
**New York State Department of Health
Public Health and Health Planning Council**

July 26, 2012

Certified Home Health Agency – Establish

Exhibit #2

	<u>Number</u>	<u>Applicant/Facility</u>
1.	121286 E	Lott Community Home Health Care, Inc. (New York County)
2.	121309 E	Center Light Certified Home Health Care Agency (Kings County)
3.	121256 E	Isabella Care at Home, Inc. (New York County)
4.	121252 E	Jewish Home Lifecare, Community Services (New York County)
5.	121222 E	Lutheran CHHA, Inc. (Kings County)
6.	121247 E	Queens Long Island Certified Home Health Agency, LLC (Queens County)



Public Health and Health Planning Council

Project # 121286-E
Lott Community Home Health Care, Inc.

County: New York (New York)
Purpose: Establishment

Program: Certified Home Health Agency
Submitted: April 20, 2012

Executive Summary

Description

Lott Community Home Health Care, Inc., a to-be-formed not-for-profit corporation, requests approval to establish a certified home health agency (CHHA) to serve the residents in New York and Bronx County. The CHHA will offer the following services: medical social services, nursing, therapies, home health aide and nutrition.

The proposed corporation will have affiliation with SFDS Development Corporation (d/b/a Lott Community Development Corp.) and the Lott Assisted Living Operating Corp., with no parent and linked by overlapping Boards and common management. The purpose of these affiliated corporations is to serve the indigent population, build a better quality of life for New York's elderly, the formerly homeless, and individuals of low to moderate income, by providing them with clean, safe housing and supportive services that help them lead independent and fulfilling lives. In addition to the Assisted Living Program, they have developed over 800 units of affordable housing, helping to revitalizing East Harlem.

On December 8, 2011, the Public Health and Health Planning Council adopted an amendment to section 760.5 of Title 10, NYCRR. This emergency regulation authorized the Commissioner of Health to issue a request for applications (RFA) to establish new certified home health agencies, or expand the approved geographic service areas and/or approved population of existing CHHA's. Lott Community Home Health Care, Inc. submitted an application in response to the competitive RFA, and was awarded RFA approval. This CON application is in response to the RFA approval.

Effective May 1, 2012, a new Episodic Payment System (EPS) reimbursement methodology to reimburse CHHA providers for services provided to Medicaid patients receiving home care services took effect. The EPS is based on a price for 60-day episodes of care which will be adjusted by patient acuity and regional wage differences. The EPS was recommended by the Medicaid Redesign Team (MRT

proposal # 5) and authorized in the 2011-12 enacted budget. The EPS is designed to address the issue of rapid growth in Medicaid costs per patient by better aligning payments with needed services and is part of a broad effort to promote the development of care management arrangements for Medicaid recipients.

For a conservative approach, revenues were calculated in which the lower of incremental cost to episodic payment was projected for year one and year three, and budgets were sensitized.

DOH Recommendation
Contingent approval.

Need Summary

Lott Community Home Health Care's proposal clearly describes and adequately addresses each of the review criteria used to make determinations for this competitive review.

Program Summary

A review of all personal qualifying information indicates there is nothing in the background of the principals listed above to adversely effect their positions in the proposed organizational structure. The applicant has the appropriate character and competence under Article 36 of the Public Health Law.

Financial Summary

There is no project costs associated with this application.

Budget:	<i>Revenues:</i>	\$ 3,062,778
	<i>Expenses:</i>	<u>2,848,521</u>
	<i>Gain/(Loss):</i>	\$ 214,257

Subject to the noted contingency, it appears that the applicant has demonstrated the capability to proceed in a financially feasible manner.

Recommendations

Health Systems Agency

There will be no HSA recommendation for this application.

Office of Health Systems Management

Approval contingent upon:

1. Submission of an executed sublease agreement that is acceptable to the Department of Health. [BFA]
2. Submission of new incremental budgets to be re-evaluated for financial feasibility for all counties approved for establishment or expansion that are acceptable to the Department. [BFA]
3. The applicant must submit a plan acceptable to the Department that details how it will achieve compliance with the provision of no less than 2% charity care in accordance with all the requirements outlined in Section 763.11(a)(11) of Title 10 NYCRR. [CHA]

Council Action Date

August 9, 2012.

Need Analysis

Background

On December 8, 2011 the Public Health and Health Planning Council adopted an amendment to Section 750.5 of Title 10, NYCRR authorizing the Commissioner of Health to issue a request for applications (RFA) to establish new certified home health agencies (CHHAs) or expand existing CHHAs. Public need was based on established criteria in section 709.1(a) of Title 10 and that approval of the application will facilitate implementation of Medicaid Redesign Initiatives to shift Medicaid beneficiaries from traditional fee-for-service programs to managed care, managed long term care systems, integrated health systems or similar care coordination models or that approval will ensure access to CHHA services in counties with less than 2 existing CHHAs.

Solicitation

The RFA for the establishment of new or expansion of existing CHHAs was released on January 25, 2012 with RFA applications due on March 9, 2012 and CON applications due on April 20, 2012.

Applicants were further permitted to submit questions to the Department to seek additional clarification regarding this process. The Department's answers were provided to all applicants prior to the submission deadline, to ensure consistent information was shared regarding the process.

Competitive Review

The applications were reviewed competitively by the Department and recommendations are being made separately for Downstate and Upstate counties. Downstate counties consist of the counties Kings, Queens, New York, Richmond, Bronx, Nassau, Suffolk, and Westchester. Upstate counties consist of the remaining counties in New York State not listed in the preceding Downstate counties. All applications were reviewed and ranked against other applicants for each county they proposed to serve. If applicants requested Upstate and Downstate counties, they will be presented to the Public Health and Health Planning Council with other applicants who have requested the same county or counties.

The CON determination of need was based on the applicant's response to the RFA. The applications were reviewed competitively on criteria that included, but were not limited to:

- Organizational capacity to successfully implement the MRT initiatives and potential of the proposal to support the goals of the Department in advancing MRT initiatives;
- Knowledge and experience in the provision of home health services;
- Demonstration of public need based on 709.1(a) as well as a description of community need and the health needs of the community supported by data;
- Potential of the approved application to produce efficiencies in the delivery of home care services to the home care population;
- Comprehensive and effective quality assurance plan which described how the agency will use data to implement an ongoing quality assessment and performance improvement program that leads to measurable and sustained improvement in performance.

From this review, applicants were ranked in each county proposed against other applicants for that county based on how well their proposal addressed each of the aforementioned criteria. The top ranked applications were then selected for recommendation for approval within each county. Ultimately, fourteen of eighty-seven applications were recommended for approval to expand or establish a new general purpose CHHA in one or more of the eight Downstate counties.

Lott Community Home Health Care's proposal clearly describes and adequately addresses each of the review criteria used to make determinations for this competitive review. This proposal demonstrates the applicant has the

organizational capacity to successfully implement the MRT initiatives and supports the goals of the Department in advancing these initiatives. The applicant demonstrates public need based on 709.1(a) and provides a description of community need and the health needs of the community supported by data. The applicant has the requisite knowledge and experience in the provision of home health services and demonstrates the potential to produce efficiencies in the delivery of home care services. Finally, the application provides a description how the agency will use data to implement an ongoing quality assessment and performance improvement program that leads to measureable and sustained improvement in performance.

Recommendation

From a need perspective, approval is recommended.

Programmatic Analysis

Background

Lott Community Home Health Care, Inc. is a proposed not-for-profit corporation requesting approval to become established as a CHHA under Article 36 of the Public Health Law, with approval to serve the downstate counties of Bronx and New York.

The applicant proposes to operate the CHHA from an office located at 1261 Fifth Avenue, New York, New York 10029. The applicant proposes to provide the following health care services:

- | | |
|---------------------------|---|
| Nursing | Home Health Aide |
| Physical Therapy | Occupational Therapy |
| Speech Language Pathology | Medical Social Services |
| Nutrition | Medical Supplies, Equipment, and Appliances |

The Board of Directors of Lott Community Home Health Care, Inc. will be as follows:

Leonard T. Walsh, Chairman
COO, St. Barnabas Hospital

Brenda M. Matti-Orozco, M.D., Vice Chairman
Chief, Division of Geriatric Medicine, St. Luke's-Roosevelt Hospital Center

Affiliation:

- St. Vincent's Catholic Medical Center

Dennis M. Greenbaum, M.D., Secretary
Director of Medicine, Harlem Hospital Center

James D. Cameron, NHA, Treasurer
CEO, Ridgewood Bushwick Senior Citizens Council, Inc.

Affiliations:

- Medical Associates of St. Vincent's
- Medical Services of St. Vincent's
- Miller Practice for the Performing Arts
- Lott Foundation

Affiliation:

- Incarnation Children's Center
- Help/psi, Inc.
- Buena Vida Continuing Care & Rehab Center

Brenda J. Brown, Director
Retired

Patricia J. Francis, R.N., Director
Retired

Affiliation:

- St. Luke's-Roosevelt Hospital Center (3/94-4/07)

Leticia L. Gotay, Director
Executive Director, St. Luke's-Roosevelt
Hospital, Department of Medicine

Anthony J. Lechich, M.D., Director
Chief Medical Officer, Terence Cardinal Cooke
Health Care Center (Archcare)

Neil J. O'Connell, Director
Catholic Campus Ministry, Catholic
Archdiocese of New York

Carmen M. Villegas, Director
Coordinator, Immunology Clinic,
Lincoln Hospital

Affiliations:

- Project CREATE, Inc.
- CREATE Young Adult Center
- CREATE, Inc. Outpatient Services
- Residential Facility Project CREATE

All of the board members of Lott Community Home Health Care, Inc. also sit on the board of directors of Reverend Robert V. Lott Assisted Living Residence.

A search of the individuals named above revealed no matches on either the NYS OMIG Medicaid Disqualified Provider List, or the US DHHS Office of the Inspector General Exclusion List.

The Office of the Professions of the State Education Department, the New York State Physician Profile and the Office of Professional Medical Conduct, where appropriate, indicate no issues with the licensure of the health professionals associated with this application.

The applicant has confirmed that the proposed financial/referral structure has been assessed in light of anti-kickback and self-referral laws, with the consultation of legal counsel, and it is concluded that proceeding with the proposal is appropriate.

The Bureau of Professional Credentialing has indicated that James D. Cameron NHA license #02857 holds a NHA license in good standing and the Board of Examiners of Nursing Home Administrators has never taken disciplinary action against this individual or his license.

The applicant currently has an Assisted Living Facility application pending with the Department.

A review of the following facilities was performed as part of this review:

St. Vincent's Catholic Medical Center (3/94 – 4/07)
Incarnation Children's Center (2006 – present)
St. Luke's-Roosevelt Hospital Center (2005 – present)
Help/psi, Inc. (06/2008 – present)
Buena Vida Continuing Care & Rehab Center (2/12 – present)
Reverend Robert V. Lott Assisted Living Residence LHCSA (2002 – present)

The Division of Certification and Surveillance has indicated that the hospitals reviewed have exercised sufficient supervisory responsibility to protect the health, safety and welfare of patients and to prevent recurrent code violations.

The information provided by the Bureau of Quality Assurance and Surveillance for Nursing Homes has indicated that the nursing home reviewed has provided sufficient supervision to prevent harm to the health, safety and welfare of residents and to prevent recurrent code violations.

The information provided by the Division of Home and Community Based Services has indicated that the licensed home care services agencies and long term home health care programs have provided sufficient supervision to prevent harm to the health, safety and welfare of patients and to prevent recurrent code violations.

A review of all personal qualifying information indicates there is nothing in the background of the principals listed above to adversely effect their positions in the proposed organizational structure. The applicant has the appropriate character and competence under Article 36 of the Public Health Law.

Recommendation

From a programmatic perspective, contingent approval is recommended.

Financial Analysis

Lease Rental Agreement

The applicant has submitted a draft sublease agreement for the site that they will occupy, which is summarized below:

- Premises:* 2,000 sq. ft. located at 1255 Fifth Avenue in the Borough of Manhattan, New York.
- Sublessor:* Lott Assisted Living Operating Corporation
- Sublessee:* Lott Community Home Health Care, Inc.
- Term:* 3 years
- Rental:* Year 1 and Year 2 - \$99,906 (\$49.99 per sq. ft.)
Year 3 - \$102,996 (\$51.50 per sq. ft.)
- Provisions:* The sublessee shall be responsible for maintenance, utilities and real estate taxes.

The master landlord is SFDS Development Corporation, which is affiliated with the proposed entity.

Operating Budget

The applicant has submitted an operating budget for the first and third years, in 2012 dollars, which is summarized below:

	<u>Year One</u>	<u>Year Three</u>
Medicaid-Fee-for-Service	\$52,529	\$106,738
Medicaid Managed Care	998,070	2,027,996
Medicare Fee-for-Service	17,786	36,138
Medicare Managed Care	337,939	686,927
Commercial Fee-for-Service	40,697	82,710
Private Pay	29,423	59,724
Other	<u>30,870</u>	<u>62,545</u>
Total Revenues	\$1,507,314	\$3,062,778
Expenses	<u>\$1,547,628</u>	<u>\$2,848,521</u>
Excess of Revenues over Expenses	<u>\$(40,314)</u>	<u>\$214,257</u>

Utilization by payor source in the first and third years is as follows:

	<u>Year One</u>	<u>Year Three</u>
Medicaid Fee-For-Service	1.45%	1.45%
Medicaid Managed Care	27.64%	27.64%
Medicare Fee-For-Service	2.62%	2.62%
Medicare Managed Care	49.97%	49.96%
Commercial Fee-For-Service	14.29%	14.30%
Private Pay	1.94%	1.94%
Charity Care	2.09%	2.09%

Expense assumptions are based on current salaries in the area for CHHA services. Utilization assumptions are based on the applicant's discussions with former CHHA nurses currently employed by the applicant's Assisted Living Program and consultation with former CHHA director from a different CHHA organization. Revenues are reflective of current payment rates as well as recent implementation of the Medicaid Episodic Payment System.

Capability and Feasibility

There are no project costs associated with this application.

Working capital requirements estimated at \$474,754, appears reasonable based on two months of third year expenses and will be provided by the Lott Assisted Living Operating Corporation. Presented as BFA Attachment A are the 2010 and 2011 certified financial statements of Lott Assisted Living Operating Corporation and deSales Assisted Living Development Corporation, which indicates the availability of sufficient funds for the equity contribution to meet the working capital requirement.

The submitted budget indicates that the applicant will achieve a net excess of revenues over expenses of (\$40,314) and \$214,257 during the first and third years, respectively. The first year loss will be offset from working capital funds. Revenues are based on current payment rates as well as the recent implementation of the Medicaid Episodic Payment System. The submitted budget appears reasonable.

As shown on Attachment A, the entity had an average positive working capital position and an average positive net asset position from the period 2010 through 2011. Also, the entity achieved an average change in net assets of \$406,376 from the period 2010 through 2011.

