



STATE OF WASHINGTON
DEPARTMENT OF HEALTH

March 14, 2012

Certified Mail 7009 2250 0001 8668 6071

Richard Petrich, Vice President
Franciscan Health System
Planning and Business Development
1142 Broadway, Suite 300
Tacoma, WA 98402

RE: CN11-33

Dear Mr. Petrich:

We have completed the review of the Certificate of Need application submitted by Franciscan Health System proposing to establish a Medicare certified/Medicaid eligible home health agency in Pierce County to serve the residents of Kitsap County. The written evaluation for the project is enclosed.

For the reasons stated in this evaluation, the department has concluded that the project is not consistent with the Certificate of Need review criteria identified below, and a Certificate of Need is denied.

Financial Feasibility
Cost Containment

Washington Administrative Code 246-310-220
Washington Administrative Code 246-310-240

This decision may be appealed. The two appeal options are listed below.

Appeal Option 1:

You or any interested 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:

Mailing Address:
Department of Health
Certificate of Need Program
Mail Stop 47852
Olympia, WA 98504-7852

Other Than By Mail
Department of Health
Certificate of Need Program
111 Israel Road SE
Tumwater, WA 98501



Richard Petrich, Vice President
Franciscan Health System
March 14, 2011
Page 2

Appeal Option 2:

You or any affected 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:

Mailing Address:

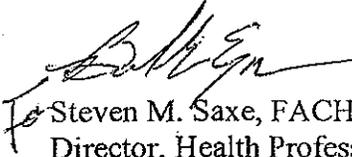
Adjudicative Service Unit
Mail Stop 47879
Olympia, WA 98504-7879

Other Than By Mail

Adjudicative Clerk Office
310 Israel Road SE, Building 6
Tumwater, WA 98501

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, Health Professions and Facilities

Enclosure

cc: Linda Foss, Department of Health, Investigations and Inspections Office
Karen Stricklett, Department of Health, Customer Service Office

EVALUATION DATED MARCH 14, 2012, FOR THE CERTIFICATE OF NEED APPLICATION SUBMITTED BY FRANCISCAN HEALTH SYSTEM PROPOSING TO ESTABLISH A MEDICARE CERTIFIED/MEDICAID ELIGIBLE HOME HEALTH AGENCY IN KITSAP COUNTY

APPLICANT DESCRIPTION

Catholic Health Initiatives (CHI) a not-for-profit entity is the parent company of Franciscan Health System. CHI through its subsidiary Franciscan Health System (FHS) owns or operates 118 facilities in 22 states. CHI does not have a direct ownership or management of any of FHS's facility. In Washington State, FHS owns or operates Franciscan Medical Group and the 11 healthcare facilities listed below: [source: Application, p3 and Exhibit 1]

Hospitals

Enumclaw Regional Hospital, Enumclaw
St. Anthony Hospital, Gig Harbor
St. Clare Hospital, Lakewood
St. Frances Hospital, Federal Way
St. Joseph Medical Center, Tacoma

Dialysis Centers

Greater Puyallup Dialysis Center, Puyallup
St. Joseph Dialysis Facility, Tacoma
Gig Harbor Dialysis Center, Gig Harbor

Hospice Care Center

FHS Hospice Care Center

Ambulatory Surgery Center

Gig Harbor Ambulatory Surgery Center

Hospice Agency

Franciscan Hospice, Tacoma

PROJECT DESCRIPTION

FHS application proposes to establish a new Medicare certified¹ home health agency to be known as Franciscan Home Health. The new Franciscan Home Health would share office space and administrative / support services with the existing Franciscan Hospice agency located at 2901 Bridgeport Way West in University Place, within Pierce County. [source: Application, p4]

The new agency intends to provide home health aide services, short term and intermittent skilled nursing care, physical therapy, occupational therapy and speech therapy services to patients in their place of residence. [source: Application, pp2-8]

The estimated capital expenditure associated with the establishment of Franciscan Home Health is \$37,477, which is solely related to moveable equipment and CN review fees. [source: Application, p25]

FHS anticipates that upon approval of its CN application, it would be providing home health services during the first quarter of 2012. Under this timeline, the proposed agency's first full calendar year of operation is 2013 and year three is 2015. [source: Application, p18]

¹ A Medicare certified agency is also Medicaid eligible, therefore, the term "Medicaid eligible will not be repeated throughout this evaluation. Those agencies that are Washington State licensed but not Medicare certified will be referred to as "licensed only."

APPLICABILITY OF CERTIFICATE OF NEED LAW

This project is subject to Certificate of Need review as the establishment of a new health care facility under the provisions of Revised Code of Washington (RCW) 70.38.105(4)(a) and Washington Administrative Code (WAC) 246-310-020(1)(a).

