



STATE OF WASHINGTON  
DEPARTMENT OF HEALTH

November 25, 2013

CERTIFIED MAIL #7011 2000 0000 5081 8708

Jason Bosh, Divisional Vice President  
DaVita Healthcare Partners  
32275 32nd Ave South  
Federal Way, Washington 98001

RE: CN13-33

Dear Mr. Bosh:

We have completed review of the Certificate of Need application submitted by DaVita proposing to establish a new 10-station dialysis center in Tumwater within Thurston County. For reasons stated in the evaluation, the application submitted is consistent with applicable criteria of the Certificate of Need Program, provided DaVita agrees to the following in its entirety.

**Project Description:**

This certificate approves the establishment of a ten-station dialysis facility in Tumwater within the Thurston County dialysis planning area. At project completion, the dialysis center is approved to certify and operate ten stations. Services to be provided include in-center dialysis, peritoneal dialysis training, hemodialysis for patients requiring isolation, hemodialysis for patients requiring a permanent bed station, hemodialysis patients requiring treatment shifts that begin after 5:00 pm, back-up dialysis services for home dialysis patients, home hemodialysis and home peritoneal training, support for patients for all forms of home dialysis, and visiting patient hemodialysis.

The station breakdown for the facility at project completion is shown below:

Private Isolation Room	1
Permanent Bed Station	1
Home Training Station	1
Other In-Center Stations	7
<b>Total</b>	<b>10</b>

**Conditions:**

1. Approval of project description as stated above. DaVita HealthCare Partners, Inc. further agrees that any change to the project as described in the project description is a new project that requires a new Certificate of Need.
2. Prior to providing services at the DaVita HealthCare Partners, Inc. will provide an executed copy of the Transfer Agreement consistent with the draft provided in the application.

**Approved Cost:**

The approved capital expenditure associated with this project is \$1,769,545. This amount represents the total capital expenditure of \$1,998,188 minus the landlord's cost of \$228,643.

You have two options, either accept or reject the above in its entirety. If you accept the above in its entirety, your application will be approved and a Certificate of Need sent to you. If you reject any provision of the above, you must identify that provision, and your application will be denied because approval would not be consistent with applicable Certificate of Need review criteria. Please notify the Department of Health within 20 days of the date of this letter whether you accept the above in its entirety.

**Appeal Option 1:**

You, any interested person, or affected person may request a public hearing to reconsider this decision. The request must state the specific reasons for reconsideration in accordance with Washington Administrative Code 246-310-560. A reconsideration request must be received within 28 calendar days from the date of the decision at one of the following addresses:

<u>Mailing Address:</u>	<u>Other Than By Mail</u>
Department of Health	Department of Health
Certificate of Need Program	Certificate of Need Program
Mail Stop 47852	111 Israel Road SE
Olympia, WA 98504-7852	Tumwater, WA 98501

**Appeal Option 2:**

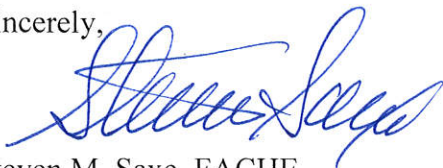
You or any person with standing may request an adjudicative proceeding to contest this decision within 28 calendar days from the date of this letter. The notice of appeal must be filed according to the provisions of Revised Code of Washington 34.05 and Washington Administrative Code 246-310-610. A request for an adjudicative proceeding must be received within the 28 days at one of the following addresses:

<u>Mailing Address:</u>	<u>Other Than By Mail</u>
Adjudicative Service Unit	Adjudicative Clerk Office
Mail Stop 47879	111 Israel Road SE
Olympia, WA 98504-7879	Tumwater, WA 98501

Jason Bosh, Divisional Vice President  
DaVita Healthcare Partners  
November 25, 2013  
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If you have any questions, or would like to arrange for a meeting to discuss our decision, please contact Janis Sigman with the Certificate of Need Program at (360) 236-2955.

Sincerely,



Steven M. Saxe, FACHE  
Director, Community Health Systems

Enclosure

## EXECUTIVE SUMMARY

### **EVALUATION DATED NOVEMBER 25, 2013 OF THE FOLLOWING CERTIFICATE OF NEED APPLICATIONS PROPOSING TO ADD DIALYSIS CAPACITY TO THURSTON COUNTY:**

- **FRESENIUS MEDICAL CARE HOLDINGS INC. ON BEHALF OF RENAL CARE GROUP NORTHWEST, INC. PROPOSING TO ADD TEN KIDNEY DIALYSIS STATIONS TO THE EXISTING DIALYSIS CENTER IN LACEY**
- **DAVITA HEALTHCARE PARTNERS, INC. PROPOSING TO ESTABLISH A TEN STATION DIALYSIS CENTER IN TUMWATER**

### **BRIEF PROJECT DESCRIPTIONS**

#### **Fresenius Medical Care Holdings, Inc.**

On January 8, 2013, CN1494 approved moving of six stations from Fresenius-Lacey's 25-station facility to a new location in the Hawks Prairie area of Thurston County. When the facility approved by CN1494 is complete, the number of approved stations at the existing Fresenius-Lacey will decrease to 19 stations.

This current application from Fresenius Medical Care Holdings, Inc.<sup>1</sup> (Fresenius) on behalf of Renal Care Group Northwest, Inc. (RCGNW) proposes to add ten dialysis stations to its CN approved facility for a total of 16 stations. The Fresenius Thurston Dialysis Center would serve the residents of Thurston County. Services proposed to be provided at the Fresenius Thurston Dialysis Center include hemodialysis, backup dialysis service, isolation station, home hemodialysis and home peritoneal training, and permanent bed station. [Source: Application, p9-10; Screening responses p1]

The approved capital expenditure associated with this project is \$257,965. Of the total amount 91.9% is for equipment and the remaining 8.1% is related to applicable taxes. [Source: Application, p28]

If this project is approved, Fresenius anticipates the stations would be available by March 2014. Under this timeline, year 2015 would be the facility's first full calendar year of operation with 16 stations and 2017 would be year three. [Source: Application, Face Page & p10]

#### **DaVita HealthCare Partners, Inc.**

DaVita HealthCare Partners, Inc. (DaVita) proposes to establish a new 10-station dialysis facility in the Thurston County dialysis planning area. The DaVita Tumwater Dialysis Center would be located at 855 Troser Road in the city of Tumwater within Thurston County. This dialysis center would provide in-center dialysis, peritoneal dialysis training, hemodialysis for patients requiring isolation, hemodialysis for patients requiring a permanent bed station, hemodialysis patients requiring treatment shifts that begin after 5:00 pm, back-up dialysis services for home dialysis patients, home hemodialysis and home peritoneal training, support for patients for all forms of home dialysis, and visiting patient hemodialysis.

If this project is approved, DaVita anticipates the station would be available by June 2014. Under this timeline, year 2015 would be the facility's first full calendar year of operation and 2017 would be year three. [Source: Application, p16]

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<sup>1</sup> Throughout this analysis, Fresenius will be used interchangeably with Fresenius Medical Care Holdings, Inc. and RCGNW.

The capital expenditure associated with this project is \$1,769,545. This amount represents the total capital expenditure of \$1,998,188 minus the landlord's project costs of \$228,643. Of that total amount 64% is related to construction; 22% for moveable equipment; 3% for professional fees and the remaining 11% is related to the landlord's portion of the costs. [Source: Application, p8]

**APPLICABILITY OF CERTIFICATE OF NEED LAW**

The projects are subject to Certificate of Need (CN) review as the increase in number of dialysis stations at a dialysis facility under the provisions of Revised Code of Washington (RCW) 70.38.105(4)(h) and Washington Administrative Code (WAC) 246-310-020(1)(e).

**CONCLUSIONS**

**Fresenius Medical Care Holdings, Inc. on behalf of Renal Care Group Northwest**

For the reasons stated in this evaluation, the application submitted by Fresenius Medical Care Holdings, Inc. on behalf of Renal Care Group Northwest proposing to add ten dialysis stations to the Thurston County Dialysis Center is not consistent with applicable criteria and a Certificate of Need is denied.

**DaVita HealthCare Partners, Inc.**

For the reasons stated in this evaluation, the application submitted by DaVita HealthCare Partners, Inc. proposing to establish a new 10-station dialysis facility in Tumwater within Thurston County is consistent with applicable criteria, provided DaVita HealthCare Partners, Inc. agrees to the following in its entirety.

**Project Description:**

This certificate approves the establishment of a ten station dialysis facility in Tumwater within the Thurston County dialysis planning area. At project completion, the dialysis center is approved to certify and operate ten stations. Services to be provided include in-center dialysis, peritoneal dialysis training, hemodialysis for patients requiring isolation, hemodialysis for patients requiring a permanent bed station, hemodialysis patients requiring treatment shifts that begin after 5:00 pm, back-up dialysis services for home dialysis patients, home hemodialysis and home peritoneal training, support for patients for all forms of home dialysis, and visiting patient hemodialysis.

The station breakdown for the facility at project completion is shown below:

Private Isolation Room	1
Permanent Bed Station	1
Home Training Station	1
Other In-Center Stations	7
<b>Total</b>	<b>10</b>

**Conditions:**

1. Approval of project description as stated above. DaVita HealthCare Partners, Inc. further agrees that any change to the project as described in the project description is a new project that requires a new Certificate of Need.

2. Prior to providing services at the DaVita HealthCare Partners, Inc. will provide an executed copy of the Transfer Agreement consistent with the draft provided in the application.