Subject to the noted contingency, it appears that the applicant has demonstrated the capability to proceed in a financially feasible manner, and contingent approval is recommended.

Recommendation

From a financial perspective, contingent approval is recommended.

Attachments

BFA Attachment A

Financial Summary - Lott Assisted Living Operating Corporation and deSales Assisted Living Development Corporation.

BFA Attachment A

Lott Assisted Living Operating Corporation and
deSales Assisted Living Development Corporation

COMBINED STATEMENTS OF FINANCIAL POSITION

December 31, 2011 and 2010

ASSETS

	2011	2010
Current assets		
Cash and cash equivalents	\$ 2,093,070	\$ 2,713,585
Investments	3,715,001	3,237,535
Accounts and grants receivable, net of allowance for doubtful accounts of \$110,223 and \$30,000, respectively	453,383	412,950
Prepaid expenses and other current assets	76,691	67,739
Total current assets	<u>6,338,145</u>	<u>6,431,809</u>
Property and equipment, net	14,737,817	14,826,151
Other assets		
Restricted cash	143,539	128,502
Other assets	8,245	8,220
Due from affiliate	320,273	332,796
Deferred financing fees, net of accumulated amortization of \$548,598 and \$407,656, respectively	279,790	420,732
Escrow deposits	1,060,294	967,236
Total other assets	<u>1,812,141</u>	<u>1,857,486</u>
Total assets	<u>\$ 22,888,103</u>	<u>\$ 23,115,446</u>

BFA Attachment A (cont.)

Lott Assisted Living Operating Corporation and
deSales Assisted Living Development Corporation

COMBINED STATEMENTS OF FINANCIAL POSITION - CONTINUED

December 31, 2011 and 2010

LIABILITIES AND NET ASSETS

	2011	2010
Current liabilities		
Accounts payable	\$ 87,519	\$ 23,080
Accrued expenses	252,870	284,339
Deferred revenue	50,649	44,881
Current maturities of long-term debt	494,326	468,864
Total current liabilities	<u>885,364</u>	<u>821,164</u>
Long-term obligations		
Security deposit payable	116,000	98,000
Residents' funds payable	27,539	30,502
Long-term debt, net of current maturities	18,495,130	18,989,158
Total long-term liabilities	<u>18,638,669</u>	<u>19,117,960</u>
Total liabilities	<u>19,524,033</u>	<u>19,939,124</u>
Commitments and contingencies	-	-
Net assets		
Unrestricted	3,274,710	3,087,060
Temporarily restricted	89,360	89,262
Total net assets	<u>3,364,070</u>	<u>3,176,322</u>
Total liabilities and net assets	<u>\$ 22,888,103</u>	<u>\$ 23,115,446</u>

BFA Attachment A (cont.)

Lott Assisted Living Operating Corporation and
deSales Assisted Living Development Corporation

COMBINED STATEMENTS OF ACTIVITIES AND CHANGES IN NET ASSETS

Year ended December 31, 2011

	Unrestricted	Temporarily restricted	Total
Revenue			
Resident income	\$ 6,515,816	\$ -	\$ 6,515,816
Grants	75,651	-	75,651
Interest income	49,953	98	50,051
Office rental income	54,946	-	54,946
Total revenue	<u>6,696,366</u>	<u>98</u>	<u>6,696,464</u>
Expenses			
Salaries and wages	1,803,055	-	1,803,055
Payroll taxes and employee benefits	429,403	-	429,403
Repairs and maintenance	162,571	-	162,571
Building services	361,429	-	361,429
Contracted services	823,610	-	823,610
Equipment lease	107,604	-	107,604
Insurance	214,416	-	214,416
Office expense	65,329	-	65,329
Professional fees	156,624	-	156,624
Telephone	27,274	-	27,274
Utilities	346,942	-	346,942
Other expenses	31,549	-	31,549
Interest expense	935,992	-	935,992
Depreciation and amortization	861,335	-	861,335
Total expenses	<u>6,437,356</u>	<u>-</u>	<u>6,437,356</u>
Change in net assets before unrealized gain (loss) on investments	259,010	98	259,108
Unrealized gain (loss) on investments	<u>(71,360)</u>	<u>-</u>	<u>(71,360)</u>
Change in net assets	187,650	98	187,748
Unrestricted net assets, beginning	<u>3,087,060</u>	<u>89,262</u>	<u>3,176,322</u>
Unrestricted net assets, ending	<u>\$ 3,274,710</u>	<u>\$ 89,360</u>	<u>\$ 3,364,070</u>

BFA Attachment A (cont.)

Lott Assisted Living Operating Corporation and
deSales Assisted Living Development Corporation

COMBINED STATEMENTS OF ACTIVITIES AND
CHANGES IN NET ASSETS - CONTINUED

Year ended December 31, 2010

	Unrestricted	Temporarily restricted	Total
Revenue			
Resident income	\$ 6,517,089	\$ -	\$ 6,517,089
Grants	59,267	-	59,267
Interest income	56,791	192	56,983
Office rental income	41,753	-	41,753
	<u>6,674,900</u>	<u>192</u>	<u>6,675,092</u>
Total revenue			
Expenses			
Salaries and wages	1,914,583	-	1,914,583
Payroll taxes and employee benefits	413,433	-	413,433
Repairs and maintenance	145,715	-	145,715
Building services	362,957	-	362,957
Contracted services	802,877	-	802,877
Equipment lease	87,277	-	87,277
Insurance	199,545	-	199,545
Office expense	54,099	-	54,099
Professional fees	155,330	-	155,330
Telephone	19,626	-	19,626
Utilities	387,431	-	387,431
Other expenses	47,191	-	47,191
Interest expense	936,381	-	936,381
Bad debt expense	496	-	496
Depreciation and amortization	723,187	-	723,187
	<u>6,250,128</u>	<u>-</u>	<u>6,250,128</u>
Total expenses			
Change in net assets before unrealized gain (loss) on investments	424,772	192	424,964
Unrealized gain (loss) on investments	200,040	-	200,040
	<u>624,812</u>	<u>192</u>	<u>625,004</u>
Change in net assets			
Unrestricted net assets, beginning	2,462,248	89,070	2,551,318
Unrestricted net assets, ending	<u>\$ 3,087,060</u>	<u>\$ 89,262</u>	<u>\$ 3,176,322</u>



Public Health and Health Planning Council

Project # 121309-E CenterLight Certified Home Health Agency

County: Kings (Brooklyn)
Purpose: Establishment

Program: Certified Home Health Agency
Submitted: April 20, 2012

Executive Summary

Description

CenterLight Health System (CenterLight) requests approval to establish CenterLight Certified Home Health Agency (CHHA) to operate in Kings, Nassau, New York, Queens and Richmond Counties. CenterLight, formerly known as Beth Abraham Family of Health Services, is an existing not-for-profit non-sectarian provider, presently operating four nursing facilities, a myriad of community-based programs, a licensed home care services agency and senior housing. The administrative office will be located at 596 Prospect Place, Brooklyn

The applicant also requested approval to serve the following upstate counties: Orange, Putnam and Rockland. A determination regarding the recommendation for approval or disapproval for the establishment of a CHHA to serve the upstate counties will be presented to the council at a future meeting. Therefore, this application has been amended by the Department to remove the request for the upstate counties.

On December 8, 2011, the Public Health and Health Planning Council adopted an amendment to section 760.5 of Title 10, NYCRR. This emergency regulation authorized the Commissioner of Health to issue a request for applications (RFA) to establish new certified home health agencies, or expand the approved geographic service areas and/or approved population of existing CHHA's. CenterLight CHHA submitted an application in response to the competitive RFA, and was awarded RFA approval. This CON application is in response to the RFA approval.

Effective May 1, 2012, a new Episodic Payment System (EPS) reimbursement methodology to reimburse CHHA providers for services provided to Medicaid patients receiving home care services took effect. The EPS is based on a price for 60-day episodes of care which will be adjusted by patient acuity and regional wage differences. The EPS was recommended by the Medicaid Redesign Team (MRT proposal # 5) and authorized in the 2011-12

enacted budget. The EPS is designed to address the issue of rapid growth in Medicaid costs per patient by better aligning payments with needed services and is part of a broad effort to promote the development of care management arrangements for Medicaid recipients.

For a conservative approach, revenues were calculated in which the lower of incremental cost to episodic payment was projected for year one and year three, and budgets were sensitized.

DOH Recommendation

Disapproval as proposed. Contingent approval as amended by the Department, to serve Kings, Nassau, New York, Queens, and Richmond counties.

Need Summary

Centerlight CHHA's proposal clearly describes and adequately addresses each of the review criteria used to make determinations for this competitive review.

Program Summary

A review of all personal qualifying information indicates there is nothing in the background of the principals listed above to adversely effect their positions in the proposed organizational structure. The applicant has the appropriate character and competence under Article 36 of the Public Health Law.

Financial Summary

There are no project costs associated with this application.

Incremental Budget:	<i>Revenues:</i>	\$ 22,162,481
	<i>Expenses:</i>	<u>21,785,617</u>
	<i>Gain/(Loss):</i>	\$ 376,864

Subject to the noted contingency, it appears that the applicant has demonstrated the capability to proceed in a financially feasible manner.

Recommendations

Health Systems Agency

There will be no HSA recommendation for this application.

Office of Health Systems Management

Approval contingent upon:

1. Submission of new incremental budgets to be re-evaluated for financial feasibility for all counties approved for establishment or expansion acceptable to the Department of Health. [BFA]
2. The applicant must submit a plan acceptable to the Department that details how it will achieve compliance with the provision of no less than 2% charity care in accordance with all the requirements outlined in Section 763.11(a)(11) of Title 10 NYCRR. [CHA]
3. Submission of a photocopy of the signed and dated Certificate of Incorporation of CenterLight Certified Home Health Agency, acceptable to the Department. [CSL]
4. Submission of evidence of adoption of the bylaws of CenterLight Certified Home Health Agency, acceptable to the Department. [CSL]

Council Action Date

August 9, 2012.

Need Analysis

Background

On December 8, 2011 the Public Health and Health Planning Council adopted an amendment to Section 750.5 of Title 10, NYCRR authorizing the Commissioner of Health to issue a request for applications (RFA) to establish new certified home health agencies (CHHAs) or expand existing CHHAs. Public need was based on established criteria in section 709.1(a) of Title 10 and that approval of the application will facilitate implementation of Medicaid Redesign Initiatives to shift Medicaid beneficiaries from traditional fee-for-service programs to managed care, managed long term care systems, integrated health systems or similar care coordination models or that approval will ensure access to CHHA services in counties with less than 2 existing CHHAs.

Solicitation

The RFA for the establishment of new or expansion of existing CHHAs was released on January 25, 2012 with RFA applications due on March 9, 2012 and CON applications due on April 20, 2012.

Applicants were further permitted to submit questions to the Department to seek additional clarification regarding this process. The Department's answers were provided to all applicants prior to the submission deadline, to ensure consistent information was shared regarding the process.

Competitive Review

The applications were reviewed competitively by the Department and recommendations are being made separately for Downstate and Upstate counties. Downstate counties consist of the counties Kings, Queens, New York, Richmond, Bronx, Nassau, Suffolk, and Westchester. Upstate counties consist of the remaining counties in New York State not listed in the preceding Downstate counties. All applications were reviewed and ranked against other applicants for each county they proposed to serve. If applicants requested Upstate and Downstate counties, they will be presented to the Public Health and Health Planning Council with other applicants who have requested the same county or counties.

The CON determination of need was based on the applicant's response to the RFA. The applications were reviewed competitively on criteria that included, but were not limited to:

- Organizational capacity to successfully implement the MRT initiatives and potential of the proposal to support the goals of the Department in advancing MRT initiatives;
- Knowledge and experience in the provision of home health services;
- Demonstration of public need based on 709.1(a) as well as a description of community need and the health needs of the community supported by data;
- Potential of the approved application to produce efficiencies in the delivery of home care services to the home care population;
- Comprehensive and effective quality assurance plan which described how the agency will use data to implement an ongoing quality assessment and performance improvement program that leads to measurable and sustained improvement in performance.

From this review, applicants were ranked in each county proposed against other applicants for that county based on how well their proposal addressed each of the aforementioned criteria. The top ranked applications were then selected for recommendation for approval within each county. Ultimately, fourteen of eighty-seven applications were recommended for approval to expand or establish a new general purpose CHHA in one or more of the eight Downstate counties.

Centerlight Certified Home Health Agency's proposal clearly describes and adequately addresses each of the review criteria used to make determinations for this competitive review. This proposal demonstrates the applicant has the

organizational capacity to successfully implement the MRT initiatives and supports the goals of the Department in advancing these initiatives. The applicant demonstrates public need based on 709.1(a) and provides a description of community need and the health needs of the community supported by data. The applicant has the requisite knowledge and experience in the provision of home health services and demonstrates the potential to produce efficiencies in the delivery of home care services. Finally, the application provides a description how the agency will use data to implement an ongoing quality assessment and performance improvement program that leads to measureable and sustained improvement in performance.

The applicant also requested approval to serve the following upstate county: Rockland. A determination regarding the recommendation for approval or disapproval for the establishment of a CHHA to serve the upstate counties will be presented to the council at a future meeting. Therefore, this application has been amended by the Department to remove the request for the upstate county.

Recommendation

From a need perspective, disapproval as proposed. Approval as amended by the Department is recommended.

Programmatic Analysis

Background

CenterLight Certified Home Health Agency is a proposed not-for-profit corporation requesting approval to become established as a CHHA under Article 36 of the Public Health Law, with approval to serve the downstate counties of Bronx, Kings, New York, Queens, Richmond, Nassau, Suffolk, and Westchester, and the upstate county of Rockland. The sole member corporation of the proposed CenterLight Certified Home Health Agency is CenterLight Health System, Inc., an existing not-for-profit corporation. CenterLight Health System, Inc., is also the member corporation of:

- Center for Nursing and Rehabilitation, Inc. (RHCF and LTHHCP),
- Beth Abraham Health Services (RHCF and LTHHCP),
- Margaret Tietz Nursing and Rehabilitation Center (RHCF), which was the member corporation of MTC Senior Housing, Inc. (now closed),
- Schnurmacher Center for Nursing and Rehabilitation (RHCF),
- Best Choice Home Health Care, Inc. (LHCSA), and
- CenterLight Healthcare (MLTCP, PACE, and an approved but not yet operational Medicaid Advantage Plus Plan), which is the member corporation of Comprehensive Care Management, Inc. (CCM) Diagnostic and Treatment Center (D&TC - 11 locations).

CenterLight Health System, Inc. is also a member of the following:

- Institute for Music and Neurological Function (providing stroke/neurological treatment therapies),
- CNR Health Care Network, Inc. (now closed), which was the member corporation of Prospect Home Care, Inc. (LHCSA) and Prospect Home Attendant Services, Inc., which both closed in 2009,
- CNR Housing Development Fund,
- MVP Housing (HUD senior independent living),
- Park Housing (HUD senior independent living),
- Beth Abraham Housing (HUD senior independent living),
- TBM Housing (HUD senior independent living), and
- Beth Abraham/CNR Foundation, Inc.

