kennewick and Richland, FMC considered three alternatives. The alternatives and FMC's rationale for rejecting them are summarized below. [source: F-KDC Application, pp37-38; F-RDC Application, pp35-36]

Alternative #1: Do nothing or status quo

By applying the numeric methodology, FMC also determined need for 29 dialysis stations exists in Benton County. FMC further asserts its existing facility located in Kennewick, Central Basin Dialysis Center, is operating with four patient shifts and well in excess of 100% capacity for more than two years. As a result, FMC rejected this alternative.

Alternative #2: Expansion of Central Basin Dialysis Center

Central Basin Dialysis Center currently operates 13 stations in Kennewick, and FMC acknowledges the site allows room for expansion of 7 stations. However, expansion of an existing facility causes disruption to patients. Given that it is the only facility currently located within the county, this disruption did not seem reasonable. Further, an additional 7 stations would still leave a 22-station need in the county.

Alternative #3: Establish a 29 station facility in the county

FMC acknowledges that the establishment of one large facility, rather than two smaller facilities, would result in the lowest capital expenditure. However, FMC also considered the geographic dispersion of patients in the county. Based on patients at its current Kennewick center—Central Basin Dialysis Center— FMC noted for year ending December 31, 2007, 58.5% of the existing patients reside in Kennewick; 26.0% reside in Richland, and the remaining 15.5% reside in surrounding communities. FMC also concluded that two smaller facilities, rather than one large facility, would better meet the needs of the patients within Benton County.

### **Department Response**

In determining the best available alternative the department considered its findings on the other applicable review criteria. Both DaVita projects met all other review criteria. Both FMC projects, however, failed to meet the review criteria of financial feasibility and structure and process of care. Based on the above information, the department's conclusion regarding this sub-criterion follows.

#### **DaVita-Kennewick Dialysis Center**

Approval of this project is the best available alternative. This sub-criterion is met.

#### **DaVita-Richland Dialysis Center**

Approval of this project is the best available alternative. This sub-criterion is met.

#### **FMC-Kennewick Dialysis Center**

Approval of this project is not the best available alternative. This sub-criterion is not met.

#### **FMC-Richland Dialysis Center**

Approval of this project is not the best available alternative. This sub-criterion is not met.

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

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

##### **DaVita, Inc - Kennewick and Richland Projects**

Both projects involve 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 for both projects.

##### **FMC - Kennewick and Richland Projects**

Both projects involve 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 not met for both projects.

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

##### **DaVita, Inc - Kennewick and Richland Projects**

Both projects involve 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 for both projects.

##### **FMC - Kennewick and Richland Projects**

Both projects involve 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 not met for both projects.

**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 if this criterion applies to the four applications under review, the department considered its findings on the other review criteria. The department previously concluded that the DaVita applications met all the applicable review criteria. Further, the department previously concluded that the FMC applications failed to meet financial feasibility, structure and process of care, and cost containment. Because FMC application failed to meet three of the four required universal review criteria, this tie-breaker criterion is not applicable.