**Approved Cost:**

The approved capital expenditure associated with this project is \$1,769,545. This amount represents the total capital expenditure of \$1,998,188 minus the landlord's cost of \$228,643.

**EVALUATION DATED NOVEMBER 25, 2013 OF THE FOLLOWING CERTIFICATE OF NEED APPLICATIONS PROPOSING TO ADD DIALYSIS CAPACITY TO THURSTON COUNTY:**

- **FRESENIUS MEDICAL CARE HOLDINGS INC. ON BEHALF OF RENAL CARE GROUP NORTHWEST, INC. PROPOSING TO ADD TEN KIDNEY DIALYSIS STATIONS TO THE EXISTING DIALYSIS CENTER IN LACEY**
- **DAVITA HEALTHCARE PARTNERS, INC. PROPOSING TO ESTABLISH A TEN STATION DIALYSIS CENTER IN TUMWATER**

**APPLICANT DESCRIPTION**

**Fresenius Medical Holdings, Inc. (Fresenius)<sup>2</sup>**

Renal Care Group Northwest is one of three entities owned by Renal Care Group, Inc. (RCG). RCGNW is responsible for the operation of facilities under four separate legal entities. These four entities are Pacific Northwest Renal Services, Renal Care Group of the Northwest, Inland Northwest Renal Care Group and Renal Care Group of Alaska. On March 31, 2006, thorough stock acquisition, Fresenius Medical Care Holdings, Inc. (FMC) became the sole owner of Renal Care Group, Inc., and its subsidiaries. Listed below are the five entities owned by FMC. [Source: Department’s historical record and Amended Application, page 3]

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

In Washington State, Fresenius or one of its four subsidiaries owns, operates or manages 19 kidney dialysis facilities in fourteen separate counties. Below is a listing of the 19 facilities in Washington. [Application: p3-6]

**Adams County**

Fresenius Leah Layne Dialysis Center

**Benton County**

Columbia Basin Dialysis Center

**Clark County**

Fort Vancouver Dialysis Facility  
Salmon Creek Dialysis Facility

**Lewis County**

Chehalis Facility

**Grant County<sup>3</sup>**

Moses Lake Dialysis Facility

**Spokane County**

Northpointe Dialysis Facility  
Spokane Kidney Center  
North Pines Dialysis Facility  
North Spokane Dialysis Center

**Mason County**

Shelton Dialysis Center

**Okanogan County**

Omak Dialysis Facility

**Stevens County**

Colville Dialysis Center

**Thurston County**

Fresenius Lacey Dialysis Center

<sup>2</sup> Throughout this analysis, Fresenius will be used interchangeably with Fresenius Medical Care Holdings, Inc. and RCGNW.

<sup>3</sup> On December 29, 2008, CN1388 was issued to Fresenius to establish a new 4-station dialysis facility in Ephrata by relocation existing stations from its Moses Lake facility. Both facilities were to be located in Grant County. On December 28, 2010, Fresenius relinquished CN1388.

**Cowlitz County**

Fresenius Longview Dialysis center

**Franklin County**

Columbia Basin Dialysis Center

**Grays Harbor County**

Aberdeen Dialysis Facility

**Walla Walla County**

QualiCenters Walla Walla

**DaVita**

DaVita Healthcare Partners, Inc. (DaVita) is a for-profit corporation that provides dialysis services in over 1,912 outpatient centers located in 43 states, the District of Columbia, and San Juan, Puerto Rico. DaVita also provides acute inpatient dialysis services in approximately 720 hospitals throughout the country. [Source: Application, p5; DaVita website]

In Washington State, DaVita owns or operates a total of 30 kidney dialysis facilities in 14 separate counties. Below is a listing of the DaVita facilities in Washington. [Source: CN historical files; DaVita Application, p2]

**Benton**Chinook Dialysis Center  
Kennewick Dialysis Center**Chelan**

Wenatchee Valley Dialysis Center

**Clark**

Vancouver Dialysis Center

**Douglas**

East Wenatchee Dialysis Center

**Franklin**

Mid-Columbia Kidney Center

**Island**

Whidbey Island Dialysis Center

**King**Bellevue Dialysis Center  
Des Moines Dialysis Center  
Federal Way Dialysis Center  
Kent Dialysis Center  
Olympic View Dialysis Center (management only)  
Westwood Dialysis Center**Kittitas**

Ellensburg Dialysis Center

**Mason**

Belfair Dialysis Center

**Pacific**

Seaview Dialysis Center

**Pierce**Graham Dialysis Center  
Lakewood Dialysis Center  
Parkland Dialysis Center  
Puyallup Dialysis Center  
Tacoma Dialysis Center**Snohomish**Everett Dialysis Center<sup>4</sup>  
Mill Creek Dialysis Center**Spokane**Downtown Spokane Renal Center  
North Spokane Renal Center  
Spokane Valley Renal Center**Thurston**

Olympia Dialysis Center

**Yakima**Mt. Adams Dialysis Center  
Union Gap Dialysis Center  
Yakima Dialysis Center  
Zillah Dialysis Center

<sup>4</sup> Refuge Dialysis, LLC, whose ownership is 80% DaVita and 20% The Everett Clinic, owns this facility.



## **PROJECT DESCRIPTION**

### **Fresenius**

On January 8, 2013, CN1494 approved moving of six stations from Fresenius-Lacey's 25-station facility to a new location in the Hawks Prairie area of Thurston County. When the facility approved by CN1494 is complete, the number of approved stations at the existing Fresenius-Lacey will decrease to 19 stations.

This current application from Fresenius proposes to add ten dialysis stations to its CN approved facility for a total of 16 stations. The Fresenius Thurston Dialysis Center would serve the residents of Thurston County. Services proposed to be provided at the Fresenius Thurston Dialysis Center include hemodialysis, backup dialysis service, isolation station, home hemodialysis and home peritoneal training, and permanent bed station. [Source: Application, p9-10; Screening responses p1]

The estimated capital expenditure associated with this project is \$257,965. Of the total amount 91.9% is for equipment and the remaining 8.1% is related to applicable taxes. [Source: Application, p28]

If this project is approved, Fresenius anticipates the stations would be available by March 2014. Under this timeline, year 2015 would be the facility's first full calendar year of operation with 16 stations and 2017 would be year three. [Source: Application, Face Page & p10]

### **DaVita**

DaVita HealthCare Partners, Inc. (DaVita) proposes to establish a new 10-station dialysis facility in the Thurston County dialysis planning area. The DaVita Tumwater Dialysis Center would be located at 855 Trosper Road in the city of Tumwater within Thurston County. This dialysis center would provide in-center dialysis, peritoneal dialysis training, hemodialysis for patients requiring isolation, hemodialysis for patients requiring a permanent bed station, hemodialysis patients requiring treatment shifts that begin after 5:00 pm, back-up dialysis services for home dialysis patients, home hemodialysis and home peritoneal training, support for patients for all forms of home dialysis, and visiting patient hemodialysis.

If this project is approved, DaVita anticipates the station would be available by June 2014. Under this timeline, year 2015 would be the facility's first full calendar year of operation and 2017 would be year three. [Source: Application, p16]

The capital expenditure associated with this project is \$1,769,545. This amount represents the total capital expenditure of \$1,998,188 minus the landlord's project costs of \$228,643. Of that total amount 64% is related to construction; 22% for moveable equipment; 3% for professional fees and the remaining 11% is related to the landlord's portion of the costs. [Source: Application, p8]

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

These projects are subject to Certificate of Need (CN) review because they either establish 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) or they increase the number of dialysis stations in a kidney disease treatment facility under the provisions of Revised Code of Washington (RCW) 70.38.105(4)(h) and Washington Administrative Code (WAC) 246-310-020(1)(e).

## **EVALUATION CRITERIA**

WAC 246-310-200(1)(a)-(d) identifies the four determinations that the department must make for the application. WAC 246-310-200(2) provides additional direction in how the department is to make its determinations. It states:

*“Criteria contained in this section and in WAC 246-310-210, 246-310-220, 246-310-230, and 246-310-240 shall be used by the department in making the required determinations.*

*(a) In the use of criteria for making the required determinations, the department shall consider:*

- (i) The consistency of the proposed project with service or facility standards contained in this chapter;*
- (ii) In the event the standards contained in this chapter do not address in sufficient detail for a required determination the services or facilities for health services proposed, the department may consider standards not in conflict with those standards in accordance with subsection (2)(b) of this section; and*
- (iii) The relationship of the proposed project to the long-range plan (if any) of the person proposing the project.”*

In the event the WAC 246-310 does not contain service or facility standards in sufficient detail to make the required determinations, WAC 246-310-200(2)(b) identifies the types of standards the department may consider in making its required determinations. Specifically WAC 246-310-200(2)(b) states:

*“The department may consider any of the following in its use of criteria for making the required determinations:*

- (i) Nationally recognized standards from professional organizations;*
- (ii) Standards developed by professional organizations in Washington State;*
- (iii) Federal Medicare and Medicaid certification requirements;*
- (iv) State licensing requirements;*
- (v) Applicable standards developed by other individuals, groups, or organizations with recognized expertise related to a proposed undertaking; and*
- (vi) The written findings and recommendations of individuals, groups, or organizations with recognized expertise related to a proposed undertaking, with whom the department consults during the review of an application.”*

To obtain CN approval, an applicant must demonstrate compliance with the applicable criteria found in WAC 246-310-210 (need); 246-310-220 (financial feasibility); 246-310-230 (structure and process of care); 246-310-240 (cost containment) and any service/facility specific criteria and standards linked to these four criteria. WAC 246-310 contains specific kidney dialysis specific criteria and standards. These are contained in WAC 246-310-280 through 289. These facility specific criteria and standards must be used to make the required determinations.<sup>5</sup>

## **TYPE OF REVIEW**

As directed under WAC 246-310-282(1) the department accepted these two projects under the year 2013 Kidney Disease Treatment Centers-Concurrent Review Cycle #1.