The applicant proposes to operate the CHHA from an office located at 596 Prospect Place, Brooklyn, New York 11230. The applicant proposes to provide the following health care services:

Nursing	Home Health Aide	Personal Care
Physical Therapy	Occupational Therapy	Respiratory Therapy
Speech Language Pathology	Audiology	Medical Social Services
Nutrition	Homemaker	Housekeeper
Medical Supplies, Equipment, and Appliances		

The Board of Directors of CenterLight Certified Home Health Agency will be as follows:

Michael R. Potack, Chairperson
 CEO, Unitex Holdings (laundry services)
Affiliations: Beth Abraham Health Services
 (1991 – present)

Michael S. Fassler, LNHA (NYS and NJ)
 President/CEO, CenterLight CHHA, CenterLight Health
 System, Inc.

Stephen B. Mann, CPA, Secretary/
 Treasurer
 Senior VP of Finance Administration,
 CenterLight Health System, Inc.
Affiliations: Best Choice Home Health Care,
 (2000 – present), Beth Abraham Health
 Services, (2000 – present), CenterLight
 Healthcare MLTCP (2000 – present),
 Comprehensive Care Management
 D & T Center (2000 – present)

The Board of Directors of CenterLight Health System, Inc., are as follows:

Michael R. Potack, Chairman
 (disclosed above)

Jerald I. Moskowitz, Vice Chairman
 Retired

Edwin H. Stern, III, Secretary
 Executive VP, Seiden Krieger Associates
 (executive search consultants)
Affiliations: Montefiore Medical Center
 (1968 – present),
 Beth Abraham Health Services
 (1969 – present)

Michael S. Fassler, LNHA, President/CEO
 (disclosed above)

Vitina A. Biondo, Esq.
 Unemployed
Affiliation: Schnurmacher Center for
 Rehabilitation & Nursing
 (2001 – present)

Henry S. Conston, Esq.
 Self-employed attorney
Affiliation: Margaret Tietz Nursing & Rehabilitation
 Center (1978 – present)

Dolores M. Fernandez, Ph.D.
 Professor, Hunter College, CUNY

Neil J. Heyman
 President, Southern New York Association, Inc.
 CEO, New York Health Care Alliance, LLC
Affiliation: Margaret Tietz Nursing & Rehabilitation Center
 (1997 - present)

Harvey J. Ishofsky, Esq.
 President/CEO, 877Spirits.com
 (gift concierge service)
Affiliation: Margaret Tietz Nursing &
 Rehabilitation Center
 (2005 – present)

Stefan A. Kampe
 Retired

Steven D. Kantor, D.D.S.
Administrator, Grant & Kantor, D.D.S.
Affiliation: Beth Abraham Health Services
(2011 – present)

Rosemarie A. Loffredo
Retired

Cynthia L. Schwalm
Self-employed Healthcare Biotech
Consulting

Mark H. Weinstein
President, Golden Oldies, Ltd.
(home furnishings)
Affiliations: Margaret Tietz Nursing &
Rehabilitation Center (2007 – present),
Center for Nursing & Rehabilitation
(2000 – present)

Kenneth R. Weisshaar
Retired

Thomas R. Berkel
Retired

A search of the individuals named above revealed no matches on either the NYS OMIG Medicaid Disqualified Provider List, or the US DHHS Office of the Inspector General Exclusion List.

The Office of the Professions of the NYS Education Department indicates no issues with the CPA and DDS licenses associated with this application. The NYS Education Department also verifies the teaching certificates associated with this application. The NYS Unified Court System verifies the active attorney registrations associated with this application. The New Jersey Department of Health verifies the New Jersey nursing home administrator license associated with this application. The NYSDOH Bureau of Professional Credentialing has indicated that Michael S. Fassler holds a NYS NHA license in good standing and the Board of Examiners of Nursing Home Administrators has never taken disciplinary action against this individual or his license.

A ten year review of the following facilities was performed as part of this review:

Center for Nursing and Rehabilitation, Inc. (RHCF and LTHHCP),
Beth Abraham Health Services (RHCF and LTHHCP),
Margaret Tietz Nursing and Rehabilitation Center (RHCF),
Schnurmacher Center for Nursing and Rehabilitation (RHCF),
Best Choice Home Health Care, Inc. (LHCSA),
CenterLight Healthcare (MLTCP and PACE),
Comprehensive Care Management Diagnostic and Treatment Center (D&TC - 11 locations),
Montefiore Medical Center (Hospital),
Prospect Home Care, Inc. (LHCSA), closed 2009

The Division of Residential Services has indicated the following:

Beth Abraham Health Services RHCF had a civil penalty of \$30,000 imposed pursuant to a stipulation and order dated June 2, 2010 for surveillance findings of April 27, 2009. Violations were cited in 10 NYCRR 415.12 Quality of Care, 415.20 Laboratory and Blood Bank, and 415.26 Organization and Administration.

Center for Nursing & Rehabilitation RHCF had a civil penalty of \$24,000 imposed pursuant to a stipulation and order dated August 22, 2011 for surveillance findings of January 29, 2010. Violations were cited in 10 NYCRR 415.4(b)(1)(ii) Report Allegations, 415.12 Quality of Care Highest Practicable Potential, 415.26 Administration, and 415.20 Promptly Notify Physician of Lab Results.

The information provided by the Division of Residential Services has indicated that the nursing homes reviewed have provided sufficient supervision to prevent harm to the health, safety and welfare of residents and to prevent recurrent code violations.

The Division of Certification and Surveillance has indicated the following:

Montefiore Medical Center had a civil penalty of \$14,000 imposed in 2007 for failure to report suspected child abuse to the proper authorities. Montefiore Medical Center also had a civil penalty of \$18,000 imposed in 2003 for violations of the Resident Working Hours regulation. Montefiore Dialysis Center had a civil penalty of \$52,000 imposed in 2005 based on conditions of participation, resulting in the closure of two dialysis center sites.

The information provided by the Division of Certification and Surveillance has indicated that the hospital and D & T Center have provided sufficient supervision to prevent harm to the health, safety and welfare of patients and to prevent recurrent code violations.

The information provided by the Division of Home and Community Based Services has indicated that the licensed home care services agencies and long term home health care programs have provided sufficient supervision to prevent harm to the health, safety and welfare of patients and to prevent recurrent code violations.

The information provided by the Office of Managed Care has indicated that the MLTC plan and PACE program have provided sufficient supervision to prevent harm to the health, safety and welfare of patients and to prevent recurrent code violations.

A review of all personal qualifying information indicates there is nothing in the background of the principals listed above to adversely effect their positions in the proposed organizational structure. The applicant has the appropriate character and competence under Article 36 of the Public Health Law.

The applicant has also requested approval to serve the following upstate counties: Rockland County. A determination regarding the recommendation for approval or disapproval for the establishment of a CHHA to serve that upstate county will be presented to the Council at a future meeting. Therefore, this application has been amended by the Department to remove the request for that upstate county at this time.

Recommendation

From a programmatic perspective, disapproval as proposed. Approval as amended by the Department is recommended.

Financial Analysis

Operating Budget

The applicant has submitted an incremental operating budget for the first and third years, in 2012 dollars, which is summarized below:

	<u>Year One</u>	<u>Year Three</u>
Revenues:		
Medicaid Fee-for-Service	\$4,101,710	\$3,304,954
Medicaid Managed Care	3,941,321	12,698,809
Medicare Fee-for-Service	2,580,914	5,413,518
Medicare Managed Care	302,110	602,400
Private Pay	<u>71,400</u>	<u>142,800</u>
Total Revenues	\$10,997,455	\$22,162,481
Expenses	<u>\$10,786,779</u>	<u>\$21,785,617</u>
Net Gain(Loss)	\$210,676	\$376,864

Utilization by payor source for in the first and third years is as follows:

	<u>Year One</u>	<u>Year Three</u>
Medicare Fee-For-service	15.12%	15.14%
Medicare Managed care	2.44%	2.42%
Medicaid Fee-For-Service	39.73%	15.91%
Medicaid Managed Care	39.75%	63.58%
Private Pay	.47%	.47%
Charity Care	2.49%	2.48%

Expense assumptions are commensurate with the projected utilization (visits and hours) and are based on current salaries in the area for CHHA services. Utilization assumptions are based on the applicant's review of the current regional utilization for CHHA services. Revenues are reflective of current payment rates as well as recent implementation of the Medicaid Episodic Payment System.

Capability and Feasibility

There are no project costs associated with this application.

Working capital requirements, estimated at \$3,630,936, appear reasonable based on two months of third year expenses and will be provided through the existing operation. Presented as BFA Attachment D, Centerlight's CHHA pro-forma balance sheet shows a net asset position of \$3,930,936 as of the first day of operations.

The submitted budget indicates that the applicant will achieve incremental net revenue of \$210,676 and \$376,864 in the first and third years of operations, respectively. Revenue is based on current payment rates for Certified Home Health Agencies. The budget appears reasonable.

Presented as BFA Attachment A is the 2009-2010 audited financial summary of Bethco Corporation and Subsidiaries, which is the parent company for CenterLight Health System, Inc, which became CenterLight Health Systems, Inc. in 2012, shows the applicant has maintained positive working capital and net asset positions and achieved an average net income of \$14,981,241.

BFA Attachment B is the internal 2011 financial summary for Bethco Corporation and Affiliates, which shows that the applicant continues to maintain positive working capital and net assets positions and generated a net loss of \$7,432,242. The applicant indicates that the 2011 loss is due to CenterLight Healthcare, Inc. increasing staffing and systems, in order to prepare for the anticipated growth based on the goals of the Medicaid redesign team.

BFA Attachment C is the Internal 2012 financial statement for Centerlight Health Systems, Inc. for the first 3 months of operation, which shows that the operations maintain positive working capital and net asset positions and has a net operating loss of \$4,663,749 prior to non operating income of \$5,495,883, which allowed the facility to achieve overall positive income of \$832,134.

Based on the preceding, and subject to the noted contingency, it appears that the applicant has demonstrated the financial capability to proceed in a financially feasible manner, and contingent approval is recommended.

Recommendation

From a financial perspective, contingent approval is recommended.

Attachments

BFA Attachment A Certified Financial Summary for Bethco Corporation and Subsidiaries (2009 and 2010)

BFA Attachment B Internal Financial Summary for Bethco Corporation and Affiliates 2011

BFA Attachment C Internal Financial Summary for Centerlight Health Systems, Inc January 1-
March 31, 2012

BFA Attachment D Pro-forma Balance Sheet Centerlight Health System (CHHA)

BETHCO CORPORATION
AND SUBSIDIARIES

CONSOLIDATED BALANCE SHEET

DECEMBER 31, 2010
(With Summarized Financial Information
for December 31, 2009)

	<u>2010</u>	<u>2009</u>
ASSETS		
Current assets		
Cash and cash equivalents	\$ 58,231,360	\$ 63,260,496
Resident funds/tenant security deposits held in trust	860,270	1,016,408
Investments	82,334,160	73,558,753
Accounts receivable (net of allowance for doubtful accounts of \$4,920,000 in 2010 and \$4,650,000 in 2009)	43,573,190	38,359,475
Prepaid expenses, deposits and other	<u>3,085,018</u>	<u>2,315,679</u>
Total current assets	<u>188,083,998</u>	<u>178,510,811</u>
Assets whose use is limited		
Cash and cash equivalents	45,481,074	51,734,997
Investments	<u>9,105,429</u>	<u>8,239,301</u>
Total assets whose use is limited	<u>54,586,503</u>	<u>59,974,298</u>
Noncurrent assets		
Fixed assets - net	128,461,854	124,549,148
Deferred financing costs - net	3,437,390	3,640,772
Assets held for deferred compensation	<u>1,800,768</u>	<u>1,469,807</u>
Total noncurrent assets	<u>133,700,012</u>	<u>129,659,727</u>
Total assets	<u>\$ 376,370,513</u>	<u>\$ 368,144,836</u>

-continued-

BETHCO CORPORATION
AND SUBSIDIARIES

CONSOLIDATED BALANCE SHEET

DECEMBER 31, 2010

(With Summarized Financial Information
for December 31, 2009)

	2010	2009
LIABILITIES AND NET ASSETS		
Current liabilities		
Accounts payable and accrued expenses	\$ 49,509,919	\$ 45,335,307
Accrued payroll, vacations and related withholdings	12,984,036	12,731,101
Estimated due to third parties	33,945,520	36,605,916
Resident funds/tenant security deposits held in trust	860,270	1,016,408
Mortgages and loans payable	1,810,132	1,882,028
Capital lease obligations	4,535,000	2,011,806
Severance payable	71,932	142,333
Accrued pension payable		45,000
Supplemental retirement plan obligation	84,996	84,996
Total current liabilities	<u>103,801,805</u>	<u>99,854,895</u>
Long-term liabilities		
Mortgages and loans payable	43,530,360	45,345,873
Capital lease obligations	58,330,000	62,865,000
Severance payable		58,331
Accrued pension payable	329,469	421,760
Supplemental retirement plan obligation	3,074,416	2,913,244
Total long-term liabilities	<u>105,264,245</u>	<u>111,604,208</u>
Total liabilities	<u>209,066,050</u>	<u>211,459,103</u>
Net assets		
Unrestricted	154,888,860	144,939,361
Temporarily restricted	12,415,603	11,746,372
Total net assets	<u>167,304,463</u>	<u>156,685,733</u>
Total liabilities and net assets	<u>\$ 376,370,513</u>	<u>\$ 368,144,836</u>

CENTERLIGHT HEALTH SYSTEM
 CONSOLIDATED STATEMENT OF OPERATIONS
 FOR THE THREE MONTHS ENDING MARCH 31, 2012

	Centerlight TOTAL
Revenue	
Patient Service	\$157,168,258
Other	2,763,957
Total revenues	<u>159,932,215</u>
Operating expenses	
Salaries & Benefits	53,066,973
Other Expenses	106,412,649
Depreciation & Interest	5,116,342
Total operating expenses	<u>164,595,964</u>
Surplus (deficit)	<u>(4,663,749)</u>
Non-operating activity	
Revenue	5,647,518
Expenses	(151,635)
Intercompany transfers	-
Total non-operating activity	<u>5,495,883</u>
Change in net assets	<u><u>832,134</u></u>
Net assets beginning year	<u>159,872,221</u>
Net assets	<u><u>\$160,704,355</u></u>

Centerlight Health System (CHHA)
Pro Forma Balance Sheet
Day One
2012

ASSETS	
Cash and Cash equivalents	\$3,630,936
Fixed Assets	\$300,000
Total assets	\$3,930,936
LIABILITIES & NET ASSETS	
Net Assets	\$3,930,936
Total net assets	<u>\$3,930,936</u>



Public Health and Health Planning Council

Project # 121256-E
Isabella Care at Home, Inc.