CRITERIA EVALUATION

WAC 246-310-200(1)(a)-(d) identifies the four determinations that the department must make for each 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.”*

WAC 246-310 does not contain service or facility standards for home health agencies. To obtain Certificate of Need approval, Franciscan Home Health must demonstrate compliance with the 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).²

² Each criterion contains certain sub-criteria. The following sub criteria are not discussed in this evaluation because they are not relevant to this project: WAC 246-310-210(3), (4), (5), and (6); and WAC 246-310-220 (2) and (3).

Consistent with WAC 246-310-200(2)(b), the home health agency projection methodology and standards found in the 1987 State Health Plan, Volume II, Section (4)(d) is used to assist in the evaluation of home health applications.

APPLICATION CHRONOLOGY

Letter of Intent Submitted	January 31, 2011
Application Submitted	May 12, 2011
Department's pre-review Activities including screening and responses	May 17, 2011 through July 18, 2011
Department Begins Review of Application	July 25, 2011
End of Public Comment	August 29, 2011
Close of Rebuttal Comment Period	September 13, 2011
Department's Anticipated Decision Date	October 28, 2011
Department Actual Decision Date	March 14, 2012

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."*

Throughout the review of this project, one entity sought and received affected person status.

Harrison Medical Center

Harrison Medical Center is an acute care hospital that operates two campuses in Kitsap County. One campus is located in Bremerton and the second campus is located in Silverdale. Harrison Medical Center also operates a Medicare certified home health agency in Kitsap County.

SOURCE INFORMATION REVIEWED

- Franciscan Health System application received May 12, 2011
- Franciscan Health System supplemental information received July 18, 2011
- Harrison Medical Center public comments received August 29, 2011
- Public comments received during the review
- Franciscan Health System rebuttal comments received September 13, 2011
- Completed provider utilization surveys received from existing Kitsap County home health providers for calendar year 2010
- Population data obtained from the Office of Financial Management based on year 2000 census and published January 2007.
- 1987 Washington State Health Plan Performance Standards for Health Facilities and Services, Home Health methodology and standards
- Licensing and survey data provided by the Department of Health's Investigations and Inspections Office
- Licensing and compliance history data provided by the Department of Health's Medical Quality Assurance Commission
- Joint Commission website [www.jointcommission.com]

CONCLUSION

For the reasons stated in this evaluation, the application submitted by Franciscan Health System proposing to establish a Medicare certified and Medicaid eligible home health agency to serve the residents of Kitsap County is not consistent with the applicable review criteria and a Certificate of Need is denied.

A. Need (WAC 246-310-210) and Home Health Need Method (SHP)

Based on the source information reviewed the department determines that the applicant has met the need criteria in WAC 246-310-210(1) and (2) and the home health agency methodology and standards outlined in the 1987 State Health Plan, Volume II, Section (4)d).

(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 does not contain specific WAC 246-310-210(1) need criteria as identified in WAC 246-310-200(2)(a)(i). To assist with the determination of numeric need for home health agencies, the department uses the numeric methodology contained in the 1987 Washington State Health Plan (SHP).

Home Health Numeric Methodology-1987 SHP

The SHP methodology is a multiple step process that projects the number of home health visits in a planning area. The method uses the following elements:

- projected population of the planning area, broken down by age groups [0-64; 65-70; & 80+];
- estimated home health use rates per age group; and
- the number of visits per age group.

The total projected number of visits is then divided by 10,000, which is considered the ‘target minimum operating volume’ for a home health agency. The resulting number represents the maximum projected number of agencies needed in a planning area. The SHP states fractions are rounded down to the nearest whole number. [source: SHP, pB-35]

The final step in the numeric methodology is to subtract the existing number of home health agencies in a planning area from the projected number of agencies needed. This results in the net number of agencies needed for the planning area.

FHS methodology

Using the SHP methodology, FHS determined the number of projected patient visits in Kitsap County for year 2015 to be 64,565. FHS determined that year 2015 would be its third full calendar year of operation. [source: Application, Exhibit 8] Dividing the projected number of visits by 10,000, resulted in a total of 6.4 agencies would be needed in Kitsap County in year 2015.

FHS then identified four existing home health agencies are serving Kitsap County and subtracted those agencies from the year 2015 need of 6.4, resulting in a net need of 2.4 which the applicant rounded to 3 new agencies. [source Application, Exhibit 8 and p142] A summary of FHS’s methodology is presented in Table 1.

**Table 1
Summary of FHS's 2015 Need Projections**

Estimated Home Health Agency Need	
Total Population	262,052
# Total Patient Visits	64,565
Divided by 10,000	6.4565
Existing Medicare Certified/Medicaid Eligible Agencies	4
Net Need	2.4

Based on the summary shown in the table above, and FHS's application of the home health methodology, the applicant concluded there is a need for an additional home health agency in Kitsap County.

Department's Numeric Methodology

The department used the SHP methodology to assist in determining need for home health agencies in Kitsap County. There are five home health agencies currently providing services to the residents of Kitsap County. The five agencies are listed below.