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<sup>5</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 246-310-240(3), and WAC 246-310-287, and 289.

The purpose of the concurrent review process is to comparatively analyze and evaluate competing or similar projects to determine which of the projects may best meet the identified need. In the case of the projects submitted by Fresenius and DaVita, the department will issue one single evaluation regarding whether one, all, or neither of the projects should be issued a CN.

**APPLICATION CHRONOLOGY**

Below is a chronologic summary of the projects.

Action	Fresenius	DaVita Inc.
Letter of Intent Submitted	January 31, 2013	January 31, 2013
Application Submitted	February 28, 2013	February 28, 2013
Department’s pre-review Activities		
• Department screening letter sent	April 2, 2013	
• Fresenius Screening responses received	May 3, 2013	
• DaVita HealthCare Partners screening responses received	May, 3, 2013	
Beginning of Review	May 16, 2013	
End of Public Comment		
• No public hearing conducted		July 15, 2013
• Public comments accepted through end of public comment		
Rebuttal Comments Received	August 15, 2013	
Department's Anticipated Decision Date	September 30, 2013	
Department's Actual Decision Date	November 25, 2013	

**AFFECTED PERSONS**

Washington Administrative Code 246-310-010(2) defines “affected” person as:

“...an “interested person” who:

- (a) Is located or resides in the applicant's health service area;
- (b) Testified at a public hearing or submitted written evidence; and
- (c) Requested in writing to be informed of the department's decision.”

For each application, the other applicant sought and received affected person status under WAC 246-310-010. No other entities sought and received affected person status for the other project.

**SOURCE INFORMATION REVIEWED**

- Fresenius’s Certificate of Need application submitted February 28, 2013
- DaVita HealthCare Partners Inc.’s Certificate of Need application submitted February 28, 2013
- Fresenius’s supplemental information May 3, 2013
- DaVita HealthCare Partners Inc.’s supplemental information submitted May 3, 2013
- Public comment submitted prior to end of public comment period
- Fresenius’s rebuttal submitted August 15, 2013
- DaVita HealthCare Partners Inc.’s Rebuttal submitted August 15, 2013
- Years 2007 through 2012 historical kidney dialysis data obtained from the Northwest Renal Network
- Year 2012 Northwest Renal Network 3rd Quarter Utilization Data

- Licensing and/or survey data provided by the Department of Health’s Investigations and Inspections Office
- Data obtained from Fresenius’s webpage
- Data obtained from DaVita, Inc.’s webpage
- Data obtained from Medicare webpage (www.medicare.gov)
- Certificate of Need historical files

**CONCLUSIONS**

**Fresenius Medical Care Holdings, Inc. on behalf of Renal Care Group Northwest**

For the reasons stated in this evaluation, the application submitted by Fresenius Medical Care Holdings, Inc. on behalf of Renal Care Group Northwest proposing to add ten dialysis stations to the Thurston County Dialysis Center is not consistent with applicable criteria and a Certificate of Need is denied.

**DaVita HealthCare Partners, Inc.**

For the reasons stated in this evaluation, the application submitted by DaVita HealthCare Partners, Inc. proposing to establish a new 10 station dialysis facility in Tumwater within Thurston County is consistent with applicable criteria of the Certificate of Need Program, provided DaVita HealthCare Partners, Inc. agrees to the following in its entirety.

**Project Description:**

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Private Isolation Room	1
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Other In-Center Stations	7
<b>Total</b>	<b>10</b>

**Conditions:**

1. Approval of project description as stated above. DaVita HealthCare Partners, Inc. further agrees that any change to the project as described in the project description is a new project that requires a new Certificate of Need.
2. Prior to providing services at the DaVita HealthCare Partners, Inc. will provide an executed copy of the Transfer Agreement consistent with the draft provided in the application.

**Approved Cost:**

The approved capital expenditure associated with this project is \$1,769,545. This amount represents the total capital expenditure of \$1,998,188 minus the landlord's cost of \$228,643.

## **CRITERIA DETERMINATION**

### **A. Need (WAC 246-310-210 and WAC 246-310-284)**

Based on the source information provided and reviewed, the department concludes:

- Fresenius's project has met the need criteria in WAC 246-310-210(1) and (2) and the kidney disease treatment facility methodology and standards in WAC 246-310-284; and
- DaVita, Inc.'s project has met the need criteria in WAC 246-310-210(1) and (2) and the kidney disease treatment facility methodology and standards in WAC 246-310-284.

*(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 requires the department to evaluate kidney disease treatment centers applications based on the populations need for the service and determine whether other services and facilities of the type proposed are not, or will not, be sufficiently available or accessible to meet that need as required in WAC 246-310-210. The kidney disease treatment center specific numeric methodology applied is detailed under WAC 246-310-284(4). WAC 246-310-210(1) criteria is also identified in WAC 246-310-284(5) and (6).

#### **Kidney Disease Treatment Center Methodology WAC 246-310-284**

WAC 246-310-284 contains the methodology for projecting numeric need for dialysis stations within a planning area. This methodology 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>6</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.<sup>7</sup> In planning areas experiencing high rates of growth in the dialysis population (6% or greater growth in each of the last five annual change periods), the method uses exponential regression to project future need. In planning areas experiencing less than 6% growth in any of the last five annual change periods, linear regression is used to project need.

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

WAC 246-310-284(5) identifies that for all planning areas except Adams, Columbia, Douglas, Ferry, Garfield, Jefferson, Kittitas, Klickitat, Lincoln, Okanogan, Pacific, Pend Oreille, San Juan,

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<sup>6</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]

<sup>7</sup> WAC 246-310-280 defines base year as the most recent calendar year for which December 31 data is available as of the first day of the application submission period from the Northwest Renal Network's Modality Report or successor report." For this project, the base year is 2012.

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)]

Fresenius’s Application of the Numeric Methodology

Fresenius proposes to add 10 dialysis stations to its new Thurston County dialysis center to be located in Lacey. Based on the calculation of the annual growth rate in the planning area as described above, linear regression was applied to project need. Given that the Thurston County dialysis center is located in Thurston County, the number of projected patients was divided by 4.8 to determine the number of stations needed in the planning area. [Source: Application, p19]

DaVita’s Application of the Numeric Methodology

DaVita proposes to establish a 10-station dialysis facility located in Tumwater within Thurston County. Based on the calculation of the annual growth rate in the planning area as described above, DaVita used the same linear regression to determine planning area need. The number of projected patients was divided by 4.8 to determine the number of stations needed in the planning area. [Source: Application, pp17-19]

Department’s Application of the Numeric Methodology

Based on the calculation of the annual growth rate in the planning area as described above, the department also used linear regression to project need for Thurston 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).

The table below shows a summary of the projected net need provided by the applicants and the department for Thurston County. The complete methodology is attached as appendix A.

**Table 1  
Summary of Thurston County Projected 2015 Station Need**

	<b>Projected # of Stations</b>	<b>Current # of Stations</b>	<b>Net Need</b>
<b>Fresenius</b>	41	31	10
<b>DaVita</b>	41	31	10
<b>DOH</b>	41	31	10

The table above demonstrates the projections of the two applicants match the department’s figures. As a result, the net station need for Thurston County is ten.

WAC 246-310-284(5)

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 are 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 projects was February 28, 2013. [WAC 246-310-282] The

quarterly modality report from NRN available at that time was September 30, 2012. For Thurston County there are 25<sup>8</sup> stations located in the Lacey and six stations located in Olympia. The table below shows the reported utilization of the stations in Thurston County.

**Table 2  
September 30, 2012 - Facility Utilization Data**

Facility Name	# of Stations	# of Pts.	Pts./Station
Fresenius-Lacey Dialysis Center	25	120	4.80
DaVita Olympia	6	34	5.67

In addition to the above listed stations, there are six CN approved stations proposed to be located in the city of Lacey. These six stations will be transferred from the FMC Lacey Dialysis Center. When these six stations become operational the capacity of the FMC Lacey facility will be reduced to 19 stations.

The table above demonstrates that the current facility satisfies this utilization requirement. **This sub-criterion is met.**

WAC 246-310-284(6)

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 Thurston County, the requirement is 4.8 in-center patients per approved station. [WAC 246-310-284(6)(a)] As a result, the applicant must demonstrate compliance with this criterion using the 4.8 in-center patient per station.

Fresenius anticipates their ten new stations would become operational by March 2014 and DaVita anticipates their new stations would become operational by June 2014. Under this timeline, year 2015 would be the first full calendar year of operation for Fresenius and DaVita and 2017 would be the third full year of operation. A summary of the two applicants' projected utilization for their respective third year of operation is shown in the table below. [Source: Fresenius Application, p20; & DaVita Application, p16]

**Table 3  
Third Year (2017) Projected Facility Utilization<sup>9</sup>**

Facility Name	# of Stations	# of Pts.	Pts./Station
Fresenius Thurston County	16	78	4.87
DaVita Tumwater Dialysis Center	10	50	5.00

As shown in the table above the department concludes this sub-criterion **is met for both Fresenius and DaVita.**

- (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.