County: New York (New York)
Purpose: Establishment

Program: Certified Home Health Agency
Submitted: April 19, 2012

Executive Summary

Description

Isabella Care at Home, Inc., a proposed Article 36 not-for-profit corporation, requests approval to establish a certified home health agency (CHHA) in the counties of New York, Bronx, Queens, Kings, and Westchester. Isabella Home, is a not-for-profit corporation, which serves as the passive parent and sole member of Isabella Geriatric Center, Inc., a not-for-profit corporation that operates the following: a 707-bed residential health care facility, including 2 respite beds; an 81-unit apartment residence for the well-elderly; a 900-slot long term home health care program in Manhattan and the Bronx; a case management contract with the City of New York to service up to 1200 clients; and an adult day care program.

On December 8, 2011, the Public Health and Health Planning Council adopted an amendment to section 760.5 of Title 10, NYCRR. This emergency regulation authorized the Commissioner of Health to issue a request for applications (RFA) to establish new certified home health agencies, or expand the approved geographic service areas and/or approved population of existing CHHA's. Isabella Care at Home, Inc. submitted an application in response to the competitive RFA, and was awarded RFA approval. This CON application is in response to the RFA approval.

Effective May 1, 2012, a new Episodic Payment System (EPS) reimbursement methodology to reimburse CHHA providers for services provided to Medicaid patients receiving home care services took effect. The EPS is based on a price for 60-day episodes of care which will be adjusted by patient acuity and regional wage differences. The EPS was recommended by the Medicaid Redesign Team (MRT proposal # 5) and authorized in the 2011-12 enacted budget. The EPS is designed to address the issue of rapid growth in Medicaid costs per patient by better aligning payments with needed services and is part of a broad effort to promote the development of care management arrangements for Medicaid recipients.

For a conservative approach, revenues were calculated in which the lower of incremental cost to episodic payment was projected for year one and year three, and budgets were sensitized.

DOH Recommendation
Contingent approval.

Need Summary
Isabella Geriatric Center, Inc.'s proposal clearly describes and adequately addresses each of the review criteria used to make determinations for this competitive review.

Program Summary
A review of all personal qualifying information indicates there is nothing in the background of the principals listed above to adversely effect their positions in the proposed organizational structure. The applicant has the appropriate character and competence under Article 36 of the Public Health Law.

Financial Summary
There are no project costs associated with this proposal.

Budget:	Revenues:	\$ 17,426,582
	Expenses:	<u>17,134,420</u>
	Gain/(Loss):	\$ 292,162

Subject to the noted contingencies, it appears that the applicant has demonstrated the capability to proceed in a financially feasible manner.

Recommendations

Health Systems Agency

There will be no HSA recommendation for this application.

Office of Health Systems Management

Approval contingent upon:

1. Submission of new incremental budgets to be re-evaluated for financial feasibility for all counties approved for establishment or expansion acceptable to the Department of Health. [BFA]
2. Submission of a working capital loan commitment that is acceptable to the Department of Health. [BFA]
3. Submission of an executed building sublease that is acceptable to the Department of Health. [BFA]

Council Action Date

August 9, 2012.

Need Analysis

Background

On December 8, 2011 the Public Health and Health Planning Council adopted an amendment to Section 750.5 of Title 10, NYCRR authorizing the Commissioner of Health to issue a request for applications (RFA) to establish new certified home health agencies (CHHAs) or expand existing CHHAs. Public need was based on established criteria in section 709.1(a) of Title 10 and that approval of the application will facilitate implementation of Medicaid Redesign Initiatives to shift Medicaid beneficiaries from traditional fee-for-service programs to managed care, managed long term care systems, integrated health systems or similar care coordination models or that approval will ensure access to CHHA services in counties with less than 2 existing CHHAs.

Solicitation

The RFA for the establishment of new or expansion of existing CHHAs was released on January 25, 2012 with RFA applications due on March 9, 2012 and CON applications due on April 20, 2012.

Applicants were further permitted to submit questions to the Department to seek additional clarification regarding this process. The Department's answers were provided to all applicants prior to the submission deadline, to ensure consistent information was shared regarding the process.

Competitive Review

The applications were reviewed competitively by the Department and recommendations are being made separately for Downstate and Upstate counties. Downstate counties consist of the counties Kings, Queens, New York, Richmond, Bronx, Nassau, Suffolk, and Westchester. Upstate counties consist of the remaining counties in New York State not listed in the preceding Downstate counties. All applications were reviewed and ranked against other applicants for each county they proposed to serve. If applicants requested Upstate and Downstate counties, they will be presented to the Public Health and Health Planning Council with other applicants who have requested the same county or counties.

The CON determination of need was based on the applicant's response to the RFA. The applications were reviewed competitively on criteria that included, but were not limited to:

- Organizational capacity to successfully implement the MRT initiatives and potential of the proposal to support the goals of the Department in advancing MRT initiatives;
- Knowledge and experience in the provision of home health services;
- Demonstration of public need based on 709.1(a) as well as a description of community need and the health needs of the community supported by data;
- Potential of the approved application to produce efficiencies in the delivery of home care services to the home care population;
- Comprehensive and effective quality assurance plan which described how the agency will use data to implement an ongoing quality assessment and performance improvement program that leads to measurable and sustained improvement in performance.

From this review, applicants were ranked in each county proposed against other applicants for that county based on how well their proposal addressed each of the aforementioned criteria. The top ranked applications were then selected for recommendation for approval within each county. Ultimately, fourteen of eighty-seven applications were recommended for approval to expand or establish a new general purpose CHHA in one or more of the eight Downstate counties.

Isabella Geriatric Center, Inc.'s proposal clearly describes and adequately addresses each of the review criteria used to make determinations for this competitive review. This proposal demonstrates the applicant has the organizational

capacity to successfully implement the MRT initiatives and supports the goals of the Department in advancing these initiatives. The applicant demonstrates public need based on 709.1(a) and provides a description of community need and the health needs of the community supported by data. The applicant has the requisite knowledge and experience in the provision of home health services and demonstrates the potential to produce efficiencies in the delivery of home care services. Finally, the application provides a description how the agency will use data to implement an ongoing quality assessment and performance improvement program that leads to measureable and sustained improvement in performance.

Recommendation

From a need perspective, approval is recommended.

Programmatic Analysis

Background

Isabella Care at Home, Inc., is a proposed not-for-profit corporation requesting approval to become established as a CHHA under Article 36 of the Public Health Law, with approval to serve the downstate counties of Bronx, Kings, New York, Queens, and Westchester. The sole member corporation of the proposed Isabella Care at Home, Inc. is Isabella Home, an existing not-for-profit corporation. Isabella Home is also the member corporation of:

Isabella Geriatric Center, Inc. (RHCF and LTHHCP)
Isabella Visiting Care, Inc. (LHCSA)

In addition, Isabella Home is also the member corporation of:

Isabella Child Day Care Services, Inc.,
Isabella Management Services, Inc., and
Isabella Foundation, Inc.

The applicant proposes to operate the CHHA from an office located at 5073 Broadway, New York, New York 10034. The applicant proposes to provide the following health care services:

Nursing	Home Health Aide	Personal Care
Physical Therapy	Occupational Therapy	Respiratory Therapy
Speech Language Pathology	Homemaker	Medical Social Services
Housekeeper	Medical Supplies, Equipment, and Appliances	
Nutrition		

The members of the Board of Directors of Isabella Care at Home, Inc. will be as follows:

Mark Lipton, PhD, Chairperson
Owner, Mark Lipton, PhD, Consulting Firm
Professor, Milano School of International
Affairs, Management, and Urban Policy

Mark J. Kator, LNHA (ex officio board director)
President/CEO, Isabella Home and Affiliates,
Isabella Care at Home, Inc.

Arthur J. Lennon, MD, 1st Vice Chairperson
Retired

Howard S. Berliner, ScD, 2nd Vice Chairperson
Director of Health Policy, Service Employees
International Union

Alexander S. Balko, CPA, Treasurer
Senior VP/CFO, Metropolitan Jewish Health
System, Inc.

Ann Wyatt, MSW, LNHA, Secretary
Self Employed Health Care Consultant

Affiliations: First to Care Home Care, Inc.

CHHA (2000 – present), Menorah Home and Hospital RHCF (2007 – present), OLOM Home Care, Inc. CHHA (2009 - present)

The members of the Board of Directors of Isabella Home are as follows:

Mark Lipton, PhD, Chairperson
Disclosed above

Mark J. Kator, LNHA (ex officio board director)
Disclosed above

Arthur J. Lennon, MD, 1st Vice Chairperson
Disclosed above

Howard S. Berliner, ScD, 2nd Vice Chairperson
Disclosed above

Alexander S. Balko, CPA, Treasurer
Disclosed above

Ann Wyatt, MSW, LNHA, Secretary
Disclosed above

Richard B. Harding, Jr.
VP of Operations, Sciam Development, Inc. (Construction)

Msgr. Gerald T. Walsh
Seminarian Preparer, St. Joseph's Seminary
Affiliation: St. Patrick's Home RHCF
(1998 – present)

Msgr. Charles J. Fahey
Retired
Program Officer/Consultant,
Milbank Memorial Fund (Grants Organization)
Affiliations: Catholic Health Care System, d/b/a
ArchCare (2005 – present)

Josephine F. McFadden, LPN
Retired

Edward J. McFadden, LNHA
Retired

Seiichi Shimomura, MD
Retired

Caroline M. Jacobs
Senior VP for Safety and Human
Development, NYC Health and Hospitals
Corporation

Rafael Lantigua, MD
Professor of Clinical Medicine, Columbia University
College of Physicians and Surgeons, and
Supervisor of Psychiatry Fellows, Binghamton Psychiatric
Center

Hila Richardson, RN, DrPH
Clinical Professor, New York University
College of Nursing

John Green
Professor / Associate Dean, Milano School of
International Affairs, Management, and Urban Policy

The applicant has confirmed that the proposed financial/referral structure has been assessed in light of anti-kickback and self-referral laws, with the consultation of legal counsel, and it is concluded that proceeding with the proposal is appropriate.

A search of the individuals named above revealed no matches on either the NYS OMIG Medicaid Disqualified Provider List, or the US DHHS Office of the Inspector General Exclusion List.

The Office of the Professions of the NYS Education Department, the NYSDOH Physician Profile, and the NYSDOH Office of Professional Medical Conduct all indicate no issues with the professional health care licenses, and other professional licenses, associated with this application. The NYSDOH Bureau of Professional Credentialing has indicated that the active nursing home administrator licenses associated with this application are in good standing with no history of disciplinary action by the Board of Examiners of Nursing Home Administrators.

A ten year review of the following facilities was performed as part of this review:

- Isabella Geriatric Center, Inc. (RHCF and LTHHCP),
- Isabella Visiting Care, Inc. (LHCSA),
- St. Patrick's Home (RHCF),
- Menorah Home and Hospital (RHCF),
- OLOM Home Care, Inc. (CHHA),
- First to Care Home Care, Inc. (CHHA),
- Catholic Health Care System, d/b/a ArchCare (2005 – present), as member corporation for the following providers:
 - Calvary Hospital (Hospital),
 - Calvary Hospital CHHA (CHHA),
 - Calvary Hospital Hospice Care (Hospice),
 - Carmel Richmond Healthcare and Rehabilitation Center (RHCF),
 - Ferncliff Nursing Home (RHCF),
 - Kateri Residence (RHCF),
 - Mary Manning Walsh Nursing Home (RHCF),
 - St. Vincent DePaul Residence (RHCF),
 - St. Teresa's Nursing and Rehabilitation Center (RHCF),
 - Terence Cardinal Cooke Health Care Center (RHCF), and
 - ArchCare Senior Life (PACE Program and proposed MLTC Plan)

The Division of Residential Services has indicated the following:

St. Patrick's Home RHCF had a civil penalty of \$2,000 imposed pursuant to a stipulation and order dated July 26, 2005 for surveillance findings of September 10, 2004. Violations were cited in 10 NYCRR 415.29(f)(6) Physical Environment: Water Supplies, and 415.26 Organization and Administration.

Kateri Residence RHCF had a civil penalty of \$4,000 imposed pursuant to a stipulation and order dated March 8, 2009 for surveillance findings of March 28, 2008. Violations were cited in 10 NYCRR 415.12 Quality of Care, and 415.12(h)(1) and (2) Quality of Care: Accidents.

Terence Cardinal Cooke Health Care Center RHCF had a civil penalty of \$2,000 imposed pursuant to a stipulation and order dated September 26, 2011 for surveillance findings of April 9, 2010. Violations were cited in 10 NYCRR 415.12 Quality of Care: Highest Practicable Potential.

Terence Cardinal Cooke Health Care Center RHCF also had a civil penalty of \$6,000 imposed pursuant to a stipulation and order dated February 3, 2009 for surveillance findings of March 19, 2008. Violations were cited in 10 NYCRR 415.12(h)(2) Quality of Care: Accidents, 415.26 Organization and Administration, and 415.26(b)(3) Organization and Administration: Governing Body.

Terence Cardinal Cooke Health Care Center RHCF also had a civil penalty of \$3,000 imposed pursuant to a stipulation and order dated August 1, 2007 for surveillance findings of February 21, 2007. Violations were cited in 10 NYCRR 415.12(h)(2) Quality of Care: Accidents, and 415.26 Organization and Administration.

Terence Cardinal Cooke Health Care Center RHCF also had a civil penalty of \$4,000 imposed pursuant to a stipulation and order dated September 29, 2005 for surveillance findings of April 20, 2005. Violations were cited in 10 NYCRR 415.11(c)(1) Resident Assessment and Care Planning: Comprehensive Care Plans, 415.12(h)(2) Quality of Care: Accidents, 415.26(b)(2) Organization and Administration: Governing Body, and 415.26(d) Organization and Administration: Nurse Aide Certification and Training.

The information provided by the Division of Residential Services has indicated that the nursing homes reviewed have provided sufficient supervision to prevent harm to the health, safety and welfare of residents and to prevent recurrent code violations.

The information provided by the Division of Hospital Certification and Surveillance has indicated that the associated hospital has provided sufficient supervision to prevent harm to the health, safety and welfare of patients and to prevent recurrent code violations.

The information provided by the Division of Home and Community Based Services has indicated that the associated certified home health agencies, hospice, licensed home care services agency, and long term home health care program have provided sufficient supervision to prevent harm to the health, safety and welfare of patients and to prevent recurrent code violations.

The information provided by the Office of Managed Care has indicated that the PACE program has provided sufficient supervision to prevent harm to the health, safety and welfare of patients and to prevent recurrent code violations.

A review of all personal qualifying information indicates there is nothing in the background of the principals listed above to adversely effect their positions in the proposed organizational structure. The applicant has the appropriate character and competence under Article 36 of the Public Health Law.

Recommendation

From a programmatic perspective, approval is recommended.

Financial Analysis

Total Project Cost and Financing

There are no project costs associated with this application.