Name	Address	City
Care Plus	1730 Pottery Avenue, #100	Port Orchard
Gentiva Health Services	4060 Wheaton Way	Bremerton
Group Health Home Health and Hospice	201 – 16 th Avenue East	Seattle
Harrison Home Health	2420 Cherry Avenue	Bremerton
Signature Home Health ³	33710 – 9 th Avenue South	Federal Way

Utilization survey responses and comments received from Care Plus Home Health stated, *“We do not have Medicare clients. We provide services under DDD skilled nursing (waiver), ADSA private duty agency, respite and private pay skilled nursing.”* [source: Survey Responses received June 26, 2011] Based on the comments provided above, while Care Plus may not provide Medicare or Medicaid home health services to all residents of Kitsap County, Care Plus provides home health services to private pay patients. Therefore, the department would count Care Plus as an available agency in Kitsap County.

Group Health Home Health and Hospice also provides certified Medicare services in the planning area. Although it operates as a Health Maintenance Organization (HMO) and provides services to Group Health members only, its members reside in the planning area and are receiving services. Therefore, the department will include Group Health in its count of home health agencies in Kitsap County.

The remaining three agencies, Gentiva Health Services in Bremerton, Signature Home Health in Federal Way, and Harrison Home Health in Bremerton, are Medicare certified home health providers in Kitsap County. In summary, based on the information above, the department counts all five providers in Kitsap County

³ Formerly New Care Concepts.

A summary of the department’s methodology is presented in Table 2 below. The complete methodology is included in this analysis as Appendix A.

Table 2
Summary of Department of Health
Kitsap County Home Health Need Projection

	2011	2012	2013	2014	2015	2016
# Total Patient Visits	59,266	60,681	62,097	63,512	64,924	68,453
Divided by 10,000	5.93	6.07	6.21	6.35	6.49	6.85
Rounded down	5	6	6	6	6	6
Existing Home Health Agencies	5	5	5	5	5	5
Net Need per SHP	0	1	1	1	1	1

As shown in Table 2 above, need for an additional Medicare certified agency is projected in year 2012.

Harrison Medical Center provided comments related to the department’s numeric methodology. Below is a summary of the comments received from Harrison Medical Center. [source: Harrison Medical Center public comments received August 29, 2011, p2]

10,000 Minimum visits for home health agencies

- In Volume II of the State Health Plan –Page B-35 clarifies that “For planning purposes ten thousand (10,000) home health agency visits shall be considered to be the minimum operating volume for a home health agency.” Since the FHS application does not meet this minimum standard, it should be denied.

Exclusion of state licensed home health agencies in the numeric methodology

- There is no rationale for excluding state licensed, active agencies. The DOH need calculation using the ultra low 10,000 visits per agency standard already takes this into account.

In response to the comments above, FHS provided rebuttal responses which are summarized below. [source: FHS Rebuttal comments received September 13, 2011, pp1-2]

10,000 Minimum visits for home health agencies

- Harrison asserts that because FHS’s projections for Kitsap are under 10,000 visits, it does not meet the standard and should be denied. FHS submitted three applications proposing to provide Medicare/Medicaid home health services in three separate planning areas from a single office in Pierce County. From this location, by year three the agency would generate a combined 24,374 patient visits.
- FHS has yet to find a project proposing to provide less than 10,000 visits that was denied by the department.

Exclusion of state licensed home health agencies in the numeric methodology

- Harrison asks the department to abandon its historic, multi-decade use of the home health need methodology. This is unnecessary and it would be prejudicial to FHS.

Department’s Evaluation of the comments

10,000 Minimum visits for home health agencies

The department disagrees with Harrison’s suggestion that because FHS’s home health visit projections are under 10,000, its application should be denied. The department has in previous projects approved applications with less than 10,000 visits projected.

Exclusion of state licensed home health agencies in the numeric methodology

The department does not exclude licensed only providers in its numeric methodology, as confirmed in Table 2 above.

In conclusion, based solely on the numeric methodology, need for an additional Medicare certified home health agency is demonstrated.

As required under WAC 246-310-210(1), an applicant must also demonstrate that the existing providers are not available or accessible to meet the projected need. As part of FHS’s need assessment and to demonstrate that an unmet need exists, the applicant presented some of the planning area providers “Medicare only Visits” for year 2009 and states the data for those years are from part of the 2009 Medicare Cost Reports for Kitsap County [source: Application, p23] Table 3 below provides the data.

Table 3
FHS Provided Data for Years 2008 and 2009 Medicare Visits Kitsap County

Medicare Certified Agencies	Total Annual Visits --2008	Medicare Only Visits --2009
Care Plus Home Health	N/A	N/A
Gentiva Health Services/Bremerton	N/A	11,214
Group Health Home Health & Hospice	N/A	N/A
Harrison Home Health	N/A	17,633
Signature Home Health	N/A	N/A

Using the information from the table above, FHS concluded Kitsap County is not adequately served. FHS further supports this position with the following statements. [source: Application, p23]

“Feedback from our existing discharge planners, referral specialists, and nursing staff has identified several key difficulties with home health referrals. Many agencies are designed for Medicare patients, so it can be challenging to find an agency that will accept non-Medicare patients. Agencies are also often limited in the amount of physical therapy and occupational therapy services they have available. The need for these services often exceeds their staffing capabilities. Some agencies will only accept patients with a need for more than one care service, so are inaccessible for patients needing just one service.”