Both applicants currently provide health care services to residents of Washington State.

<sup>8</sup> The six stations approved by CN1494 are counted as part of the Fresenius-Lacey dialysis facility until the new 6-station facility becomes operational. Once the new facility becomes operational, the six stations will be associated with the new facility.

<sup>9</sup> Fractional numbers for patients per station are not rounded up.



### Fresenius

As previously stated, the applicant currently provides health care services to residents of Washington State. To determine whether all residents of Thurston County planning area would 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. The admission policy must also include language to ensure all residents of the service area would have access to services. This is accomplished by providing an admission policy that states patients would be admitted without regard to race, ethnicity, national origin, age, sex, pre-existing condition, physical, or mental status.

To demonstrate compliance with this sub-criterion, Fresenius provided a copy of its current Admission Criteria that would continue to be used at the facility. The Admission Criteria outlines the process/criteria that the Thurston County dialysis center will use to admit patients for treatment, and ensure that patients will receive appropriate care at the dialysis center. The Admission Criteria also states that any patient with end stage renal disease needing chronic hemodialysis will be accepted for treatment at the facility without regard to race, color, religion, sex, national origin, or age. [Source: Application, p21, Exhibit 8 & 9]

The department uses the facility's Medicare certification to determine whether the elderly would have access or continue to have access to the proposed services. Fresenius currently provides services to Medicare eligible patients in their existing Lacey dialysis center. Details provided in the application demonstrate that Fresenius intends to maintain this status the proposed new and expanded facility. A review of the anticipated revenues indicates that the facility expects to continue to receive Medicare reimbursements. [Source: Application, p11, Exhibit 10]

The department uses the facility's Medicaid eligibility or contracting with Medicaid to determine whether low-income residents would have access to the proposed services. Fresenius currently provides services to Medicaid eligible patients in their Lacey dialysis center. Details provided in the application demonstrate that Fresenius intends to maintain this status at the new and expanded dialysis facility. A review of the anticipated revenue indicates that the facility expects to continue to receive Medicaid reimbursements. [Source: Application, p8, Exhibit 10]

Fresenius demonstrated its intent to provide charity care by submitting the Charity Care policy currently used within the 25-station Lacey facility. It outlines the process a patient would use to access services when they do not have the financial resources to pay for required treatments. Fresenius also included a 'charity' line item as a deduction from revenue within the pro forma income statements for proposed facility. [Source: Application, pg. 21 and Exhibit 10]

The department concludes Fresenius **has met this sub-criterion.**

### DaVita

As previously stated, the DaVita currently provides health care services to residents of Washington State. To determine whether all residents of Thurston County dialysis planning area would 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. The admission policy must also include

language to ensure all residents of the service area would have access to services. This is accomplished by providing an admission policy that states patients would be admitted without regard to race, ethnicity, national origin, age, sex, pre-existing condition, physical, or mental status.

To demonstrate compliance with this sub-criterion, DaVita provided a copy of its proposed Admission Criteria that would be used at the facility. The Admission Criteria outlines the process/criteria that DaVita Tumwater dialysis facility would use to admit patients for treatment, and ensure that patients will receive appropriate care at the dialysis center. The Admission Criteria also states that any patient with end stage renal disease needing chronic hemodialysis will be accepted for treatment at the facility without regard to race, color, religion, sex, national origin, or age. [Source: Application, p20, Appendix 14]

The department uses the facility's Medicare certification to determine whether the elderly would have access or continue to have access to the proposed services. DaVita currently provides services to Medicare eligible patients in their dialysis centers. Details provided in the application demonstrate that DaVita intends to be Medicare certified at its proposed new facility. A review of the anticipated revenues indicates that the facility expects to receive Medicare reimbursements. [Source: Application, p4, Appendix 14]

The department uses the facility's Medicaid eligibility or contracting with Medicaid to determine whether low-income residents would have access to the proposed services. DaVita currently provides services to Medicaid eligible patients in their dialysis centers. Details provided in the application demonstrate that DaVita intends to be Medicaid certified at the new facility. A review of the anticipated revenue indicates that the facility expects Medicaid reimbursement at the proposed new facility. [Source: Application, p10, Appendix 14]

DaVita demonstrated its intent to provide charity care by submitting the Charity Care policy proposed for the new facility. It outlines the process a patient would use to access services when they do not have the financial resources to pay for required treatments. DaVita also included a 'charity' line item as a deduction from revenue within the pro forma income statements for their proposed facility. [Source: Application, p20, Appendix 14]

The department concludes DaVita **has met this sub-criterion.**

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

Based on the source information provided and reviewed, and provided the applicants agree to the conditions stated in the 'conclusion' section of this evaluation, the department concludes:

- Fresenius's project has not met the financial feasibility criteria in WAC 246-310-220 (2); and
- DaVita, Inc.'s project has met the financial feasibility criteria in WAC 246-310-220.

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

WAC 246-310 does not contain specific WAC 246-310-220(1) financial feasibility criteria as identified in WAC 246-310-200(2) (a)(i). There are also no known recognized standards as identified in WAC 246-310-200(2)(a)(ii) and (b) that directs what the operating revenues and expenses should be for a project of this type and size. Therefore, using its experience and expertise the department evaluates if the applicant's pro forma income statements reasonably project the

proposed project is meeting its immediate and long-range capital and operating costs by the end of the third complete year of operation.

**Fresenius**

Fresenius anticipates the new 10 stations at the Fresenius Thurston Dialysis Center will become operational by March 2014. Based on this timeline, fiscal year (FY) 2015 would be the facility’s first full year of operation. Using the financial information provided as part of the completed application, the table below illustrates the projected revenue, expenses, and net income for FY 2015 through 2017 for the Fresenius Thurston Dialysis Center. [Source: Application: Exhibit 10]

**Table 4  
Fresenius-Thurston Dialysis Center  
Projected Revenue and Expenses Fiscal Years 2015 - 2017<sup>10</sup>**

	<b>FY 1 - 2015</b>	<b>FY 2 - 2016</b>	<b>FY 3 - 2017</b>
# of Stations	16	16	16
# of Treatments <sup>[1]</sup>	7,480	9,248	10,608
# of Patients <sup>[1]</sup>	55	68	78
Utilization Rate <sup>[1]</sup>	3.43	4.25	4.87
Net Patient Revenue <sup>[3]</sup>	\$3,544,289	\$4,279,771	\$4,953,685
Total Operating Expense <sup>[2,3]</sup>	\$2,710,406	\$3,160,829	\$3,258,801
Net Profit or (Loss)	833,803	1,118,942	1,694,884

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

As shown in the table above, at the projected volumes identified in the application, Fresenius anticipates that the Fresenius Thurston Dialysis Center would be operating at a profit in all three years.

The executed lease provided in the application is for 8770 Tallon Lane NE in the city of Lacey. This is the same location for the 6-station new facility approved by the department with CN1494 in January 2013. The lease provided in the application outlines the initial terms and the annual rent for the space. The annual lease costs are substantiated in the pro forma financial documents presented. [Source: Application, Exhibit 7]

The draft medical director’s agreement provided in the application is one that includes is consistent with the amount identified in the applicant’s pro-forma income statement. If this project were approved, the department will include conditions requiring Fresenius to provide an executed medical director’s agreement consistent with the draft agreement provided in the application.

Based on the above information, the department concludes that Fresenius’s projected revenues and expenses are reasonable and can be substantiated. If this project is approved, the department will include a condition requiring Fresenius to provide a copy of the executed Medical Director Agreement consistent with the draft provided in the application. **This sub-criterion is met.**

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

**DaVita**

DaVita anticipates the new stations at DaVita Thurston will become operational by June 2014. Based on this timeline, fiscal year (FY) 2015 would be the facility’s first full year of operation. Using the financial information provided in the application, the table below illustrates the projected revenue, expenses, and net income for FY 2015 through 2017 for DaVita Tumwater. [Source: Application: P12 & Screening Responses Appendix 9]

**Table 5**  
**DaVita’s Dialysis Center**  
**Projected Revenue and Expenses Fiscal Year 2015-2017**

	<b>F Y1-2015</b>	<b>FY2-2016</b>	<b>FY3-2017</b>
# of Stations	10	10	10
# of Treatments <sup>[1]</sup>	1,853	4,594	6,447
# of Patients <sup>[1]</sup>	25	37	50
Utilization Rate <sup>[1]</sup>	2.50	3.70	5.00
Net Patient Revenue <sup>[3]</sup>	\$971,303	\$2,493,904	\$3,589,172
Total Operating Expense <sup>[2,3]</sup>	\$1,191,100	\$2,070,135	\$2,649,135
Net Profit or (Loss)	(\$219,797)	\$423,769	\$940,037

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

As shown in the table above, at the projected volumes identified in the application, DaVita anticipates that the DaVita Thurston County Dialysis Center will be operating at a loss in the first full year of operations and at a profit in years two and three.

The proposed DaVita Tumwater Dialysis Center will be located at 855 Trospen Road SW, Suite 110 in the city of Tumwater, within Thurston County. The executed lease agreement provided in the application outlines the terms and the annual rent for the space through year 2018. The annual lease costs are substantiated in the pro forma financial documents and the supporting least cost worksheet. [Source: Supplemental Information Revised Appendix 9 and 15]

The executed medical director’s agreement is consistent with the amount identified in the applicant’s pro-forma income statement. [Source: Screening Responses, Appendix 3]

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.**

- (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.