Lease Rental Agreement

The applicant has submitted a draft sublease rental agreement for the proposed site, the term of which is summarized below:

Date: May 3, 2012
Premises: 5,000 gross sq. ft. located at 5073 Broadway in the Borough of Manhattan
Landlord : 5073 Broadway Real Estate Holding Corp.
Lessee: Isabella Geriatric Center, Inc.
Sub-lessee: Isabella Care at Home, Inc.
Term: Rental period ends on October 31, 2021
 Rent 8/1/12 – 7/31/15 (\$15,188.75 per month or \$36.45 per sq. ft.)
 Rent 8/1/15 – 7/31/18 (\$15,948.19 per month or \$38.28 per sq. ft.)
 Rent 8/1/18 – 10/31/21 (\$16,745.60 per month or \$40.19 per sq. ft.)
Provisions: Taxes and Utilities

The applicant states that the lease is an arm’s length arrangement between the Landlord (5073 Broadway Real Estate Holdings Corp) and the Sub-lessor (Isabella Geriatric Center Inc.), but it is non-arm’s length arrangement between the (sub-lessor) and the sub-lessee. Realtor letters have been provided attesting to the rental rate being of fair market value.

Operating Budget

The applicant has submitted the first and third year’s incremental operating budgets, in 2012 dollars, as summarized below:

	<u>First Year</u>	<u>Third Year</u>
Revenues:		
Medicaid	\$4,756,168	\$12,573,174
Medicare	1,719,161	4,772,408
Private Pay	30,190	81,000
Total Revenues	\$6,505,519	\$17,426,582
Total Expenses	<u>\$6,663,093</u>	<u>\$17,134,420</u>
Net Income or (Loss)	\$(157,574)	\$292,162

Utilization by payor source for the first & third year is as follows:

	<u>First Year</u>	<u>Third Year</u>
Medicaid – Fee-for-Service	36.2%	14.5%
Medicaid – Manage Care	36.2%	57.9%
Medicare – Fee-for-Service	20.7%	20.7%
Medicare – Manage Care	3.3%	3.3%
Private Pay	0.3%	0.3%
Charity Care	3.3%	3.3%

Utilization and expense assumptions are based on evaluations by the applicant. They expect the patients will need approximately 3 visits per month for Nursing, 2 visits per month for rehabilitation therapy (physical therapy, occupational therapy or speech pathology), 1 visit per month for social services, and 20 visits per month for home health aids.

The Medicare average episodic payment of \$3,395 is predicated on the calendar year 2012 national standardized 60-day episode payment rate of \$2,138.52, adjusted for case mix and wage index in the various counties to be serviced. Medicaid average episode payment is expected to be \$5,618 after adjusting for New York County’s wage factor of .996524 and using a case mix factor of 1.

Capability and Feasibility

There are no project costs associated with this application.

Working capital requirements are estimated at \$2,855,737, of which \$1,427,850 will be borrowed from the Bank of America, repayment will be made over five years at an estimated interest rate of 6%. Isabella Geriatric Center Inc. will provide the balance of \$1,427,887. BFA Attachment A demonstrates Isabella Geriatric Center has the ability to provide the financial support for this project. Presented as BFA Attachment B is the pro-forma balance sheet that shows operations will start off with \$1,427,887 in net assets.

The budget projects a first year operating loss of \$157,574 and a third year operating surplus of \$292,162. Revenues are based on current payment rates for CHHA. The submitted budget appears reasonable.

A review of BFA Attachment A shows Isabella Geriatric Center, Inc. (IGC) had an overall deficit in 2011 of \$1,911,284, which was an improvement from the previous year. The applicant says that 2011 would have been at a relative break-even level if they didn’t incur a negative retroactive rebasing of \$1,000,000, and an adjustment to workers compensation for \$1,000,000. Also, the applicant goes on to state that during 2011, operating results were helped by an increase in the census for the Long-term Home Health Care Program (LTHHCP) and Adult Day Care Program (ADCP) along with containment of operating expenses. IGC implemented further cost cutting measures in the 4th quarter of 2011 that are continuing into 2012, with an expected annualized savings of approximately \$4,000,000. The majority of these savings are coming from reductions in workforce staffing levels, coming through lay-offs and attrition.

It appears the applicant has demonstrated the capability to proceed in a financially feasible manner, and contingent approval is recommended.

Recommendation

From a financial perspective, contingent approval is recommended.

<h2>Attachments</h2>

- | | |
|------------------|--|
| BFA Attachment A | Draft Financial Summary for 2010 and 2011, Isabella Geriatric Center, Inc. |
| BFA Attachment B | Pro-forma Balance Sheet, Isabella Care at Home, Inc. |
| BFA Attachment C | Organizational Chart |

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ISABELLA GERIATRIC CENTER, INC.

Balance Sheets

December 31, 2011 and 2010

Assets	2011	2010
Current assets:		
Cash and cash equivalents	\$ 1,078,463	3,640,940
Accounts receivable, net of estimated uncollectible of approximately \$1,603,500 in 2011 and 2010	15,584,065	13,405,296
Due from third-party payors	5,717,367	4,014,021
Assets limited as to use	3,871,961	4,044,127
Prepaid expenses and other assets	2,289,259	2,004,832
Total current assets	28,541,115	27,109,216
Due from affiliates, net	4,283,948	3,374,701
Interest in net assets of Isabella Foundation, Inc.	32,936	47,112
Assets limited as to use, net of current portion	7,895,274	7,964,397
Residents' funds	1,400,202	1,343,475
Property, plant, and equipment, net	31,687,307	35,302,343
Other assets	611,007	604,971
Total assets	\$ 74,451,789	75,746,215
Liabilities and Net Assets		
Current liabilities:		
Current portion of long-term debt	\$ 3,095,156	3,159,153
Line of credit	4,700,000	—
Accounts payable and accrued expenses	15,183,881	11,753,465
Accrued salaries, wages, and vacation payable	5,434,672	5,285,863
Due to third-party payors, net	1,377,590	5,863,178
Total current liabilities	29,791,299	26,061,659
Residents' funds	1,400,202	1,343,475
Long-term debt, net of current portion	32,013,565	35,108,718
Deferred revenue	240,251	289,338
Total liabilities	63,445,317	62,803,190
Commitments and contingencies		
Net assets:		
Unrestricted	10,973,536	12,884,820
Temporarily restricted	32,936	58,205
Total net assets	11,006,472	12,943,025
Total liabilities and net assets	\$ 74,451,789	75,746,215

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ISABELLA GERIATRIC CENTER, INC.

Statements of Operations

Years ended December 31, 2011 and 2010

	<u>2011</u>	<u>2010</u>
Program revenues:		
Nursing home	\$ 84,518,627	79,770,257
Long-term home healthcare	21,680,399	18,990,832
Independent living	1,764,566	1,829,664
Adult day care	1,842,016	1,560,411
Community-based programs	1,490,216	1,756,808
Total program revenues	<u>111,295,824</u>	<u>103,907,972</u>
Other operating revenue and support:		
Contributions from affiliates	440,551	446,471
Net assets released from restrictions for operations	11,093	119,210
Other	934,949	1,612,665
Total other operating revenue and support	<u>1,386,593</u>	<u>2,178,346</u>
Total revenues and other support	<u>112,682,417</u>	<u>106,086,318</u>
Operating expenses:		
Salaries and wages	50,805,467	50,289,901
Employee benefits	20,513,784	19,432,719
Fees	16,227,808	14,906,675
Supplies and materials	6,359,867	5,930,017
Purchased and contracted services	3,659,421	3,857,327
Leases and rentals	780,885	585,044
Utilities	2,921,271	2,529,121
Insurance	813,825	801,183
Provision for bad debts	112,012	258,960
Government assessment taxes	4,465,153	4,299,096
Depreciation and amortization	5,010,141	4,980,768
Interest	2,269,820	2,385,617
Other	591,134	871,413
Total operating expenses	<u>114,530,588</u>	<u>111,127,841</u>
(Deficiency) excess of revenues, gains, and other support over operating expenses	<u>(1,848,171)</u>	<u>(5,041,523)</u>
Nonoperating revenues, gains and (losses):		
Net income from investments	<u>445,568</u>	<u>382,899</u>
Total nonoperating revenues, gains and (losses)	<u>445,568</u>	<u>382,899</u>
(Deficiency) excess of revenues, gains, and other support over expenses	<u>(1,402,603)</u>	<u>(4,658,624)</u>
Other changes:		
Change in net unrealized (losses) gains on investments other-than-trading securities	<u>(508,681)</u>	<u>510,969</u>
Decrease in unrestricted net assets	<u>\$ (1,911,284)</u>	<u>(4,147,655)</u>

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ISABELLA GERIATRIC CENTER, INC.

Statements of Changes in Net Assets

Years ended December 31, 2011 and 2010

	<u>Unrestricted</u>	<u>Temporarily restricted</u>	<u>Total</u>
Net assets at December 31, 2009	\$ 17,032,475	154,616	17,187,091
Deficiency of revenues, gains, and other support over expenses	(4,658,624)	---	(4,658,624)
Contributions and grants	—	—	—
Change in net unrealized gains on investments other-than-trading securities	510,969	—	510,969
Net assets released from restriction	---	(119,210)	(119,210)
Change in interest in net assets of Isabella Foundation, Inc., net	—	22,799	22,799
Decrease in net assets	<u>(4,147,655)</u>	<u>(96,411)</u>	<u>(4,244,066)</u>
Net assets at December 31, 2010	<u>12,884,820</u>	<u>58,205</u>	<u>12,943,025</u>
Deficiency of revenues, gains, and other support over expenses	(1,402,603)	---	(1,402,603)
Contributions and grants	—	—	—
Change in net unrealized losses on investments other-than-trading securities	(508,681)	—	(508,681)
Net assets released from restriction	—	(11,093)	(11,093)
Change in interest in net assets of Isabella Foundation, Inc., net	—	(14,176)	(14,176)
Decrease in net assets	<u>(1,911,284)</u>	<u>(25,269)</u>	<u>(1,936,553)</u>
Net assets at December 31, 2011	<u>\$ 10,973,536</u>	<u>32,936</u>	<u>11,006,472</u>

**Isabella Care at Home, Inc.
ProForma Balance Sheet**

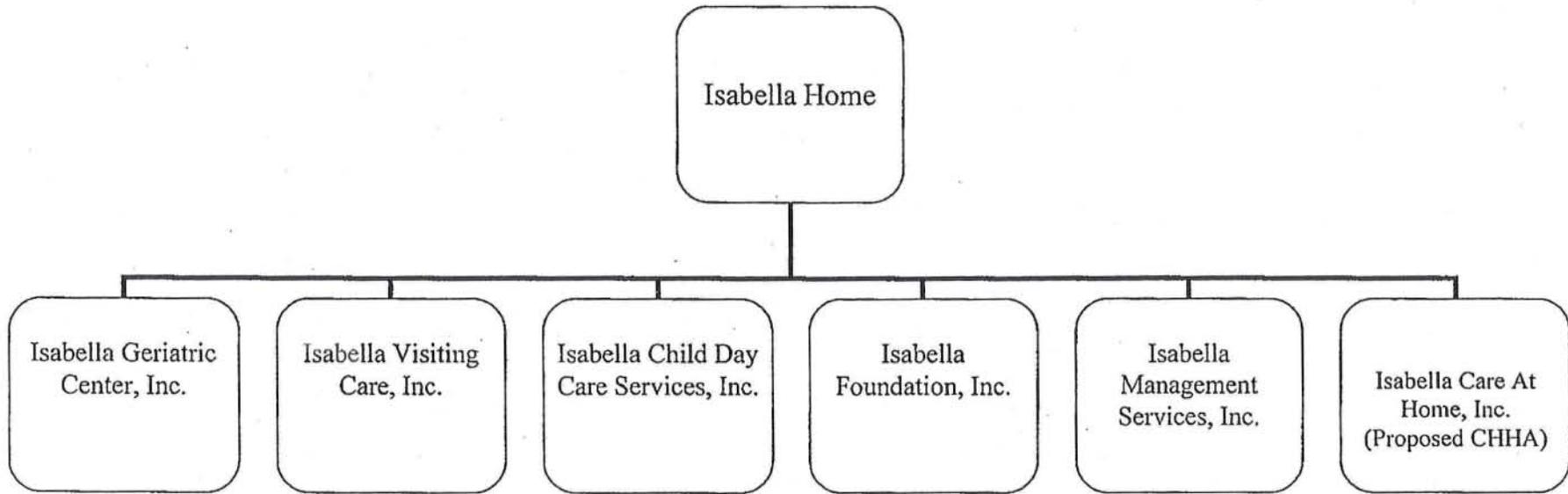
ASSETS

Cash and cash equivalents	\$2,855,737
Total assets	<u>\$2,855,737</u>

LIABILITIES & NET ASSETS

Working Capital Loan	\$1,427,850
Net Assets	\$1,427,887
Total Liabilities & Net Assets	<u>\$2,855,737</u>

Organizational Chart





Public Health and Health Planning Council

Project # 121252-E Jewish Home Lifecare, Community Services

County: New York (New York)
Purpose: Establishment

Program: Certified Home Health Agency
Submitted: April 18, 2012

Executive Summary

Description

Jewish Home Lifecare, Community Services, a recently-formed not-for-profit corporation, requests approval to establish a certified home health agency (CHHA) to serve Kings, Queens, Richmond, Bronx, New York, Westchester, Rockland, Nassau and Suffolk Counties. The applicant is a member of the Jewish Home Lifecare System, which includes Jewish Home Lifecare, Manhattan (nursing home) and several not-for-profit and for-profit organizations providing resident care, residential and related services, including fundraising.

The applicant also requested approval to serve the following upstate county: Rockland. A determination regarding the recommendation for approval or disapproval for the establishment of a CHHA to serve the upstate counties will be presented to the council at a future meeting. Therefore, this application has been amended by the Department to remove the request for the upstate county.

On December 8, 2011, the Public Health and Health Planning Council adopted an amendment to section 760.5 of Title 10, NYCRR. This emergency regulation authorized the Commissioner of Health to issue a request for applications (RFA) to establish new certified home health agencies, or expand the approved geographic service areas and/or approved population of existing CHHA's. Jewish Home Lifecare, Community Service submitted an application in response to the competitive RFA, and was awarded RFA approval. This CON application is in response to the RFA approval.

Effective May 1, 2012, a new Episodic Payment System (EPS) reimbursement methodology to reimburse CHHA providers for services provided to Medicaid patients receiving home care services took effect. The EPS is based on a price for 60-day episodes of care which will be adjusted by patient acuity and regional wage differences. The EPS was recommended by the Medicaid Redesign Team (MRT proposal # 5) and authorized in the 2011-12 enacted budget. The EPS is designed to address the issue of rapid growth in

Medicaid costs per patient by better aligning payments with needed services and is part of a broad effort to promote the development of care management arrangements for Medicaid recipients.

For a conservative approach, revenues were calculated in which the lower of incremental cost to episodic payment was projected for year one and year three, and budgets were sensitized.