Related to therapy services, FHS provided the following information. [source: Application, p15]

“A key challenge for our existing home health patient referrals is to find agencies that have sufficient therapy services available to be able to meet the rehabilitation needs of our patients in a timely manner. Franciscan Home Health will be able to address this need through the comprehensive array of therapy services available through the larger FHS system.”

To assist in its evaluation of the availability of the existing providers, the department reviewed capacity and current patient volumes for the home health providers in the planning area. The department identified a total of five home health providers serving Kitsap County. Of the five agencies, one is a “licensed only” agency and four are Medicare certified agencies. On June 6, 2011, the department sent a utilization survey to the five agencies requesting 2010 home health utilization data, average daily census, and maximum capacity. Of the five agencies surveyed, responses were received from three agencies—Care Plus, Harrison Medical Center, and Group Health.⁴ Table 4 below is a summary of the survey responses received by the department.

**Table 4
Summary Kitsap County Home Health Patients Visits Year 2010**

Name	Total Visits	ADC	Maximum Capacity
Care Plus Home Health	0 ⁵	0	0
Group Health	9,576	65	70
Harrison Home Health	21,864	179	250

Information in Table 4 above shows that the existing home health agencies provided a total of 31,440 patient visits in year 2010, with Harrison Medical Center’s home health agency providing almost 70% of those visits. Additionally, the surveys revealed that the agencies are nearing their capacity based on their current staffing. The department also reviewed the potential number of additional patients and number of visits these agencies could serve with existing staff. Table 5 is a summary of that information.

**Table 5
Additional Patients to Reach Maximum Capacity and Estimated Number of Visits**

	Group Health	Harrison Home Health	Totals
# of Patients to Reach Capacity	5	101.00	106.00
Average # of Visits/Patient Reported in Survey	14	17.13	31.13
Estimated # of Visits (rounded)	70	1,730	1,800

Table 5 shows that with existing staffing, the current home health agencies could provide an additional 1,800 visits in Kitsap County.

⁴ When an agency does not return a utilization survey, the department concludes that agency has made the determination that the proposed project will either not impact them or any impact the proposed new agency will have is not significant.

⁵ Care Plus survey responses asserted the agency does not provide services to Medicare patients.

Table 2 in this evaluation projected 60,681 visits for year 2012. Including all the visits reported by the existing agencies in their survey responses (31,440) and those additional estimated visits to reach capacity (1,800) the total visits the existing agencies could provide with current staffing is 33,240 visits. This leaves a potential unmet need of 27,441 visits in year 2012.

In its application, FHS projected it would provide the following number of visits for partial year 2012 and year 2013 through 2015 full years of operation.

Partial Year -2012	Year 1-2013	Year 2-2014	Year 3-2015
616	821	1,231	2,436

The department assumed the existing home health agencies would provide at least the same number of visits in 2012, 2013, 2014 and 2015 as they did in 2010. To this number the department added FHS's partial year and three full years of operation projected visits. The total of these two numbers was then subtracted from the SHP projected visits for these same years. The results show that there are over 26,825 visits per year projected as remaining un-served. This information is summarized in Table 6 below.

**Table 6
Projected Home Health Visits 2012 - 2015**

Year	Existing Agency Visits	FHS Projected Visits	Total Visits	Minus Projected Visits	Un-served Visits
2012	33,240	616	33,856	60,681	26,825.
2013	33,240	821	34,061	62,097	28,035
2014	33,240	1,231	34,471	63,512	29,041
2015	33,240	2,436	35,676	64,924	29,248

Harrison Medical Center provided comments related to the available and accessibility of the existing providers. Below is a summary of the comments received from Harrison Medical Center and FHS's responses to the comments.

Harrison Medical Center [source: August 29, 2011, public comments, p2]

- There is no reference to the 10,000 visit per agency in any Washington State statute. This was a methodology that was created by the Department. Harrison Home Health currently has a volume of 21,861 visits annually and has excess capacity. Within our existing care delivery model and current per diem staffing, we have the ability to flex our staff to support 30,500 visits annually.
- If another agency is allowed in the Kitsap market and that agency has a volume of 2,436 visits as suggested in year the applicant's application, Harrison will experience an annual financial loss

FHS-Home Health [source: September 13, 2011, rebuttal comments, pp1-2]

- Harrison suggests the approval of FHS's project would result in its continuing operating losses. The identified net need for Kitsap County is greater than the combined existing capacity for Harrison and FHS's projected volumes. As such, there shall be no negative impact on Harrison.

Department's Evaluation

Harrison Medical Center states it could absorb the identified capacity by making flex time for its existing staff. An existing provider's business decision to expand services at some future date is not relevant to whether existing providers are available and accessible at the time of application. Only in rare circumstances is it reasonable to apply future expansion plans of existing providers when determining a community's need. None of those circumstances exist in this application.