WAC 246-310 does not contain specific WAC 246-310-220(2) financial feasibility criteria as identified in WAC 246-310-200(2)(a)(i). There are also no known recognized standards as identified in WAC 246-310-200(2)(a)(ii) and (b) that directs what an unreasonable impact on costs and charges would be for a project of this type and size. Therefore, using its experience and expertise the department compared the proposed project’s costs with those previously considered by the department.

**Fresenius**

The capital expenditure stated for the expansion of the Thurston County Dialysis Center is \$257,965 of which 92% is related to moveable equipment and 8% for fixed equipment. The capital cost breakdown is shown in the table below. [Source: Application, p28]

**Table 6  
Estimated Capital Costs of Fresenius Dialysis Center Expansion**

<b>Item</b>	<b>Cost</b>	<b>% of Total</b>
Moveable Equipment	\$237,100	92%
Fixed Equipment	\$20,865	8%
<b>Total Estimated Capital Costs</b>	<b>\$257,965</b>	<b>100%</b>

**Public Comment**

DaVita asserts the capital costs identified in the current application are not accurate and therefore unreliable. DaVita focuses its comments on Fresenius’s reported capital costs of \$257,965 for equipment only and on the facility’s design presented in this current application and that previously submitted in the application for the 6-station facility that was approved by CN1494 issued in January 2013. DaVita states:

*“FMC previously obtained CN#1494 approving the relocation of 6 stations from its Lacey facility. CN #1494 approved capital costs of \$1,844,480 and FMC provided a floor plan it described as the “update single line drawings.” Although FMC mentions an intention “to construct a larger facility (with capacity for a total of 16 stations),” the revised floor plan FMC submitted in screening showed only 6 stations in the treatment area, with little treatment area space available for additional stations.”*

*“FMC fails to report or address in any manner the complete redesign and remodeling needed to convert its approved 6-station facility into a 16-station facility. FMC’s application form required FMC to provide a floor plan for the “current location” but FMC failed to comply. FMC provided only the 16-station facility floor plan, although it inaccurately stated that “[s]ingle line drawings of the Fresenius Thurston 6-station facility are included in Exhibit 5.”*

**Rebuttal**

Fresenius provided the following in response to DaVita’s assertions:

*“DaVita asserts that our facility has been “substantially redesigned” and as such we need to allocate additional costs to this project. The fact is that while the facility has been refined (as we developed working drawings); it has not been redesigned from that which was presented in CN#1494. In fact, it is virtually identical. Nonetheless, even if it was redesigned, CN#1494 was approved for 6 stations (including a bed station and an isolation station) at a specific location and at a cost of \$1,844,840. None of these facts has changed. There are no “redesign costs” or other costs associated with RCGNA’s expansion project that are not reported.”*

*“DaVita suggests that we are undertaking a different project from what was approve[d] with CN #1494. This criticism is without merit. On December 19, 2012, RCGNW received CN approval to establish a dialysis facility in Thurston County with stations relocated from the existing RCGNW Lacey facility. On January 8, 2013, CN #1494 was issued. The line drawings submitted with our current 10-station expansion application were prepared for the site and address approved in CN #1494. There has been no redesign of the facility. No construction cost changes were reported in either our March or June 2013 progress reports because, at this*

*time, there are none. RCGNW has not incurred any redesign costs because, again, there are none.*

*Our new Thurston facility was designed from the beginning to house 16 stations. We disclosed this fact in our CN for the relocation of the 6 stations. Because it is the Department's policy that only CN approved stations can be set-up, we only showed the locations for the six stations we were proposing to request in that application.”*

Fresenius further provided a declaration of Gary Pete, Project Manager with Fresenius Medical Care. The following portions of that declaration are relevant to this review.

*“In my role as Project Manager I was involved in reviewing the line drawings submitted with the initial certificate of need application (CN #1494) as well as the line drawings submitted with the 10 station expansion project.*

*The line drawings have not changed. The treatment room is in the same place; it just expands back into the area that RCGNW had initially labeled as 'storage'. With the capital costs approved in CN #1494, the project was fully intended to construct this space to house the 10 station expansion. Also, the other major space drivers (water treatment area, entrance, waiting and reception, and home training rooms) are all virtually in the same place. The facility was initially proposed to be 9,600 SF and it still is 9,600 SF.”*

#### Department’s Evaluation

The department reviewed the information contained in CN12-36A. The department also reviewed the March, June, and September 2013 progress reports Fresenius submitted for the 6-station facility approved by CN1494. In each of those progress reports Fresenius states there are no changes in the approved project and there are no planned changes. The progress reports for reporting periods ending March 2013 and June 2013 reveal that construction on the 6-station facility had not started. The progress report for the reporting period ending September 2013 states actual construction started in October 2013. These project reports fail to even acknowledge that an application had been submitted that would add ten stations to the same location.

The department agrees with Fresenius that the location and the square footage of the building are the same in the current application and that approved by CN12-36A. The department compared the line drawings submitted in CN12-36A and those submitted with the current application. The department does not agree with Fresenius that *“the line drawings have not changed”* or *“... it is virtually identical”* or *“There has been no redesign of the facility.”* Clearly there have been significant changes in the configuration of the dialysis facility to accommodate a 16-station dialysis facility and its support services versus the previously approved 6-station facility approved by CN1494.

What is clear from the current application is Fresenius did not include any construction costs associated with the addition of 10 stations whether currently being expended or allocating construction costs for the station addition. Without this information the department is unable to determine compliance with this sub-criterion.

The department recognizes that the majority of reimbursements for dialysis services are through Medicare End Stage Renal Disease (ESRD) entitlements. To further demonstrate compliance with

this sub-criterion, Fresenius provided the following information to show the sources of revenue and the anticipated percentage of revenue from each source. [Source: Application, p11 and 148]

**Table 7  
Fresenius- Dialysis Center**

Projected Treatments by Payor		Percent of Total Revenue Calculated by the Department Using Revenue Projections in Pro Forma Income/Expense Statement
Payor	% of Total Treatments	
Medicare	80.7%	50.5%
Medicaid	5.4%	2.7%
Commercial	9.3%	46.7%
Other	4.6%	
<b>Total</b>	<b>100%</b>	<b>100%<sup>11</sup></b>

As shown above, the Medicare and Medicaid treatments are projected to equal 86.1%. The department calculated the percentage of revenue for each payor source by dividing the payor revenue shown in the pro forma financials by total projected revenue. The results are also shown in the table above. The department notes that Medicare and Medicaid patients typically make up the largest percentage of patients served by a dialysis facility. CMS has recently implemented an ESRD Prospective Payment System (PPS). Under the new ESRD PPS, Medicare pays dialysis facilities a bundled rate per treatment, that rate is not the same for each facility. Each facility, within a given geographic area, may receive the same base rate.

However, there are a number of adjustments both at the facility and at patient-specific level that affects the final reimbursement rate each facility will receive. What a dialysis facility receives from its commercial payors will also vary. Even if two different dialysis providers billed the same commercial payor the same amount, the actual payment to each facility will depend on the negotiated discount rate obtained by the commercial payor from each individual provider. The department does not have an adopted standard on what constitutes an unreasonable impact on charges for health services. Given the department’s understanding of how dialysis patients may quality for Medicare payments, the department concludes that the information presented by Fresenius about its revenue may not have an unreasonable impact on charges for services within the planning area.

Based on the above information, the department concluded that because Fresenius had not disclosed its actual or allocated costs to add the ten additional stations it could not determine compliance with is sub-criterion. **This sub-criterion is not met.**

**DaVita**

The total capital expenditure associated with the new 10-station DaVita Tumwater facility is \$1,998,188. Of that amount 64% is related to leasehold improvements, 22% for fixed/movable equipment, 3% is related to professional fees, and the remaining 11% is the Landlord’s portion of the project costs. The capital cost breakdown is shown in the table below. [Source: Application, Appendix 7]

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

**Table 8**  
**Estimated Capitals Costs of DaVita Tumwater Dialysis Center**

<b>Item</b>	<b>Cost</b>	<b>% of Total</b>
Leasehold Improvements	\$1,270,000	64%
Movable and Fixed Equipment	\$436,535	22%
Professional Fees	\$63,000	3%
Landlord Project Costs	\$228,643	11%
<b>Total Estimated Capital Costs</b>	<b>\$1,998,188</b>	<b>100%</b>

DaVita intends to finance the project entirely from the DaVita capital expenditures budget. A review of the financial statement provided in the application indicates that DaVita had sufficient cash assets in both 2010 and 2011 to fund the project. [Source: Application, Appendix 10]

The department recognizes that the majority of reimbursements for dialysis services are through Medicare ESRD entitlements. To further demonstrate compliance with this sub-criterion, DaVita also provided the sources of patient revenue shown in the table below. [Source: Application Screening, p1]

**Table 9**  
**Estimated Sources of Revenue and Patients by Payor**  
**Based on DaVita “Company Wide”**

<b>Sources of Revenue By Payor Type</b>	<b>% of Revenue</b>	<b>Percentage of Patients by Payor</b>	<b>% of Patients</b>
Medicare	59%	Medicare	79%
Medicaid/State	7%	Medicaid/State	11%
Insurance/HMO	34%	Insurance/HMO	10%
<b>Total</b>	<b>100%</b>	<b>Total</b>	<b>100%</b>

As shown above, the Medicare and Medicaid are projected to equal 66% of the revenue at the DaVita Tumwater facility. DaVita use company-wide averages in projecting the payor mix for the new facility. This is a reasonable approach for a new facility. It however would not be appropriate for an expansion project. The department would expect the applicant to use a facility’s actual breakdown.