DOH Recommendation

Disapproval as proposed. Contingent approval as amended by the Department, to serve Kings, Queens, Richmond, Bronx, New York, Westchester, Nassau and Suffolk counties.

Need Summary

Jewish Home Lifecare, Community Services' proposal clearly describes and adequately addresses each of the review criteria used to make determinations for this competitive review.

Program Summary

A review of all personal qualifying information indicates there is nothing in the background of the principals listed above to adversely effect their positions in the proposed organizational structure. The applicant has the appropriate character and competence under Article 36 of the Public Health Law.

Financial Summary

There are no project costs associated with this application.

Budget:	<i>Revenues:</i>	\$ 15,761,046
	<i>Expenses:</i>	<u>15,441,497</u>
	<i>Gain/(Loss):</i>	\$ 319,549

Subject to the noted contingencies, it appears that the applicant has demonstrated the capability to proceed in a financially feasible manner.

Recommendations

Health Systems Agency

There will be no HSA recommendation for this application.

Office of Health Systems Management

Approval contingent upon:

1. Submission of new incremental budgets to be re-evaluated for financial feasibility for all counties approved for establishment or expansion that are acceptable to the Department of Health. [BFA]
2. Submission of an executed sublease agreement that is acceptable to the Department of Health. [BFA]
3. The applicant must submit a plan acceptable to the Department that details how it will achieve compliance with the provision of no less than 2% charity care in accordance with all the requirements outlined in Section 763.11(a)(11) of Title 10 NYCRR. [CHA]

Council Action Date

August 9, 2012.

Need Analysis

Background

On December 8, 2011 the Public Health and Health Planning Council adopted an amendment to Section 750.5 of Title 10, NYCRR authorizing the Commissioner of Health to issue a request for applications (RFA) to establish new certified home health agencies (CHHAs) or expand existing CHHAs. Public need was based on established criteria in section 709.1(a) of Title 10 and that approval of the application will facilitate implementation of Medicaid Redesign Initiatives to shift Medicaid beneficiaries from traditional fee-for-service programs to managed care, managed long term care systems, integrated health systems or similar care coordination models or that approval will ensure access to CHHA services in counties with less than 2 existing CHHAs.

Solicitation

The RFA for the establishment of new or expansion of existing CHHAs was released on January 25, 2012 with RFA applications due on March 9, 2012 and CON applications due on April 20, 2012.

Applicants were further permitted to submit questions to the Department to seek additional clarification regarding this process. The Department's answers were provided to all applicants prior to the submission deadline, to ensure consistent information was shared regarding the process.

Competitive Review

The applications were reviewed competitively by the Department and recommendations are being made separately for Downstate and Upstate counties. Downstate counties consist of the counties Kings, Queens, New York, Richmond, Bronx, Nassau, Suffolk, and Westchester. Upstate counties consist of the remaining counties in New York State not listed in the preceding Downstate counties. All applications were reviewed and ranked against other applicants for each county they proposed to serve. If applicants requested Upstate and Downstate counties, they will be presented to the Public Health and Health Planning Council with other applicants who have requested the same county or counties.

The CON determination of need was based on the applicant's response to the RFA. The applications were reviewed competitively on criteria that included, but were not limited to:

- Organizational capacity to successfully implement the MRT initiatives and potential of the proposal to support the goals of the Department in advancing MRT initiatives;
- Knowledge and experience in the provision of home health services;
- Demonstration of public need based on 709.1(a) as well as a description of community need and the health needs of the community supported by data;
- Potential of the approved application to produce efficiencies in the delivery of home care services to the home care population;
- Comprehensive and effective quality assurance plan which described how the agency will use data to implement an ongoing quality assessment and performance improvement program that leads to measurable and sustained improvement in performance.

From this review, applicants were ranked in each county proposed against other applicants for that county based on how well their proposal addressed each of the aforementioned criteria. The top ranked applications were then selected for recommendation for approval within each county. Ultimately, fourteen of eighty-seven applications were recommended for approval to expand or establish a new general purpose CHHA in one or more of the eight Downstate counties.

Jewish Home Lifecare, Community Services' proposal clearly describes and adequately addresses each of the review criteria used to make determinations for this competitive review. This proposal demonstrates the applicant has the

organizational capacity to successfully implement the MRT initiatives and supports the goals of the Department in advancing these initiatives. The applicant demonstrates public need based on 709.1(a) and provides a description of community need and the health needs of the community supported by data. The applicant has the requisite knowledge and experience in the provision of home health services and demonstrates the potential to produce efficiencies in the delivery of home care services. Finally, the application provides a description how the agency will use data to implement an ongoing quality assessment and performance improvement program that leads to measureable and sustained improvement in performance.

The applicant also requested approval to serve the following upstate county: Rockland. A determination regarding the recommendation for approval or disapproval for the establishment of a CHHA to serve the upstate counties will be presented to the council at a future meeting. Therefore, this application has been amended by the Department to remove the request for the upstate county

Recommendation

From a need perspective, disapproval as proposed. Approval as amended by the Department is recommended.

Programmatic Analysis

Background

Jewish Home Lifecare, Community Services is a proposed not-for-profit corporation requesting approval to become established as a CHHA under Article 36 of the Public Health Law, with approval to serve the downstate counties of New York, Westchester, Nassau, Suffolk, and the upstate county of Rockland.

The applicant proposes to operate the CHHA from an office located at 104 West 29th Street, New York, New York 10021. The applicant proposes to provide the following health care services:

Nursing	Home Health Aide
Physical Therapy	Occupational Therapy
Speech Language Pathology	Medical Social Services
Nutrition	Medical Supplies, Equipment, and Appliances

The Board of Directors of Jewish Home Lifecare, Community Services will be as follows:

Russell Makowsky – Chair, Trustee
Chief Financial Officer, Senior Managing Director,
Tishman Speyer

Olumide S. Wilkey – Treasurer, Trustee
Certified Financial Advisor, UBS Financial
Services, Inc.

Affiliations:

- Jewish Home Lifecare, Harry & Jeanette Weinberg Campus, Bronx,
- Jewish Home Lifecare, Manhattan
- Jewish Home Lifecare, Sarah Neuman Center, Westchester
- Educational Alliance (2006-present)

Mel P. Barkan, Esq. – Trustee
Counsel, Windels Marx Lane and Mittendorf, LLP

Ann Berman – Trustee
Freelance Writer, Self

Affiliations:

- The Bridge, Inc. and Affiliates

Susan Glickman – Vice Chair, Trustee
Retired

Affiliations:

- Senior Health Partners (2005-2010)
- Jewish Home Lifecare, Harry & Jeanette Weinberg Campus, Bronx,
- Jewish Home Lifecare, Manhattan
- Jewish Home Lifecare, Sarah Neuman Center, Westchester

Edward A. Greenberg – Trustee
Retired

Affiliations:

- Senior Health Partners (2002-2006)
- Jewish Home Lifecare, Harry & Jeanette Weinberg Campus, Bronx,

Joy A. Henshel – Trustee
Retired

Affiliations:

- Jewish Home Lifecare, Sarah Neuman Center, Westchester

Jonathan Hochberg – Trustee
President, Hillview Capital Advisors, LLC

Affiliations:

- Jewish Home Lifecare, Harry & Jeanette Weinberg Campus, Bronx,
- Jewish Home Lifecare, Manhattan
- Jewish Home Lifecare, Sarah Neuman Center, Westchester

Marilyn Margon – Trustee
Self, Consulting Business

Joan Wachtler, LCSW – Trustee
Retired

Edward W. Gordon – Trustee
President/Executive, W.W. Gordon & Co., Inc. –
Preservation Capital Partners

Scott A. Hasen – Trustee
Vice President, Healthcare Research Analyst,
J.P Mogan

Nancy Hirschtritt, LCSW – Trustee
Retired

William Kummel – Trustee
Logistics and Marketing Management
Consultant, Rational Partners, LLC

David A. Strumwasser, Esq. – Trustee
Retired

Affiliations:

- Jewish Home Lifecare, Sarah Neuman Center, Westchester

Audrey S. Weiner, NHA – Trustee
President/CEO, Jewish Home Lifecare

Affiliations:

- Senior Health Partners (2002-2010)
- Jewish Home Lifecare, Harry & Jeanette Weinberg Campus, Bronx,
- Jewish Home Lifecare, Manhattan
- Jewish Home Lifecare, Sarah Neuman Center, Westchester

The Board of Directors of Jewish Home Lifecare System is as follows:

Stanley H. Pantowich, CPA – Chair
Chairman, TAG Associates, LLC

Affiliations:

- Jewish Home Lifecare, Harry & Jeanette Weinberg Campus, Bronx,
- Jewish Home Lifecare, Manhattan
- Jewish Home Lifecare, Sarah Neuman Center, Westchester

David R. Haas, CPA – Vice Chair and Treasurer
Self Employed, DRH Associates

Affiliations:

- Jewish Home Lifecare, Harry & Jeanette Weinberg Campus, Bronx,
- Jewish Home Lifecare, Manhattan
- Jewish Home Lifecare, Sarah Neuman Center, Westchester

Jay Furman, Esq. – Trustee
President, RD Management, LLC

Affiliations:

- Jewish Home Lifecare, Harry & Jeanette Weinberg Campus, Bronx,
- Jewish Home Lifecare, Manhattan
- Jewish Home Lifecare, Sarah Neuman Center, Westchester

Joel A. Hirshtritt, Esq. – Trustee
Lawyer, Tannenbaum Helpem Syracuse and Hirshtritt, LLC

Affiliations:

- Jewish Home Lifecare, Harry & Jeanette Weinberg Campus, Bronx,
- Jewish Home Lifecare, Manhattan
- Jewish Home Lifecare, Sarah Neuman Center, Westchester

Michael Luskin, Esq. – Trustee
Partner, Hughes Hubbard & Reed, LLP

Affiliations:

- Jewish Home Lifecare, Harry & Jeanette Weinberg Campus, Bronx,
- Jewish Home Lifecare, Manhattan
- Jewish Home Lifecare, Sarah Neuman Center, Westchester

Lynn Oberlander, Esq. – Trustee
General Counsel, The New Yorker

Susan Glickman – Vice Chair, Trustee
(Previously Disclosed)

Lisa Feiner – Trustee
Health Coach, Self

Affiliations:

- Jewish Home Lifecare, Harry & Jeanette Weinberg Campus, Bronx,
- Jewish Home Lifecare, Manhattan
- Jewish Home Lifecare, Sarah Neuman Center, Westchester

Elizabeth L. Grayer, Esq. – Trustee
President, Legal Momentum

Affiliations:

- Jewish Home Lifecare, Harry & Jeanette Weinberg Campus, Bronx,
- Jewish Home Lifecare, Manhattan
- Jewish Home Lifecare, Sarah Neuman Center, Westchester

Jonathan Hochberg – Trustee
(Previously Disclosed)

Russell E. Makowsky, Esq. – Trustee
(Previously Disclosed)

Paul D. Polivy, CPA – Trustee
Managing Director, Citigroup

Affiliations:

- Jewish Home Lifecare, Harry & Jeanette Weinberg Campus, Bronx,
- Jewish Home Lifecare, Manhattan
- Jewish Home Lifecare, Sarah Neuman Center, Westchester

Gene D. Resnick, M.D. – Trustee
Chief Medical Officer, Aptiv Solutions, Inc.

Affiliations:

- Jewish Home Lifecare, Harry & Jeanette Weinberg Campus, Bronx,
- Jewish Home Lifecare, Manhattan
- Jewish Home Lifecare, Sarah Neuman Center, Westchester

Affiliations:

- Jewish Home Lifecare, Harry & Jeanette Weinberg Campus, Bronx,
- Jewish Home Lifecare, Manhattan
- Jewish Home Lifecare, Sarah Neuman Center, Westchester

Audrey S. Weiner – Trustee
(Previously Disclosed)

A search of the individuals named above revealed no matches on either the NYS OMIG Medicaid Disqualified Provider List, or the US DHHS Office of the Inspector General Exclusion List.

The Office of the Professions of the State Education Department, the New York State Physician Profile and the Office of Professional Medical Conduct, where appropriate, indicate no issues with the licensure of the health professionals associated with this application.

The NYS Unified Court System verifies the active attorney registrations associated with this application.

The Bureau of Professional Credentialing has indicated that Audrey S. Weiner NHA license #03864 holds a NHA license in good standing and the Board of Examiners of Nursing Home Administrators has never taken disciplinary action against this individual or his license.

The applicant has confirmed that the proposed financial/referral structure has been assessed in light of anti-kickback and self-referral laws, with the consultation of legal counsel, and it is concluded that proceeding with the proposal is appropriate.

A 10 year review of the operations of the following facilities was performed as part of this review:

Jewish Home Lifecare, Harry & Jeanette Weinberg Campus, Bronx LTHHCP
Jewish Home Lifecare, Manhattan LTHHCP
Hapi Westchester
Jewish Home Lifecare, Harry & Jeanette Weinberg Campus, Bronx
Jewish Home Lifecare, Manhattan
Jewish Home Lifecare, Sarah Neuman Center, Westchester
Senior Health Partners
The Bridge, Inc. and Affiliates
Educational Alliance

The Division of Certification and Surveillance has indicated that the hospitals reviewed have exercised sufficient supervisory responsibility to protect the health, safety and welfare of patients and to prevent recurrent code violations.

The Bureau of Quality Assurance and Surveillance for Nursing Homes has indicated the following:

Jewish Home Lifecare, Harry & Jeanette Weinberg Campus, Bronx was fined six thousand dollars (\$6,000) pursuant to a stipulation and order dated September 18, 2010 for surveillance findings of June 23, 2009. Deficiencies were found under 10 NYCRR 415.4(b) Resident Behavior and Facility Practices: Staff Treatment of Residents, 415.12 Quality of Care and 415.26 Organization and Administration.

Jewish Home and Hospital for the Aged was fined two thousand dollars (\$2,000) pursuant to a stipulation and order dates August 25, 2011 for surveillance findings of March 12, 2010. Deficiencies were found under 10 NYCRR 415.12(l)(1) Quality of Care: Hydration.

Jewish Home and Hospital for the Aged was fined two thousand dollars (\$2,000) pursuant to a stipulation and order dates March 22, 2010 for surveillance findings of February 18, 2009. Deficiencies were found under 10 NYCRR 415.12(h)(2) Quality of Care: Accidents.

Jewish Home and Hospital for the Aged was fined two thousand five hundred dollars (\$2,500) pursuant to a stipulation and order dates March 3, 2006 for surveillance findings of October 30, 2003. Deficiencies were found under 10 NYCRR 415.12(b) Resident Behavior and Facility Practices: Staff Treatment of Residents, 415.4(b)(1)(2)(3) Resident Behavior and Facility Practices: Staff Treatment of Residents, 415.15(b)(2)(iii) Medical Services: Physician Services.