It is also unreasonable to rely solely on existing providers hiring additional staff to meet all future projected need. Other than providing the statement regarding negative impact, Harrison Medical Center did not provide any data to demonstrate that that approval of FHS project would impact its financial viability.

Finally, Table 6 above demonstrates that Harrison Medical Center could significantly increase its number of patients and visits even with an additional provider in the planning area, and still not negatively affect either of the existing or new providers capacities.

Based on the department's evaluation the department concludes that existing providers at their current capacity will not be sufficiently available to meet the projected need. **This sub-criterion is met.**

- (2) All residents of the service area, including low-income persons, racial and ethnic minorities, women, handicapped persons, and other underserved groups and the elderly are likely to have adequate access to the proposed health service or services.

FHS is currently a provider of health care services to residents of Washington State, including low-income, racial and ethnic minorities, handicapped and other underserved groups. To determine whether all residents of Kitsap County 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.

To demonstrate compliance with this sub-criterion, the applicant provided a copy of Franciscan Home Care Policy and Procedure—Admission/Discharge /Transfer Policy. The policy outlines the process and guidelines that FHS uses to care for its patients using its facilities. The policy states that FHS will provide care to individuals regardless of age, sex, race, ability to pay, religious preference, or sexual preferences. Further the policy states it would integrate the missions and values of St. Joseph Medical Center into the care it provides. [source: Application, Exhibit 8]

To determine whether low-income residents would have access to the proposed services, the department uses the facility's Medicaid eligibility or contracting with Medicaid as the measure to make that determination. FHS currently provides services to Medicaid eligible patients at the existing healthcare facilities. The applicant intends to continue to provide services to Medicaid patients at the proposed home health agency. A review of the anticipated revenue sources indicates that the facility expects to receive Medicaid reimbursements.

To determine whether the elderly would have access or continue to have access to the proposed services, the department uses Medicare certification as the measure to make that determination. FHS currently provides services to Medicare patients at the existing healthcare facilities. FHS intends to provide services to Medicare patients at the proposed home health agency. A review of the anticipated revenue sources indicates that it expects to receive Medicare reimbursements.

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

FHS demonstrated its intent to provide charity care to home health patients in Kitsap County by submitting its current Uninsured/Underinsured Patient Discount Policy (Charity Care). The charity care policy outlines the process one would use to access services provided at FHS facilities. FHS also included a 'charity care' line item as a deduction from revenue within its pro forma income statement. [source: July 18, 2011, supplemental information, Attachment 5, p36]

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

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

Based on the source information reviewed, the department determines the applicant has not met the financial feasibility criteria in WAC 246-310-220.

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

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.

Franciscan Health System

To evaluate this sub-criterion, the department first reviewed the assumptions used by FHS to determine the projected number of patients and patient days it would serve for Kitsap County. It is noted that FHS submitted three separate applications for Medicare certified home health services in three separate counties: King, Kitsap, and Pierce.

Services for each county would be provided through one agency co-located with its hospice agency in University Place, within Pierce County. FHS provided its assumptions to determine the financial feasibility of the agency as a whole, and then provided a breakdown of patients, patient days, revenues, and expenses for just the Kitsap County portion of the agency.

The assumptions used by FHS are summarized below. [source: July 18, 2011, supplemental information, Attachment 3]

- In the development of the utilization projections, FHS excluded Group Health referrals because the majority of these patients would continue to be referred to Group Health even with the establishment of FHS’s home health agency.
- In 2010, FHS’s five hospitals discharged approximately 2,500 non-Group Health patients from Pierce, King, and Kitsap counties to home health. FMG clinics referred over 1,000 patients directly from the clinics to home health. Combined these referrals result in 3,500 non-Group Health home health referrals from FHS related facilities.
- To project the number of home health visits for the 3,500 patients, FHS used an average of 13 visits per patient. This average is based on 2008 home health survey data obtained by DOH in year 2009 for Kitsap County providers. The average number of visits ranged from 12 to 22, with several agencies in the 12-13 range.
- A 2.5% annual increase in referrals was factored in due to continued growth of FHS hospitals and clinics and pressures of health care reform to more efficiently provide care.
- Using the 2.5% annual growth, FHS projected number of visits for years 2012 through 2015. FHS projected to serve approximately 10% of the patients in year 2012; 20% in full year one (2013), 29% in 2014, and 45% in 2015.
- FHS assumed that 95% of the home health agency’s volumes would come from FHS related hospital or clinics and the remaining 5% would come from sources other than those.

Using all of the assumptions stated above, FHS projected the number of visits by year for Pierce, Kitsap and King counties which is summarized in the table below.