The department notes that Medicare and Medicaid patients typically make up the largest percentage of patients served by a dialysis facility. For the DaVita Tumwater facility it’s estimated that 90% of the patients will have either Medicare or Medicaid. CMS has recently implemented an ESRD PPS. Under the new ESRD PPS, Medicare pays dialysis facilities a bundled rate per treatment, that rate is not the same for each facility. Each facility, within a given geographic area, may receive the same base rate. However, there are a number of adjustments both at the facility and at patient-specific level that affects the final reimbursement rate each facility will receive.

What a dialysis facility receives from its commercial payors will also vary. Even if two different dialysis providers billed the same commercial payor the same amount, the actual payment to each facility will depend on the negotiated discount rate obtained by the commercial payor from each individual provider. The department does not have an adopted standard on what constitutes an



unreasonable impact on charges for health services. Given the department's understanding of how dialysis patients may qualify for Medicare payments, the department concludes that the information presented by DaVita may not have an unreasonable impact on charges for services within the planning area. Based on the above information, the department concludes the costs of this project would not result in an unreasonable impact to the costs and charges for health care services. **This sub-criterion is met.**

(3) The project can be appropriately financed.

WAC 246-310 does not contain specific source of financing criteria as identified in WAC 246-310-200(2)(a)(i). There are also no known recognized standards as identified in WAC 246-310-200(2)(a)(ii) and (b) that directs how a project of this type and size should be financed. Therefore, using its experience and expertise the department compared the proposed project's source of financing to those previously considered by the department.

**Fresenius**

As previously stated, the capital expenditure associated with the expansion of Fresenius's Thurston County facility is \$257,965. The project will be financed through the parent company, Fresenius. Fresenius provided a letter of financial commitment to the project. [Source: Screening Responses, Attachment 1] This source of financing is appropriate.

Based on the information provided, the department concludes **this sub-criterion is met.**

**DaVita**

As previously stated, the capital expenditure associated with the expansion of DaVita's Belfair Dialysis Center is \$1,998,188. DaVita states that the project will be funded from DaVita's capital expenditures budget. DaVita provided a letter of financial commitment to the project. [Source: Application, Appendix 6] This source of financing is appropriate.

Based on the information provided the department concludes **this sub-criterion is met.**

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

Based on the source information provided and reviewed, the department concludes:

- Fresenius's project has met the structure and process of care criteria in WAC 246-310-230; and
- DaVita, Inc.'s project has 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.

WAC 246-310 does not contain specific WAC 246-310-230(1) criteria as identified in WAC 246-310-200(2)(a)(i). There are also no known recognized standards as identified in WAC 246-310-200(2)(a)(ii) and (b) that directs what specific staffing patterns or numbers of FTEs that should be employed for projects of this type or size. Therefore, using its experience and expertise the department concludes that the planning would allow for the required coverage.

**Fresenius**

Fresenius's Thurston County Dialysis Center is not operational at this time. To accommodate the additional patients associated with the additional station, Fresenius intends to start with 7.25 staff in 2014, add 6.10 FTEs by the end of 2017. A breakdown of the proposed FTEs is shown in the table below. [Source: Screening Responses p2]

**Table 10**  
**Fresenius Thurston County Dialysis Center 2014 – 2017 Projected Total FTEs**

<b>Staff/FTEs</b>	<b>Projected 2014</b>	<b>2015 Increase</b>	<b>2016 Increase</b>	<b>2017 Increase</b>	<b>Total FTEs</b>
Nurse Manager	1.00	0.00	0.00	0.00	1.00
RNs	1.50	0.00	0.50	0.50	2.50
Patient Care Tech	4.00	1.00	1.00	1.00	7.00
Equipment Tech. <sup>12</sup>	0.25	0.25	0.00	0.00	0.50
Social Worker	0.25	0.25	0.25	0.25	1.00
Dietitian	0.25	0.35	0.00	0.00	0.60
Clerical	0.00	1.00	0.00	0.00	1.00
<b>Total FTE's</b>	<b>7.25</b>	<b>2.85</b>	<b>1.75</b>	<b>1.75</b>	<b>13.60</b>

As shown above, Fresenius expects a minimal increase over the three year period of time. Fresenius states that it expects no difficulty in recruiting staff for the facility since there has been a steady growth in population in Thurston County. Fresenius also has a comprehensive documented staff training program that will facilitate filling any staffing needs. [Source: Application, p32]

Based on the information reviewed, the department concludes adequate staffing for the ten station increase for the Lacey Dialysis Center is available or can be recruited. **This sub criterion is met.**

**DaVita**

DaVita does not anticipate any difficulty in recruiting staff for the new Tumwater Dialysis Center. DaVita offers a competitive wage and benefit package to employees and advertises both locally and nation ally. Specific to the DaVita Tumwater Dialysis Center, DaVita claims it is located in a desirable geographical location and since it is an urban area recruitment of new staff should not be difficult. A breakdown of the proposed FTEs is shown in the table below. [Source: Application, p23 & 24]

**Table 11**  
**DaVita Tumwater Dialysis Center 2014 – 2017 Projected FTEs**

<b>Staff/FTEs</b>	<b>2014 FTE</b>	<b>2015 Increase</b>	<b>2016 Increase</b>	<b>2017 Increase</b>	<b>Total FTEs</b>
Medical Director	Professional Services Contract				
Administrator	1.00	0.0	0.00	0.00	1.00
RN	1.30	1.50	0.30	0.40	3.50
Patient Care Techs	1.60	2.00	0.60	0.80	5.00
Biomedical Techs	0.30	0.00	0.00	0.00	0.30
Administrative Assistant	0.50	0.30	0.20	0.00	1.00
Social Worker	0.50	0.00	0.30	0.20	1.00
Dietitian	0.50	0.00	0.30	0.20	1.00
<b>Total FTE's</b>	<b>5.70</b>	<b>3.80</b>	<b>1.70</b>	<b>1.60</b>	<b>12.80</b>

As shown in the table above, DaVita intends to start with 5.70 FTEs in Year 2014 and add a total of 7.10 FTEs. This will result in a total staff of 12.80 FTEs.

<sup>12</sup> Includes BioMed

Based on the information reviewed, the department concludes adequate staffing for the new ten-station Tumwater Dialysis Center 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.

WAC 246-310 does not contain specific WAC 246-310-230(2) criteria as identified in WAC 246-310-200(2)(a)(i). There are known recognized standards as identified in WAC 246-310-200(2)(a)(ii) and (b) that a facility must meet when it is to be Medicare certified and Medicaid eligible.

### **Fresenius**

The information provided in the application confirms that Fresenius maintains the appropriate relationships with ancillary and support services for this facility. Fresenius provided a list of existing providers in the service area they currently work with. The Lacey Dialysis Center currently has a transfer agreement with Providence St. Peter Hospital and the Thurston County Dialysis Center will be added to this transfer agreement. A copy of the existing transfer agreement was included in the application. If approved prior to providing services; Fresenius will need to submit an updated transfer agreement with a Providence St. Peter Hospital depicting the addition of the second Thurston County dialysis facility. [Source: Application, p33 & Exhibit 11]

Based on the above information, the department concludes this **sub-criterion is met.**

### **DaVita**

As a provider of dialysis services in Washington State, DaVita currently maintains the appropriate relationships with ancillary and support services for its existing dialysis centers. For its Tumwater Dialysis Center, 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 will be provided on site. Additional services are 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 provided a template of their proposed transfer agreement, therefore if approved prior to providing services; DaVita will need to submit a final transfer agreement with a local hospital consistent with the draft agreement. [Source: Application Appendix 12]

If this project is approved, the department would include a condition requiring DaVita to provide a copy of the executed transfer agreement consistent with the draft agreement provided in the application. Based on this information, the department concludes DaVita will have the appropriate relationships with ancillary and support services. The department concludes **this sub-criterion is met.**

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

WAC 246-310 does not contain specific WAC 246-310-230(3) criteria as identified in WAC 246-310-200(2)(a)(i). There are known recognized standards as identified in WAC 246-310-

200(2)(a)(ii) and (b) that a facility must meet when it is to be Medicare certified and Medicaid eligible.

**Fresenius**

Fresenius Medical Care is the parent company of RCGNW. Information available at Fresenius Medical Care North America’s website stated, in the United States, Fresenius Medical Care is the largest provider of dialysis products and services with over 1,800 kidney dialysis clinics, and it provides care for nearly 138,000 patients. [Source: <http://www.fmcna.com/fmcna/DialysisCompany/dialysis-company.html>] 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.

To accomplish this task, in February 2010 the department requested quality of care compliance history from the state licensing and/or surveying entities responsible for conducting surveys where Fresenius Medical Care or any of its subsidiaries have healthcare facilities. Of the 45 states<sup>13</sup> and the non-state entities surveyed, the department received 26 responses or 55% of those surveyed<sup>14</sup>.