Sarah Neuman Center for Healthcare and Rehabilitation was fined two thousand dollars (\$2,000) pursuant to a stipulation and order dates August 8, 2008 for surveillance findings of January 18, 2008. Deficiencies were found under 10 NYCRR 415.12(c)(1)&(2) Quality of Care: Pressure Sores.

The information provided by the Bureau of Quality Assurance and Surveillance for Nursing Homes has indicated that the nursing home reviewed has provided sufficient supervision to prevent harm to the health, safety and welfare of residents and to prevent recurrent code violations. When code violations have occurred, it was determined that the operators investigated the circumstances surrounding the violation and took steps appropriate to the gravity of the violation which a reasonably prudent operator would take to promptly correct and prevent the recurrence of the violations.

The information provided by the Division of Home and Community Based Services has indicated that the licensed home care services agencies and long term home health care programs have provided sufficient supervision to prevent harm to the health, safety and welfare of patients and to prevent recurrent code violations.

The information provided by the Office of Managed Care has indicated that the MLTC plan has provided sufficient supervision to prevent harm to the health, safety and welfare of patients and to prevent recurrent code violations.

The information provided by the Office of Mental Health has indicated that the applicant has provided sufficient supervision to prevent harm to the health, safety and welfare of residents and to prevent recurrent code violations.

A review of all personal qualifying information indicates there is nothing in the background of the principals listed above to adversely effect their positions in the proposed organizational structure. The applicant has the appropriate character and competence under Article 36 of the Public Health Law.

The applicant has also requested approval to serve the following upstate counties: Rockland County. A determination regarding the recommendation for approval or disapproval for the establishment of a CHHA to serve that upstate county will be presented to the Council at a future meeting. Therefore, this application has been amended by the Department to remove the request for that upstate county at this time.

Recommendation

From a programmatic perspective, disapproval as proposed. Approval as amended by the Department is recommended.

Financial Analysis

Sublease Agreement

The applicant has submitted a draft sublease agreement for the site that they will occupy, which is summarized below:

Premises: 5,300 square feet located at 104 West 21st. Street, New York, New York
Sublessor: Jewish Home Lifecare, Manhattan
Sublessee: Jewish Home Lifecare Community Services

Term: 8 years
Rental: \$135,525 (\$26.06 per sq. ft.)
Provisions: The sub lessee is just responsible for the lease rental payments.

Operating Budget

The applicant has submitted an incremental operating budget in 2012 dollars, for the first and third years, which is summarized below:

	<u>Year One</u>	<u>Year Three</u>
Medicaid Fee-for-Service	\$1,973,805	\$1,180,610
Medicaid Managed Care	1,885,112	10,204,368
Medicare Fee-for-Service	1,234,687	3,887,548
Medicare Managed Care	145,995	443,520
Other	<u>15,000</u>	<u>45,000</u>
Total Revenues	\$5,254,599	\$15,761,046
Expenses	<u>5,416,254</u>	<u>15,441,497</u>
Net Gain	(\$161,655)	\$319,549

Utilization by payor source in the first and third years is as follows:

	<u>Year One</u>	<u>Year Three</u>
Medicaid Fee-for-Service	43.61%	78.50%
Medicaid Managed Care	43.69%	8.73%
Medicare Fee-for-Service	8.65%	8.65%
Medicare Managed Care	1.40%	1.41%
Charity Care	2.65%	2.71%

Expense assumptions are based on nursing visits of approximately 3 visits per month; rehabilitation therapy, approximately 2 visits per month; social services, approximately 1 visit per month, and home health aides, approximately 20 visits per month. Utilization assumptions are based on the historical experience of facilities in the geographical area. Revenues are reflective of current payment rates as well as the recent implementation of the Medicaid Episodic Payment System.

Capability and Feasibility

There are no project costs associated with this application.

Working capital requirements estimated at \$2,573,582, appear reasonable based on two months of third year expenses and will be provided through existing operations. Presented as BFA Attachment A are the 2010 and 2011 certified financial statements of Jewish Home Lifecare Community Services, which indicates the availability of sufficient funds to meet the working capital requirement.

The submitted budget indicates that the applicant will have a loss of \$161,655 and a gain of \$319,549 during the first and third years, respectively. Revenues are reflective of current payment rates, as well as the recent implementation of the Medicaid Episodic Payment System. The submitted budget appears reasonable.

As shown on BFA Attachment A, Jewish Home and Lifecare, Manhattan had an average negative working capital position and an average positive net asset position. The applicant has indicated that the reason for the negative working capital position is that the facility did not receive payment for the 2002 rebased rate until 2011. The applicant achieved an average operating excess of revenues over expenses of \$2,821,960 during the period shown. Also, the applicant achieved an average change in net assets of \$2,886,075 during the period shown. The applicant incurred a change in net assets of (\$4,043,930) in 2011 due to adjustments to pension liability funded status of (\$8,434,432).

Subject to the noted contingencies, it appears that the applicant has demonstrated the capability to proceed in a financially feasible manner, contingent approval is recommended.

Recommendation

From a financial perspective, contingent approval is recommended.

Attachments

BFA Attachment A	Financial Summary- Jewish Home Lifecare, Manhattan and Subsidiaries
BFA Attachment B	Organizational Chart of Jewish Home Lifecare System

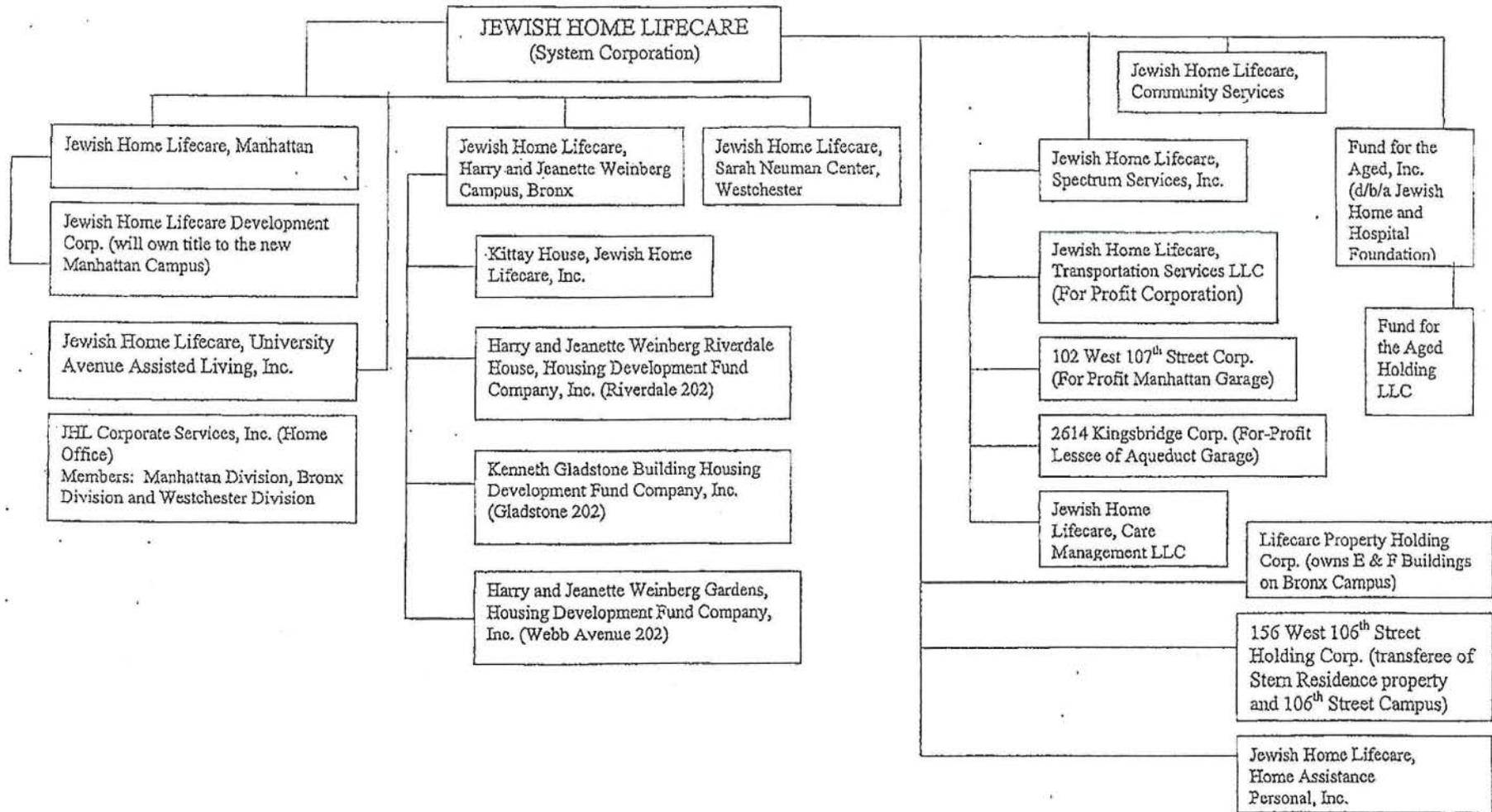
Financial Summary

Attachment A

Jewish Home Lifecare, Manhattan FISCAL PERIOD ENDED

	<u>2011</u>	<u>2010</u>	<u>2009</u>
ASSETS - CURRENT	\$25,908,897	\$27,171,275	\$28,208,732
ASSETS - FIXED AND OTHER	87,865,910	88,852,484	81,041,342
LIABILITIES - CURRENT	23,696,809	29,015,875	29,015,875
LIABILITIES - LONG-TERM	23,743,209	16,629,165	16,629,165
EQUITY	66,334,789	\$70,378,719	\$63,605,034
<hr/>			
OPERATING INCOME	\$106,556,279	\$102,330,405	\$100,923,782
OPERATING EXPENSES	104,417,875	98,075,467	98,851,244
OPERATING NET INCOME	\$2,138,404	\$4,254,938	\$2,072,538
NON OPERATING REVENUES	285,994	4,231,889	6,079,216
CHANGES IN NET ASSETS BEFORE OTHER CHANGES	\$2,424,398	\$8,486,827	\$8,151,754
ADJUSTMENTS	\$6,468,328	\$228,833	(\$4,165,259)
CHANGE IN NET ASSETS	(\$4,043,930)	\$8,715,660	\$3,986,495
<hr/>			
DEPRECIATION	NA	\$2,410,160	\$2,826,186
<hr/>			
NUMBER OF BEDS	514	514	514
PERCENT OF OCCUPANCY (DAYS)	99.13%	99.14%	99.03%
<hr/>			
PERCENT OCCUPANCY (DAYS):			
MEDICAID	64.38%	71.53%	69.67%
MEDICARE	16.30%	21.92%	16.91%
PRIVATE/OTHER	19.32%	6.55%	13.42%
<hr/>			
MEDICAID RATE BREAKDOWN:			
April 1, 2011 Rate Sheet			
OPERATING		\$293.83	
CAPITAL		<u>14.09</u>	
TOTAL		\$307.92	

JEWISH HOME LIFECARE SYSTEM
(as of January 1, 2012)





Public Health and Health Planning Council

Project # 121222-E
Lutheran CHHA, Inc.

County: Kings (Brooklyn)
Purpose: Establishment

Program: Certified Home Health Agency
Submitted: April 16, 2012

Executive Summary

Description

Lutheran CHHA, Inc., a to-be-formed not-for-profit corporation, requests approval to establish a certified home health agency (CHHA) to serve Kings, Queens, Bronx, New York and Richmond counties. The CHHA will work as part of the continuum of care provided by Lutheran Healthcare, a critical safety net health care network and social support system, which is committed to providing a broad and comprehensive spectrum of high quality health care services. Other pieces of the network are a 468-bed acute care hospital (Lutheran Medical Center), an FQHC (Lutheran Family Health Center Network), a 240-bed residential health care facility (Lutheran Augustana Center for Extended Care and Rehabilitation), a Long term Home Health Care Program operated by Lutheran Augustana, a Licensed Home Care Services Agency (Community Care Organization, Inc.), senior housing programs, and other community based programs.

On December 8, 2011, the Public Health and Health Planning Council adopted an amendment to section 760.5 of Title 10, NYCRR. This emergency regulation authorized the Commissioner of Health to issue a request for applications (RFA) to establish new certified home health agencies, or expand the approved geographic service areas and/or approved population of existing CHHA's. Lutheran CHHA submitted an application in response to the competitive RFA, and was awarded RFA approval. This CON application is in response to the RFA approval.

Effective May 1, 2012, a new Episodic Payment System (EPS) reimbursement methodology to reimburse CHHA providers for services provided to Medicaid patients receiving home care services took effect. The EPS is based on a price for 60-day episodes of care which will be adjusted by patient acuity and regional wage differences. The EPS was recommended by the Medicaid Redesign Team (MRT proposal # 5) and authorized in the 2011-12

enacted budget. The EPS is designed to address the issue of rapid growth in Medicaid costs per patient by better aligning payments with needed services and is part of a broad effort to promote the development of care management arrangements for Medicaid recipients.

For a conservative approach, revenues were calculated in which the lower of incremental cost to episodic payment was projected for year one and year three, and budgets were sensitized.

DOH Recommendation
Contingent approval.

Need Summary
Lutheran Medical Center's proposal clearly describes and adequately addresses each of the review criteria used to make determinations for this competitive review.

Program Summary
A review of all personal qualifying information indicates there is nothing in the background of the principals listed above to adversely effect their positions in the proposed organizational structure. The applicant has the appropriate character and competence under Article 36 of the Public Health Law.

Financial Summary
There are no project costs associated with this application.

Budget:	Revenues:	\$ 3,773,275
	Expenses:	<u>3,232,900</u>
	Gain/(Loss):	\$ 540,375

Subject to the noted contingencies, it appears that the applicant has demonstrated the capability to proceed in a financially feasible manner.

Recommendations

Health Systems Agency

There will be no HSA recommendation for this application.

Office of Health Systems Management

Approval contingent upon:

1. Submission of an executed sublease agreement that is acceptable to the Department of Health. [BFA]
2. Submission of new incremental budgets to be re-evaluated for financial feasibility for all counties approved for establishment or expansion acceptable to the Department. [BFA]
3. The applicant must submit a plan acceptable to the Department that details how it will achieve compliance with the provision of no less than 2% charity care in accordance with all the requirements outlined in Section 763.11(a)(11) of Title 10 NYCRR. [CHA]

Council Action Date

August 9, 2012.

Need Analysis

Background

On December 8, 2011 the Public Health and Health Planning Council adopted an amendment to Section 750.5 of Title 10, NYCRR authorizing the Commissioner of Health to issue a request for applications (RFA) to establish new certified home health agencies (CHHAs) or expand existing CHHAs. Public need was based on established criteria in section 709.1(a) of Title 10 and that approval of the application will facilitate implementation of Medicaid Redesign Initiatives to shift Medicaid beneficiaries from traditional fee-for-service programs to managed care, managed long term care systems, integrated health systems or similar care coordination models or that approval will ensure access to CHHA services in counties with less than 2 existing CHHAs.