Year	# of visits	# of visits retained by FHS	With 5% from non FHS referral
2012	47,638	4,779	5,031
2013	48,999	9,760	10,274
2014	50,223	14,770	15,547
2015	51,479	23,166	24,385

By the end of year three, the distribution of the projected number of visits by county is projected to correspond to the current hospital and FMG patient origin breakdown. This is 66% of the visits for King County patients; 24% Pierce County; and the remaining 10% Kitsap County. The number of patients and visits proposed to be served for Kitsap County alone is shown in the summarized revenue and expense table. FHS used its existing hospitals and clinics as a basis for its home health agency, and excluded Group Health patients. FHS did not assume it would retain 100% of its home health referrals. FHS’s assumptions appear to be reasonable.

If approved, FHS anticipates commencement and completion within six months of approval. Under this timeline, year 2012 would be a partial year of operation, and 2013 would be the facility's first full calendar year of operation; 2015 would be year three. Focusing on Kitsap County only, FHS's projected its patients and patient days, revenue, expenses, and net income per patient visit using calendar years. Table 7 below shows the projected patients and patient days for calendar year one (2012) through calendar year four (2015). [source: July 18, 2011, supplemental information, p8]

**Table 7
Years 2012 through 2015 Projected Patients and Patient Visits**

	CY 2012 9 months	CY 2013 Full Year	CY2014 Full Year	CY 2015 Full Year
# of Unduplicated Patients	149	48	72	143
# of Visits Per Patient (DOH calculated)	13	13	13	13
# of Home Health Visits Per Fiscal Year	615	820	1,230	2,436

In order to project the number of home health visits in a year, FHS would multiply its projected number of patients by the estimated number of visits per patient. The department notes a mathematical error in the numbers shown in Table 7, however, it is unclear whether the error is in the number of patients or in the number of home health visits. FHS provided a breakdown of patients by discipline for the years shown in Table 7 above which do not add to the total number of patients projected to be served by FHS. In the breakdown, the total number of patients by discipline is 149, 200, 293, and 558, for years 2012-2015 respectively. However, if these numbers are used in Table 7, the average number of visits per patient would calculate to 4.8. The projected number of visits per patient (13) shown in Table 7 above is consistent with FHS's assumptions; however, the projections shown above do not substantiate the assumption.

FHS used its projected patients and patient days shown in Table 7 above to prepare its pro-forma income statements for the proposed home health agency. FHS did not identify any other assumptions used to prepare its Revenue and Expense Statements. Table 8 below is a summary of the statements. [source: July 18, 2011, supplemental information, Revised Attachment 5]

**Table 8
Fiscal Years 2012 through 2013 Projected Revenue and Expense Statements**

	CY 2012 9 months	CY 2013 Full Year	CY2014 Full Year	CY2015 Full Year
Net Revenue	\$51,914	\$83,600	\$127,680	\$252,553
Total Expenses	\$128,401	\$123,631	\$142,111	\$168,580
Net Profit /(Loss)	(\$76,487)	(\$87,600)	(\$69,207)	\$11,772
Net Revenue Patient Per Visit	\$84.41	\$101.95	\$103.80	\$103.68
Operating Expenses Per Patient Visit	\$150.77	\$150.77	\$115.54	\$69.20
Net Profit (Loss) Per Patient Visit	(\$124.37)	(\$106.83)	(\$56.27)	\$4.83

The 'Net Revenue' line item is gross revenue minus any deductions for charity care, bad debt, and contractual allowances. The 'Total Expenses' line item includes salaries and wages, depreciation, and allocated costs for the Kitsap County agency. As shown in Table 8 above, FHS projected its revenues from Kitsap County patients would not begin covering its expenses in the end of full year three (2015). However, as previously stated, the department cannot substantiate FHS's number of patients and patient days used as a basis for the revenue and expense statements above.

FHS intends to co-locate the new home health agency with its hospice agency in Pierce County. The site has been leased by FHS since year 2004. FHS provided a copy of its lease agreement between FHS and Bridgeport Center, LLC. [source: Application, Exhibit 6] The pro forma Revenue and Expense Statements do not include a 'rent' line item for the home health agency. The rent amount is noted in the financial statements to be 'allocated costs' solely attributed to the home health agency's portion of the square footage of space allocated to it.

FHS identified Marilyn Pattison, MD as the medical director for the proposed home health agency and provided a draft physician employment agreement between Franciscan Health System and Dr. Pattison. The draft employment agreement outlines the medical director's roles and responsibilities and identifies the annual compensation for services. In addition to its Kitsap County CN application, FHS also submitted applications to establish home health agencies in Pierce and King counties and Dr. Pattison is the proposed medical director for all three home health agencies. Since the medical director position is a shared administrative position, FHS provide a breakdown of the medical director time for each county proposed to be served. [source: Application, Exhibit 3]

For the proposed Kitsap County home health project, all costs associated with the medical director position are identified and substantiated in the pro forma Revenue and Expense Statement under the 'allocated costs' line item. [source: July 18, 2011, supplemental information, Revised Attachment 5] In addition to the projected Revenue and Expense Statements, FHS provided the projected Balance Sheets using calendar years. Full year one, (2013) and three (2015) are shown below.⁶ [source: July 18, 2011, Revised Attachment 6]

