

WAC 246-310-280(9) Kidney disease treatment centers – Definitions

Recommendation: move the zip codes for the I-90 corridor out of King 7 and into King 8. These include the zip codes for Issaquah and Sammamish (98027, 98029, 98074 and 98075).

Rationale: the Issaquah/Sammamish area has grown substantially and warrants being in a planning area of its own rather than as an afterthought of the Bellevue planning area. It is well east of the Bellevue area, and now has its own hospital/medical center. This change will have no immediate impact on utilization of any existing facilities, nor will it create a new need shortage model in either King 7 or King 8.

WAC 246-310-282 Kidney disease treatment centers – Concurrent review cycle

No recommendations.

WAC 246-310-284 Kidney disease treatment centers – Methodology

Recommendation: Clarification that WAC 246-301-240 Cost Containment should be interpreted as written and used by both the applicant and the analyst to respectively promote and assess the superiority of an application relative to all alternatives put forth by all applicants.

Rationale: a failure to perform a reasonable superiority analysis relegates the Cost Containment section of the Methodology to a perfunctory and relatively meaningless exercise that is not consonant with the intent of CN review.

WAC 246-310-286 Kidney disease treatment centers – Standards for planning areas without an existing facility

No recommendations.

WAC 246-310-287 Kidney disease treatment centers – Exceptions

Recommendation: create a limited exception to provide a “safety valve” for existing highly successful providers who are operating at or near 6 patients per station and

are thus in danger of not being able to serve their long-standing traditional constituents (patients, physicians, insurers).

Assuming (a) all other providers in the planning area are beyond their third year of operations and thus have been given the opportunity to achieve the standard of 4.8 patients per stations (or 3.2 patients per station as applicable under WAC 246-310-284(6)), and (b) an applicant has been operating continuously at 5 patients per station or higher for at least 6 months, then WAC 246-310-285(5) should be modified to permit the relevant applicant to add 2 stations irrespective of the utilization of other facilities in the planning area.

Rationale: a provider who has achieved a high level of satisfaction and loyalty among their constituents for delivering quality care, customer service, and/or lower charges should not be constrained by the Department of Health from obtaining additional treatment capacity and thus forcing their customer base to go to a different provider in or outside the service area. After taking into account a reasonable start-up period for the utilization of other new stations, the success of existing providers should be rewarded, not punished.

WAC 246-310-288 Kidney disease treatment centers – Tie-breakers

Recommendation 1: Clarify the context in which tie-breaker should be used by amending the introductory language as follows:

"If two or more applications meet all applicable review criteria, including a review of which alternative submitted by all applicants is superior in terms of cost containment (WAC 246-310-240), and there is not enough station need projected..."

Rationale: failure to perform a reasonable superiority analysis relegates the Cost Containment section of the Methodology to a perfunctory and relatively meaningless exercise that is not consonant with the intent of CN review.

Recommendation 2: expand tie-breaker (2)(a) Economies of scale to include three equally weighted components: lowest capital expenditure per new station; lowest net revenue per treatment; and lowest operating expense per treatment.

Rationale: using only the capital expenditure per new station puts excessive pressure on an applicant to avoid constructing superior or creative facilities, and

ignores the net revenues and expenses per treatment that are important components of the total cost containment picture.

An important but unexplored nuance of the Economy of Scale tie-breaker point is that it favors applicants who lease property over those who make a longer-term commitment to purchase and build/own their facilities. This should appropriately be a business decision by an applicant rather than something to be avoided because of the potential impact on a tie-breaker point.

Recommendation 3: eliminate tie-breaker (2)(c) Patient geographical access.

Rationale: this seemed a good concept to promote access to care but has in fact brought unintended consequences on a huge scale. It arguably results in prospective providers locating proposed new facilities not where patients are in fact aggregated but to locations designed solely to meet the minimum 3-mile-away threshold and/or to achieve the furthest-away standard. In practice we have seen providers amend applications solely to position themselves for this point, and/or wrest control of multiple sites in a planning area to prevent other providers from obtaining them. This gamesmanship adds time and expense to the concurrent review process, and makes the dialysis industry in general look clownish rather than serious about serving the communities in a planning area. This is an irrational and unsupportable way to conduct planning for any health services.

Recommendation 4: eliminate tie-breaker (2)(d) Provider choice.

Rationale: intended as a way to promote competition, it in fact does the opposite by creating a non-level playing field that punishes existing successful providers and virtually guarantees that any newcomer to the planning area will prevail in a concurrent review that goes to tie-breakers. This is outright unequal treatment that should never have been permitted and needs to be discarded.

Recommendation 5: tie-breakers must be declared in the initial application submitted by an applicant. An applicant has the legal right to amend an application, but their eligibility for tie-breaker points should be constrained to the information provided in the initial application.

Rationale: this will avoid much of the gamesmanship, time and expense associated with filing one or two amendments solely to position the application for tie-breaker points. It will in effect impose on all applicants a level of honesty and integrity in

submitting their initial applications rather than promoting amendments that obfuscate their intent to serve the communities of a planning area.

WAC 246-310-289 Kidney disease treatment centers – Relocation of facilities

No recommendations.

Non-rule process recommendations

1. Initial incomplete applications should be returned rather than accepted and screened. Key information that is missing should be the criteria for this action, including facility location, draft floor plan that matches the footprint of the space and identifies the stations and services, full capital expenditure, site control as demonstrated by at least a draft lease or purchase agreement, medical director as demonstrated by at least a draft medical director agreement, and perhaps other basic information that should be part of the applicant's due diligence *prior* to filing the application.
2. Clarification of how built stations may be used. Isolation stations, bedded stations and training stations should not need to be dedicated for those functions only, but should have swing status, thus permitting a provider the flexibility to operate the maximum number of stations permitted by the CN award at any given time depending on immediate need. For instance, home dialysis training ideally needs to be done in a private room, preferably separated from the other outpatient stations to optimize the efficacy of the training, but as this room may only be used sporadically as patients are referred for training, it should have swing status such that when in use the provider can identify which of the stations in the general area may NOT be used and vice versa. This could be achieved by using signage that indicates a swing station (or rinsing station or surplus/surge station) may NOT be used for delivering a dialysis procedure.