Six of the 26 states responding to the survey indicated that non-compliance deficiencies were cited at Fresenius facilities in the past three years, but none was reported to have resulted in fines or enforcement action. Fresenius submitted and implemented acceptable plans of correction. Given the results of the out-of-state compliance history of the facilities owned or operated by Fresenius, the department concludes that considering that it owns or operates more than 1,800 facilities the number of out-of-state non-compliance surveys is acceptable. [Source: Licensing and/or survey data provided by out of state health care survey programs]

Fresenius is currently a provider of dialysis services within Washington State, and operates 19 kidney dialysis treatment centers in 14 separate counties. 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 and in conformance with applicable state licensing requirements and or Medicare/Medicaid certification.<sup>15</sup>

For Washington State, since January 2008, the Department of Health’s Investigations and Inspections Office has completed 20 compliance surveys for the operational facilities that Fresenius either owns or manages. Fresenius facilities in Washington have collectively been surveyed 33 times within the last six years. Of the 33 surveys, one survey revealed potentially hazardous condition that was promptly corrected; nine surveys revealed no deficiencies. The remaining 23 surveys revealed minor non-compliance issues and the facilities submitted plans of corrections for the non-compliance issues within the allowable response time. [Source: facility survey data provided by the Investigations and Inspections Office]

For medical director services, Fresenius provided a copy of the draft Medical Director Agreement proposed between itself and Vo Nyugen M.D. A review of Dr. Vo Nyugen’s compliance history with the Department of Health's Medical Quality Assurance Commission did not revealed any recorded sanctions. [Source: Compliance history provided by Medical Quality Assurance Commission]

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<sup>13</sup> This figure excludes Washington. The department did not send a survey to itself for compliance.

<sup>14</sup> Those not responding are Alabama, Arkansas, District of Columbia, Georgia, Indiana, Louisiana, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Nebraska, New Jersey, New York, Oklahoma, Pennsylvanian, Rhode Island, Texas, Vermont, Wisconsin, and Puerto Rico.

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

If this project is approved, the department would include a condition requiring Fresenius to provide a copy of the executed Medical Director agreement consistent with the draft agreement provided in the application. Based on the source information reviewed, the department concludes **this sub-criterion is met.**

### **DaVita**

DaVita, Inc. is a provider of dialysis services in over 1,912 outpatient centers located in 43 states (including Washington State), the District of Columbia. [Source: DaVita website at [www.davita.com](http://www.davita.com)] Currently within Washington State, DaVita owns and operates 30 kidney dialysis treatment centers in 14 separate counties. 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 and in conformance with applicable state licensing requirements and or Medicare/Medicaid certification.<sup>16</sup>

To accomplish this task, in February 2010 the department requested quality of care compliance history from the state licensing and/or surveying entities responsible for the each of the states, the District of Columbia, and San Juan Puerto Rico, where DaVita, Inc. or any subsidiaries have health care facilities. The department received responses from 21 states or 47% of the 45 entities.<sup>17</sup> The compliance history of the remaining 24 states, the District of Columbia, and San Juan Puerto Rico is unknown.<sup>18</sup>

Ten of the 24 states responding to the survey indicated that minor non-compliance deficiencies had been cited at DaVita facilities in the past three years. Of those states, with the exception of one facility in Iowa, none of the deficiencies were reported to have resulted in fines or enforcement action. All other facilities were reported to have no deficiencies and are currently in compliance with applicable regulations. The Iowa facility chose voluntarily termination in August 2007 due to its inability to remain in compliance with Medicare Conditions for Coverage, rather than undergo the termination process with Medicare. This facility is currently operating as a private ESRD facility.

The department concludes that considering the more than 1,912 facilities owned/managed by DaVita, one out-of-state facility listed above demonstrated substantial non-compliance issues; therefore, the department concludes the out-of-state compliance surveys are acceptable.

For Washington State, since January 2009, the Department of Health's Office of Investigations and Inspections has completed more than 27 compliance surveys for the operational facilities that DaVita either owns or manages.<sup>19</sup> Of the compliance surveys completed, all revealed minor non-

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<sup>16</sup> WAC 246-310-230(5).

<sup>17</sup> States that provided responses are: Arizona, California, Colorado, Delaware, Florida, Idaho, Iowa, Kansas, Kentucky, Maryland, Michigan, Minnesota, Mississippi, Missouri, Nebraska, Nevada, New Hampshire, North Dakota, Oklahoma, Oregon, Pennsylvania, Texas, Utah, Virginia, Washington, and Wisconsin. San Juan Puerto Rico also provided a response.

<sup>18</sup> States that did not provide responses are: Alabama, Arkansas, Connecticut, Georgia, Illinois, Indiana, Louisiana, Maine, New Mexico, New Jersey, New York, North Carolina, Ohio, South Carolina, South Dakota, Tennessee, and West Virginia. The District of Columbia also did not respond to the survey.

<sup>19</sup> As of the writing of this evaluation, five facilities—East Wenatchee Dialysis Center, Battle Ground Dialysis Center, Whidbey Dialysis Center, Everett Dialysis Center, and Kennewick Dialysis Center—were recently approved by the department and are not yet operational. Olympic View Dialysis Center is operational, but is owned by Group Health and managed by DaVita.

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 Investigations and Inspections Office]

For medical director services, DaVita provided a copy of the executed Medical Director Agreement proposed between itself and Di Zhao M.D. A review of Dr. Zhao's compliance history with the Department of Health's Medical Quality Assurance Commission did not revealed any recorded sanctions. [Source: Compliance history provided by Medical Quality Assurance Commission]

If this project is approved, the department would include a condition requiring DaVita to provide a copy of the executed Medical Director agreement consistent with the draft agreement provided in the application. Based on the source information reviewed, the department concludes **this sub-criterion is met.**

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

WAC 246-310 does not contain specific WAC 246-310-230(4) criteria as identified in WAC 246-310-200(2)(a)(i). There are also no known recognized standards as identified in WAC 246-310-200(2)(a)(ii) and (b) that directs how to measure unwarranted fragmentation of services or what types of relationships with a services area's existing health care system should be for a project of this type and size. Therefore, using its experience and expertise the department assessed the materials in the application.

### Fresenius

The department considered Fresenius'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 expansion would change these relationships.

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 ten dialysis stations in the Thurston County dialysis planning area. This project proposes to add ten dialysis stations to the Thurston County 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, Fresenius demonstrated it is likely to maintain the appropriate relationships to the service area's existing health care system within the planning area

Fresenius demonstrated that it has, and will continue to have, appropriate relationships to the service area's existing health care system within the county. **This sub-criterion is met.**

**DaVita**

The department 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 expansion would change these relationships.

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 ten dialysis stations in Thurston County dialysis planning area. This project proposes to establish a ten station Dialysis Center in Tumwater.

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 is likely to maintain the appropriate relationships to the service area's existing health care system within the planning area

Based on the above information, DaVita demonstrated that it has, and will continue to have, appropriate relationships to the service area’s existing health care system within the county. **This sub-criterion is met.**

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

**Fresenius**

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

**DaVita**

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

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

Based on the source information provided and reviewed, the department concludes:

- Fresenius’s project has not met the cost containment criteria in WAC 246-310-240; and
- DaVita, Inc.’s project has met the cost containment criteria in WAC 246-310-240.

A determination that a proposed project will foster cost containment shall be based on the following criteria.

- (1) Superior alternatives, in terms of cost, efficiency, or effectiveness, are not available or practicable. To determine if a proposed project is the best alternative, the department takes a multi-step approach. Step one determines if the application has met the other criteria of WAC 246-310-210 thru 230. If it has failed to meet one or more of these criteria, then the project is determined not to be the best alternative, and would fail this sub-criterion.

If the project met WAC 246-310-210 through 230 criteria, the department would move to step two in the process and assess the other options the applicant or applicants considered prior to

submitting the application under review. If the department determines the proposed project is better or equal to other options the applicant considered before submitting their application, the determination is either made that this criterion is met (regular or expedited reviews), or in the case of projects under concurrent review, move on to step three.

Step three of this assessment is to apply any service or facility specific (tie-breaker) criteria contained in WAC 246-310. The tie-breaker criteria are objective measures used to compare competing projects and make the determination between two or more approvable projects which is the best alternative. If WAC 246-310 does not contain any service or facility criteria as directed by WAC 246-310-200(2)(a)(i), then the department would look to WAC 246-310-240(2)(a)(ii) and (b) for criteria to make the assessment of the competing proposals. If there are no known recognized standards as identified in WAC 246-310-200(2)(a)(ii) and (b), then using its experience and expertise, the department would assess the competing projects and determine which project should be approved.

**Step One**  
**Fresenius**

The department concluded under the financial feasibility criteria of WAC 246-310-220 that Fresenius’s proposed project did not meet the review criteria. This alone would be grounds for concluding this sub-criterion is not met. However, the department has provided further analysis of the Fresenius project in step two.

**DaVita**

DaVita’s proposed project meets the review criteria under WAC 246-310-210, 220, and 230. Therefore, the department moves to step two below.

**Step Two**  
**Fresenius**

Within the application, Fresenius identified one alternative before submitting this application. A summary of each and Fresenius’s rationale for rejection is below. [Source: Application, p35]

Alternative 1-Delay expansion (wait until the new facility has become operational)

*“RCGNW easily rejected the first option, as additional stations are needed now and the Fresenius Thurston is not being established with new stations. The 6 relocated stations are expected to be ‘at capacity’ shortly after the facility opens. RCGNW can, as noted in this application, make the additional 10 stations operational for a very low capital cost within a short timeframe. The 16 station facility will be much more efficient to operate on a per treatment basis than the 6 station facility. Therefore, RCGNW made the decision to request additional stations now rather than wait.”*

Department Evaluation

To assist in its determination if the proposed 10-station expansion project was better than the alternative rejected by Fresenius, the department first reviewed the history for the development of the second Fresenius Thurston County dialysis facility.