Tables 9
FHS Kitsap County Home Health Forecasted Balance Sheets
Calendar Year One - 2013

Assets		Liabilities	
Current Assets	\$41,996	Current Liabilities	\$217,090
Fixed Assets	\$18,315	Long Term Debt	\$0.00
Board Designated Assets	\$0.00	Equity	(\$156,809)
Total Assets	\$60,281	Total Liabilities and Equity	\$60,281

⁶ FHS noted that the balance sheets were created specifically for this Certificate of Need application. [source: July 18, 2011, supplemental information, p13]

Calendar Year Three - 2015

Assets		Liabilities	
Current Assets	\$55,550	Current Liabilities	\$208,804
Fixed Assets	\$8,217	Long Term Debt	\$0.00
Board Designated Assets	\$0.00	Equity	(\$145,037)
Total Assets	\$63,767	Total Liabilities and Equity	\$63,767

As shown in the balance sheet information above, FHS intends to operate the home health agency very lean, which is typical of this type of service. However, it is unclear that FHS would be financially stable through full calendar year 2015.

FHS submitted rebuttal comments acknowledging errors in its financial information. FHS provided revised and corrected data and asserts that the revised information should be used in this review. FHS also states that if the department is unable to use the revised information, it should declare a pivotal unresolved issue⁷ to allow FHS to correct its application, which would be similar to the process used by the department in two Kitsap County hospice projects. [source: September 13, 2011, Rebuttal comments, Issues 5 Financial Feasibility of Kitsap County, pp8-9]

Within its screening responses submitted on July 18, 2011, FHS provided revised Pro Forma Revenue and Expense Statements. In the cover letter attached to its screening responses, FHS directed the department to commence review of the project. As a result, the department was not allowed an opportunity to review the revised statements to determine if they were complete. This action by FHS alleviates any option for a pivotal unresolved issue if the information submitted by FHS is incorrect or unreliable. As a result, information used was the revised financial statements included with the screening responses dated July 18, 2011.

Because of the incorrect financial totals in the applicant's pro forma, the department cannot conclude that this project is financially viable. Based on the source information reviewed the department concludes that the immediate and long range capital and operating costs of the project cannot be verified. **This sub-criterion is not met.**

- (2) The costs of the project, including any construction costs, will probably not result in an unreasonable impact on the costs and charges for health services.

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.

⁷ Pivotal Unresolved Issues are addressed in WAC 246-310-090 and WAC 246-310-160.

FHS identified the capital expenditure associated with this project to be \$37,477. [Source: Application, Page 25] The applicant states: “The capital expenditures for this project are limited to moveable equipment and CN review fee.” [source: Application, p25]

FHS anticipates the majority of its revenue would come from Medicare. Medicare pays for home health care on a perspective payment system (PPS) basis. Table 10 below shows the expected payer mix for the proposed home health agency. [source: Application, p 29]

Table 10
Franciscan Home Health Agency Payer Mix

Payer Source	Percentage
Medicare	70%
Medicaid	12%
Commercial Insurance	18%
Total	100%

FHS anticipates its payer source distributions would be 70% Medicare, 12% Medicaid and 18% commercial insurance. [source: Application, p29] Since the applicant expects that majority of its payer source would be from Medicare, the proposed project is not expected to have any impact on the operating costs and charges for home health services in the planning area, because Medicare payments are prospective payments.

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

(3) The project can be appropriately financed.

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.

FHS provided the following capital expenditure breakdown for the proposed project. [source: Application, p25]

Table 11
Franciscan Home Health projected Capital Cost

Item	Cost	% of Total
Fixed & Moveable Equipment	\$16,476	44%
CN Application fees	\$21,001	56%
Total Project Cost	\$37,477	100%

The department received a letter of financial commitment from the applicant’s chief financial officer. [source: July 18, 2011, Supplemental information, Attachment 4, p34]

Based on the information, the department concludes the proposed source of funding for this project is appropriate. **This sub-criterion is met.**

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

Based on the source information reviewed the department determines the applicant 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.

FHS expects to hire about 2.30 FTE’s and 1.01 contracted/allocated additional FTE’s. Table 12 below summarizes FHS’s proposed FTEs for partial year 2012 through the three full operational years of 2013 to 2015. [source: Application, p32]

**Table 12
Franciscan Home Health Proposed FTEs Years 2012-2015**

Category	Partial Year 2012	Year 1-2013 Increases	Year 2-2014 Increases	Year 3-2015 Total
Physical/Occupational and Speech Therapies	Professional Services Contracted/Allocated			
Registered Nurse	0.50	0.10	0.00	0.60
Licensed Practical Nurse	0.50	0.10	0.00	0.60
Home Health Aide	0.50	0.10	0.00	0.60
Administrative	0.10	0.00	0.00	0.10
Business/ Clerical	0.10	0.10	0.20	0.40
Total FTE's	1.70	0.40	0.20	2.30

To further demonstrate compliance with this sub-criterion, FHS provided the following statements. [source: Application, p34]

“FHS is a well established, highly regarded health care provider in each of the communities for which we seek home health certification. Historically, FHS has not experienced any major difficulty recruiting personnel. Additionally, Franciscan Home Health will be sharing space, administration, and support staff with Franciscan Hospice and will likely also be able to utilize other staff from our hospice program in Pierce, King and Kitsap counties in our home program Therefore...we do not anticipate any significant problems recruiting.”

FHS identified Marilyn Pattison, MD as the medical director for the proposed home health agency and provided a draft physician employment agreement between Franciscan Health System and Dr. Pattison.

The draft employment agreement outlines the medical director's roles and responsibilities and identifies the annual compensation for services. FHS also submitted CN applications to establish Medicare certified home health services in Pierce and King counties. Dr. Pattison is the proposed medical director for the home health agency, which would cover all three counties. Since the medical director position is a shared administrative position, FHS provide a breakdown of the medical director costs for each county proposed to be served. The cost for Kitsap County is substantiated in the draft agreement. [source: July 18, 2011, supplemental information, Attachment 5, pp36-37]

Based on the source information reviewed the department concludes that sufficient staffing 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) 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 relationships, ancillary and support services should be for a project of this type and size. Therefore, using its experience and expertise the department assessed the materials contained in the application.

To address the sub-criterion, FHS states, "Given Franciscan Medical Group, and Franciscan Hospice's existing operations throughout Pierce, King and Kitsap County, necessary relationships with ancillary and support services are already in place. For this reason, Franciscan Home Health does not anticipate any difficulty in meeting the service demands of the proposed project." [source: Application, p35]

Based on the information, the department concludes that there is reasonable assurance the proposed home health agency will have appropriate ancillary and support services. **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. As part of its review, the department must conclude that the proposed service would be operated in a manner that ensures safe and adequate care to the public. Therefore, using its experience and expertise the department assessed the applicant's history in meeting these standards at other facilities owned or operated by the applicant.

FHS is a provider of a variety of health care services in Washington State. Currently FHS owns or operates 11 healthcare facilities in Pierce and King counties.

As part of its review, the department must conclude that the proposed service would be operated in a manner that ensures safe and adequate care to the public.⁸ The Department of Health's Investigations and Inspections Office (IIO) conducts quality of care and compliance surveys. Records indicate that since 2007, IIO completed compliance surveys for each of FHS own or operated healthcare facilities. Each of the compliance survey revealed deficiencies typical for the facility and FHS submitted acceptable plans of corrections and implemented the required actions. Additionally, all five FHS's hospitals currently are accredited by the Joint Commission. [source: facility survey data provided by the Investigations and Inspections Office and Joint Commission website]

FHS identified Marilyn Pattison, MD an employee of the hospital as the medical director for the proposed home health agency. A review of Dr. Pattison's compliance history did not show any current or past enforcement actions. [source: Compliance history provided by Medical Quality Assurance Commission]

Given the compliance history of Franciscan Health System, and its subsidiaries and that of Dr. Marilyn Pattison, the department concludes there is reasonable assurance Franciscan Home Health Agency would be operated in conformance with state and federal regulations. **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 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.

To demonstrate compliance with this sub-criterion, FHS provided the following statements. [source: Application, p36]

"Franciscan Home Health fully expects that our project will promote continuity in care delivery and support the needs of home health patients and their families. FHS, Franciscan Medical Group, and Franciscan Hospice already provides a wide range of inpatient and outpatient health care services throughout Pierce, King, and Kitsap Counties. Because of this, we don't expect that offering home health services in these same counties will result in a need for additional agreements or contracts. Our existing comprehensive continuum of care has been an effective means of operating and has led to the provision of excellent, high quality, and comprehensive care. The expansion of the continuum to include home health will further our mission of fulfilling the total spiritual, emotional and physical needs of the patients we serve."

Based on the source information provided above, the department concludes that approval of this project would not cause unwarranted fragmentation of the existing healthcare system. **This sub-criterion is met.**

⁸ WAC 246-310-230(5).

- (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.

This sub-criterion is evaluated in sub-section (3) above, and based on that evaluation; the department concludes that **this sub-criterion is met.**

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

Based on the source information reviewed the department concludes FHS has not met the cost containment criteria in WAC 246-310-240.

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

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 the applicable 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 criteria (tie-breaker) contained in WAC 246-310. The tiebreaker 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

For this project, FHS proposed home health agency met the review criteria under WAC 246-310-210 and 230. In its evaluation of WAC 246-310-220, the department concluded FHS's application did not meet sub-criterion (1) as it relates to the immediate and long-range capital and operating costs of the project. This conclusion is based on the significant errors in FHS's financial statements, resulting in unreliable data. Based on the conclusions in WAC 246-310-220, the department concludes the application submitted by FHS is not the superior alternative. **This sub-criterion is not met.** As a result, steps two and three are not evaluated under this sub-criterion.

APPENDIX A