In September 2008 the department issued Fresenius (RCGNW) CN1384 to relocate five stations from the Lacey Dialysis facility to a new a location in Lacey, WA. That location was less than 2½



miles from the location for the current proposed project. In September 2010, Fresenius relinquished that certificate of need.

In January 2013<sup>20</sup> the department again issued a CN to Fresenius (RCGNW—CN1494) to relocate stations from its Lacey facility to a new location in Lacey. That CN was to relocate six stations. In that application Fresenius provided the following reasoning for choosing the option to relocate stations.

*“After rejecting the option of “doing nothing” because it did not improve access or services for patients, RCGNW elected to proceed with the establishment of a new facility with stations relocated from the existing Fresenius Lacey. Downsizing the existing facility from 25 to 19 stations was selected because:*

- 1) 6 stations can be operated efficiently (RCGNW currently operates a 6 station facility in Shelton, Mason County) and*
- 2) Decreasing Fresenius Lacey to 19 stations would “free up” space to create some additional efficiencies in that facility.”*

In its relocation application, Fresenius stated the facility was expected to be operational September 2013. The department next reviewed the progress reports related to the implementation of CN1494. The March 2013 progress report showed the September 2013 construction completion date had been pushed out to November of 2013. The September 2013 progress report shows the construction completion date being delayed further until January 2014 and obtaining all other approvals by February 2014. A drive by site visit by CN staff on October 14, 2013 showed no visible construction work underway. Therefore the department contacted the City of Lacey to determine the status of required construction permits. According to the city of Lacey, the construction permit for the 6-station project was picked-up October 18, 2013.

The letter of intent (LOI) for the current 10-station addition was submitted January 31, 2013, less than a month after the department issued CN 1494. The current application was submitted February 28, 2013. According to the current 10-station addition application proposed the Thurston County dialysis center would not be operational until March of 2014. The department concludes that Fresenius’s rejection of the only option it considered was due to other considerations rather than the “urgency” expressed by the applicant for additional stations in the planning area.

After consideration of current and historical facts reviewed, the department concludes a better alternative than approving an additional 10 stations, at this time, is for Fresenius to complete the six-station relocation project as approved by CN1494. Fresenius has stated in the application for the 6-station relocation facility that it can be operated efficiently; it would improve access or services for dialysis patients, and also afford Fresenius the opportunity to create additional efficiencies at the current Fresenius Lacey facility.

Based on the results of the above, the department concludes this **sub-criterion is not met.**

**DaVita**

Within the application, DaVita identified two alternatives to this application. A summary of each is below. [Source: Application, p26-27]

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<sup>20</sup> At the time of the 6-station relocation request, the planning area had a need for 10 stations. However, because the DaVita Westside facility had not yet reached 4.8 patients per station, no one could submit an application for new stations.

At the same time DaVita submitted the current 10-station Tumwater application it also submitted a competing application for a 10-station facility in the Yelm area. In the cost containment section of both DaVita Thurston County applications DaVita stated “*Since FMC has submitted multiple letters of intent to submit applications in this review cycle DaVita must take this uncertainty into account in fashioning the best alternative or alternatives for Thurston County.*”

Alternative 1-Add a new 10 station facility in the Yelm area within the Thurston County Planning Area

DaVita determined that there is sufficient interest by other providers and the community to indicate that the establishment of a new facility in Yelm would be reasonable for them to consider. The department’s methodology indicates a need for 10 stations in Thurston County. As noted above this application was submitted along with the Tumwater application. After it was known which location FMC was applying and the department’s denial of an amendment to the application which would have essentially made it into Alternative 2 discussed below, DaVita withdrew this application on May 1, 2013.

Alternative 2-Add six stations to the existing six station Olympia Dialysis Center

Adding six stations to the existing dialysis center would not meet the need calculation. DaVita stated that although there is capacity at the Olympia Dialysis Center to add up to six additional stations with minimal cost, this alternative would not improve geographical access for patients in Thurston County.

While the department does not agree with DaVita’s approach in submitting multiple applications, the department does conclude the 10-station Tumwater facility is best alternative to the other options.

Based on the results of the above, the department concludes this **sub-criterion is met**

**Step Three**

WAC246-310-288 identifies specific tie-breaker criteria that must be 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. Under these tie-breaker criteria, the department will approve the application accumulating the largest number of points. If sufficient additional stations remain after approval of the first application, the department will approve the application accumulating the next largest number of points, not to exceed the total number of stations projected for a planning area. If the applications remain tied after applying all the tie-breakers, the department will award stations as equally as possible among those applications, without exceeding the total number of stations projected for a planning area.

This step is used to determine the best available alternative between two or more approvable projects. Because Fresenius’s project failed to meet the financial feasibility criterion of WAC 246-310-220, this step is not necessary.

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

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

WAC 246-310 does not contain specific WAC 246-310-240(2)(a) criteria as identified in WAC 246-310-200(2)(a)(i). There are known minimum building and energy standards that healthcare

facilities must meet to be licensed or certified to provide care. If built to only the minimum standards all construction projects could be determined to be reasonable. However, the department, through its experience knows that construction projects are usually built to exceed these minimum standards. Therefore, the department considered information in the applications that addressed the reasonableness of their construction projects that exceeded the minimum standards.

**Fresenius**

As stated in the project description portion of this evaluation, this project involves construction. This sub-criterion is evaluated within the financial feasibility criterion under WAC 246-310-220(2). **This sub-criterion is not met.**

**DaVita**

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

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

**Fresenius**

As stated in the project description portion of this evaluation, this project involves construction. This sub-criterion is evaluated within the financial feasibility criterion under WAC 246-310-220(2). This sub-criterion is **not met**.

**DaVita**

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

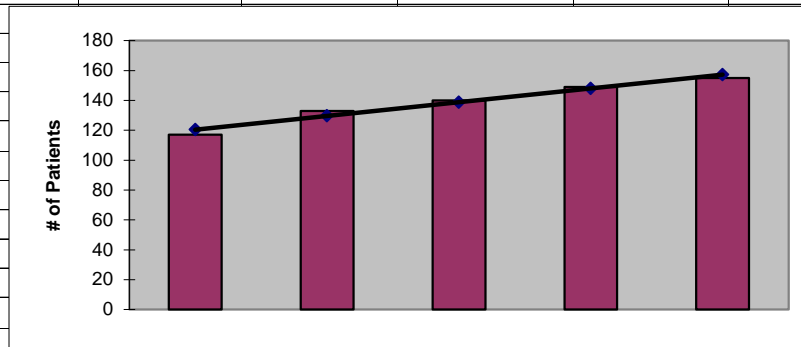
# APPENDIX A



**2012**  
**Thurston County**  
**ESRD Need Projection Methodology**

Planning Area		6 Year Utilization Data - Resident Incenter Patients					
Thurston		2006	2007	2008	2009	2010	2011
Thurston		122	117	133	140	149	155
<b>TOTALS</b>		<b>122</b>	<b>117</b>	<b>133</b>	<b>140</b>	<b>149</b>	<b>155</b>
<b>246-310-284(4)(a)</b>	Rate of Change		-4.10%	13.68%	5.26%	6.43%	4.03%
	6% Growth or Greater?		FALSE	TRUE	FALSE	TRUE	FALSE
	Regression Method:	Linear					
<b>246-310-284(4)(c)</b>				Year 1	Year 2	Year 3	Year 4
				2012	2013	2014	2015
Projected Resident Incenter Patients	from 246-310-284(4)(b)			166.40	175.60	184.80	194.00
Station Need for Patients	Divide Resident Incenter Patients by 4.8			34.6667	36.5833	38.5000	40.4167
	Rounded to next whole number			35	37	39	41
<b>246-310-284(4)(d)</b>	subtract (4)(c) from approved stations						
Existing CN Approved Stations				31	31	31	31
Results of (4)(c) above			-	35	37	39	41
Net Station Need				-4	-6	-8	-10
Negative number indicates need for stations							
<b>246-310-284(5)</b>							
Name of Center	# of Stations						
FMC-Lacey	25						
DaVita Olympia	6						
Total	31						
Source: Northwest Renal Network data 2006-2011							
Most recent year-end data: 2011 year-end data as of 02/13/2012							

x	y	Linear
2007	117	120
2008	133	130
2009	140	139
2010	149	148
2011	155	157
2012		166.400
2013		175.600
2014		184.800
2015		194.000



**SUMMARY OUTPUT**

<i>Regression Statistics</i>	
Multiple R	0.982511306
R Square	0.965328467
Adjusted R Square	0.95377129
Standard Error	3.183289703
Observations	5

<b>ANOVA</b>					
	<i>df</i>	<i>SS</i>	<i>MS</i>	<i>F</i>	<i>Significance F</i>
Regression	1	846.4	846.4	83.52631579	0.002769028
Residual	3	30.4	10.13333333		
Total	4	876.8			

	<i>Coefficients</i>	<i>Standard Error</i>	<i>t Stat</i>	<i>P-value</i>	<i>Lower 95%</i>	<i>Upper 95%</i>	<i>Lower 95.0%</i>	<i>Upper 95.0%</i>
Intercept	-18344	2022.349485	-9.070637956	0.00283057	-24780.01865	-11907.9814	-24780.01865	-11907.9814
X Variable 1	9.2	1.006644591	9.139273264	0.002769028	5.99640764	12.40359236	5.99640764	12.40359236

**RESIDUAL OUTPUT**

<i>Observation</i>	<i>Predicted Y</i>	<i>Residuals</i>
1	116.8	5.2
2	124.5	-7.5
3	132.2	0.8
4	139.9	0.1
5	147.6	1.4