Solicitation

The RFA for the establishment of new or expansion of existing CHHAs was released on January 25, 2012 with RFA applications due on March 9, 2012 and CON applications due on April 20, 2012.

Applicants were further permitted to submit questions to the Department to seek additional clarification regarding this process. The Department's answers were provided to all applicants prior to the submission deadline, to ensure consistent information was shared regarding the process.

Competitive Review

The applications were reviewed competitively by the Department and recommendations are being made separately for Downstate and Upstate counties. Downstate counties consist of the counties Kings, Queens, New York, Richmond, Bronx, Nassau, Suffolk, and Westchester. Upstate counties consist of the remaining counties in New York State not listed in the preceding Downstate counties. All applications were reviewed and ranked against other applicants for each county they proposed to serve. If applicants requested Upstate and Downstate counties, they will be presented to the Public Health and Health Planning Council with other applicants who have requested the same county or counties.

The CON determination of need was based on the applicant's response to the RFA. The applications were reviewed competitively on criteria that included, but were not limited to:

- Organizational capacity to successfully implement the MRT initiatives and potential of the proposal to support the goals of the Department in advancing MRT initiatives;
- Knowledge and experience in the provision of home health services;
- Demonstration of public need based on 709.1(a) as well as a description of community need and the health needs of the community supported by data;
- Potential of the approved application to produce efficiencies in the delivery of home care services to the home care population;
- Comprehensive and effective quality assurance plan which described how the agency will use data to implement an ongoing quality assessment and performance improvement program that leads to measurable and sustained improvement in performance.

From this review, applicants were ranked in each county proposed against other applicants for that county based on how well their proposal addressed each of the aforementioned criteria. The top ranked applications were then selected for recommendation for approval within each county. Ultimately, fourteen of eighty-seven applications were recommended for approval to expand or establish a new general purpose CHHA in one or more of the eight Downstate counties.

Lutheran Medical Center's proposal clearly describes and adequately addresses each of the review criteria used to make determinations for this competitive review. This proposal demonstrates the applicant has the organizational

capacity to successfully implement the MRT initiatives and supports the goals of the Department in advancing these initiatives. The applicant demonstrates public need based on 709.1(a) and provides a description of community need and the health needs of the community supported by data. The applicant has the requisite knowledge and experience in the provision of home health services and demonstrates the potential to produce efficiencies in the delivery of home care services. Finally, the application provides a description how the agency will use data to implement an ongoing quality assessment and performance improvement program that leads to measureable and sustained improvement in performance.

Recommendation

From a need perspective, approval is recommended.

Programmatic Analysis

Background

Lutheran CHHA, Inc., is a proposed not-for-profit corporation requesting approval to become established as a CHHA under Article 36 of the Public Health Law, with approval to serve the downstate counties of Bronx, Kings, New York, Queens, and Richmond. Although the corporation will have a working affiliation, and share common board members, with the Lutheran Healthcare System and its affiliates, the corporation Lutheran CHHA, Inc., will have no member, parent, or subsidiary corporations. All board members of the proposed Lutheran CHHA, Inc., are also board members of Lutheran Healthcare System, an existing not-for-profit corporation with the following subsidiaries:

- Lutheran Medical Center (Hospital),
- Lutheran Family Health Center Network (Federally Qualified Health Center),
- Lutheran Augustana Center for Extended Care and Rehabilitation (RHCF and LTHHCP),
- Community Care Organization, Inc. (LHCSA), and
- Health Plus (Medicaid Managed Care Plan), which was recently purchased by, acquired by, and merged into AmeriGroup MLTCP in October, 2011.

The applicant proposes to operate the CHHA from an office located at 5407 Second Avenue, Brooklyn, New York 11220. The applicant proposes to provide the following health care services:

Nursing	Home Health Aide	Personal Care
Physical Therapy	Occupational Therapy	Respiratory Therapy
Speech Language Pathology	Audiology	Medical Social Services
Physician Services	Medical Supplies, Equipment, and Appliances	
Nutrition		

The members of the Board of Directors of Lutheran CHHA, Inc. will be as follows:

Wendy Z. Goldstein, Chairperson
President & CEO, Lutheran Medical Center Hospital

Rosanne Raso, R.N., Secretary
Senior VP for Patient Care Services, Chief Nursing Officer, Lutheran Medical Center Hospital

Richard Langfelder, Treasurer
Executive VP / CFO, Lutheran Medical Center Hospital

All are affiliated with the Lutheran Healthcare System providers listed above.

A search of the individuals named above revealed no matches on either the NYS OMIG Medicaid Disqualified Provider List, or the US DHHS Office of the Inspector General Exclusion List.

The Office of the Professions of the NYS Education Department indicates no issues with the RN license associated with this application.

A ten year review of the following facilities was performed as part of this review:

Lutheran Medical Center (Hospital),
Lutheran Family Health Center Network (Federally Qualified Health Center),
Lutheran Augustana Center for Extended Care and Rehabilitation (RHCF and LTHHCP),
Community Care Organization, Inc. (LHCSA), and
Health Plus (Medicaid Managed Care Plan)

The Division of Residential Services has indicated the following:

Lutheran Augustana Center for Extended Care and Rehabilitation RHCF had a civil penalty of \$22,000 imposed pursuant to a stipulation and order dated March 12, 2012 for surveillance findings of February 16, 2011, and April 29, 2011. Violations were cited in 10 NYCRR 415.12(l)(1) Quality of Care: Unnecessary Medications, 415.22(a)(1 – 4) Complete Resident Records / Clinical Records, and 415.12(j) Quality of Care: Hydration.

The information provided by the Division of Residential Services has indicated that the nursing home reviewed has provided sufficient supervision to prevent harm to the health, safety and welfare of residents and to prevent recurrent code violations.

The information provided by the Division of Certification and Surveillance has indicated that the hospital and federally qualified health center have provided sufficient supervision to prevent harm to the health, safety and welfare of patients and to prevent recurrent code violations.

The Division of Home and Community Based Services has indicated the following:

Lutheran Augustana Center for Extended Care and Rehabilitation LTHHCP had a civil penalty of \$2,500 imposed pursuant to a stipulation and order dated May 24, 2011 for surveillance findings of August 5, 2010. Violations were cited in 10 NYCRR 763.11(a) Governing Authority, 763.4(h) Policy and Procedure of Service Delivery, 763.6(b) and (c) Patient Assessment and Plan of Care, and 763.14(b) Records and Reports.

The information provided by the Division of Home and Community Based Services has indicated that the licensed home care services agency and long term home health care program have provided sufficient supervision to prevent harm to the health, safety and welfare of patients and to prevent recurrent code violations.

The information provided by the Office of Managed Care has indicated that the Medicaid managed care plan has provided sufficient supervision to prevent harm to the health, safety and welfare of patients and to prevent recurrent code violations.

A review of all personal qualifying information indicates there is nothing in the background of the principals listed above to adversely effect their positions in the proposed organizational structure. The applicant has the appropriate character and competence under Article 36 of the Public Health Law.

Recommendation

From a programmatic perspective, contingent approval is recommended.

Financial Analysis

Lease Rental Agreement

The applicant has submitted a draft sublease agreement for the site that they will occupy, which is summarized below:

<i>Premises:</i>	The basement of the building located at 5407 Second Avenue, Brooklyn, NY, and the square footage is approx. 2,000 sq. ft.
<i>Sublessor:</i>	Lutheran Augustana Center for Extended Care and Rehabilitation
<i>Sublessee:</i>	Lutheran CHHA, Inc.
<i>Term:</i>	5 years to terminate on December 29, 2016
<i>Rental:</i>	Year 1 \$43,219.56 (\$3,601.63 per month), Year 2 \$44,516.16 (\$3,709.68 per month), Year 3 \$45,851.16 (\$3,820.97 per month), Year 4 \$47,227.20 (\$3,935.60 per month) and Year 5 \$48,644.04 (\$4,053.67 per month)
<i>Provisions</i>	The sublessee shall be responsible for 50% of maintenance, utilities costs and provide their own insurance.

The master landlord is L & B Realty Assoc, LLC. The applicant states that the lease is an arm's length arrangement between the Landlord L & B Realty Assoc., LLC, and the Sub-lessor (Lutheran Augustana Center for Extended Care and Rehabilitation), but it is a non-arm's length arrangement between the (sub-lessor) and the sub-lessee. Letters from realtors have been submitted, which indicate that the current rental rates per square foot are within the reasonable range for square footage in the area.

Operating Budget

The applicant has submitted an operating budget for the first and third years, in 2012 dollars, which is summarized below:

	<u>Year One</u>	<u>Year Three</u>
Medicaid Managed Care	\$415,262	\$1,074,525
Medicare Fee-for-Service	772,766	2,342,072
Commercial Managed Care	117,685	356,678
Total Revenues	\$1,305,713	\$3,773,275
Expenses	<u>\$1,203,798</u>	<u>\$3,232,900</u>
Net Income/(Loss)	<u>\$101,915</u>	<u>\$540,375</u>

Utilization by payor source in the first and third years is as follows:

	<u>Year One and Three</u>
Medicaid Managed Care	34.50%
Medicare Fee-for-Service	53.50%
Commercial Managed Care	10.00%
Charity Care	2.00%

Expense assumptions are based on current salaries in the area for CHHA services. Utilization assumptions are based on the applicant's review of the current regional utilization for CHHA services using a conservative approach to overall utilization. Revenues are reflective of current payment rates as well as recent implementation of the Medicaid Episodic Payment System.

Capability and Feasibility

There are no project costs associated with this application.

Working capital requirements estimated at \$538,817, appears reasonable based on two months of third year expenses and will be provided by Lutheran Healthcare. Presented as BFA Attachment A are the 2010 and 2011 certified financial statements, which indicates the availability of sufficient funds for the equity contribution to meet the working capital requirement.

The submitted budget indicates that the applicant will achieve a net excess of revenues over expenses of \$101,915 and \$540,375 during the first and third years, respectively. The first year loss will be offset from working capital funds. Revenues are based on current payment rates as well as the recent implementation of the Medicaid Episodic Payment System. The submitted budget appears reasonable.

As shown on Attachment A 2010-2011 Certified Financial Summary for Lutheran Healthcare, the entity had an average positive working capital position and an average positive net asset position from the period 2010 through 2011. Also, the entity achieved an average net loss for the period 2010-2011 of \$1,167,500. The operations however, in 2011, had a positive net income of \$7,806,000.

The 2010 losses were attributable to the operations of Healthplus, Lutheran Augustana and Lutheran Healthcare's related professional corporations, which can be seen on BFA Attachment B the 2010-2011 breakout of the combined certified financial statements for Lutheran Healthcare.

Subject to the noted contingencies, it appears that the applicant has demonstrated the capability to proceed in a financially feasible manner, and contingent approval is recommended.

Recommendation

From a financial perspective, contingent approval is recommended.

Attachments

BFA Attachment A	Financial Summary- 2010-2011 certified financial statements for Lutheran Healthcare
BFA Attachment B	2010-2011 breakout of the combined certified financial statements for Lutheran Healthcare

LUTHERAN HEALTHCARE**COMBINED BALANCE SHEETS
AS OF DECEMBER 31, 2011 AND 2010
(In thousands)**

	2011	2010
ASSETS		
CURRENT ASSETS:		
Cash and cash equivalents	\$ 131,846	\$ 84,461
Investments	100,868	104,446
Assets limited as to use	1,542	2,241
Patient accounts receivable — less allowance for uncollectible accounts of \$16,214 and \$23,987 in 2011 and 2010, respectively	70,254	64,982
Premiums receivable	30,446	30,975
Other receivables	18,380	25,472
Due from third-party payors	15,867	19,817
Other current assets	<u>35,795</u>	<u>17,356</u>
Total current assets	404,998	349,750
ASSETS LIMITED AS TO USE — Less current portion	70,360	67,791
PROPERTY AND EQUIPMENT — Net	183,164	179,729
OTHER ASSETS	<u>73,384</u>	<u>53,349</u>
TOTAL	<u>\$731,906</u>	<u>\$650,619</u>
LIABILITIES AND NET ASSETS		
CURRENT LIABILITIES:		
Accounts payable and accrued expenses	\$ 62,266	\$ 55,266
Accrued salaries and related liabilities	29,675	26,290
Accrued medical costs	105,588	83,624
Current portion of long-term debt	23,544	8,943
Current portion of professional liabilities	2,600	2,600
Other current liabilities	3,922	1,661
Current portion of due to third-party payors	<u>4,179</u>	<u>6,825</u>
Total current liabilities	<u>231,774</u>	<u>185,209</u>
LONG-TERM LIABILITIES:		
Due to third-party payors	29,367	30,225
Professional liabilities — less current portion	79,555	58,762
Long-term debt — less current portion	131,427	128,063
Accrued pension liability	83,338	46,693
Other long-term liabilities	<u>21,666</u>	<u>22,784</u>
Total long-term liabilities	<u>345,353</u>	<u>286,527</u>
Total liabilities	<u>577,127</u>	<u>471,736</u>
NET ASSETS:		
Unrestricted (including contingent reserve of \$79,538 and \$91,355 in 2011 and 2010, respectively — Note 4)	150,866	175,208
Temporarily restricted	3,419	3,169
Permanently restricted	<u>494</u>	<u>506</u>
Total net assets	<u>154,779</u>	<u>178,883</u>
TOTAL	<u>\$731,906</u>	<u>\$650,619</u>

LUTHERAN HEALTHCARE**COMBINED STATEMENTS OF OPERATIONS
FOR THE YEARS ENDED DECEMBER 31, 2011 AND 2010
(In thousands)**

	2011	2010
REVENUE:		
Net patient service revenue	\$ 477,923	\$ 468,691
Premium revenue	1,040,017	871,919
Grant income	47,485	40,640
Investment income	3,831	3,742
Net assets released from restrictions	1,682	2,331
Other revenue	<u>20,206</u>	<u>17,616</u>
Total revenue	<u>1,591,144</u>	<u>1,404,939</u>
EXPENSES:		
Salaries and wages	348,165	331,406
Employee benefits	104,872	98,054
Supplies and expenses	260,239	250,351
Medical costs	823,962	683,704
Depreciation and amortization	20,371	18,763
Interest	5,802	5,841
Provision for bad debts	<u>19,927</u>	<u>26,961</u>
Total expenses	<u>1,583,338</u>	<u>1,415,080</u>
EXCESS (DEFICIENCY) OF REVENUES OVER EXPENSES	7,806	(10,141)
OTHER CHANGES IN UNRESTRICTED NET ASSETS:		
Defined benefit plan adjustments	(40,937)	(4,279)
Changes in unrealized gains and losses on investments	(155)	2,803
Contributions	1,205	147
Net assets released for capital acquisitions	<u>7,739</u>	<u>11,266</u>
DECREASE IN UNRESTRICTED NET ASSETS	<u>\$ (24,342)</u>	<u>\$ (204)</u>

LUTHERAN HEALTHCARE

SUPPLEMENTAL COMBINING INFORMATION — BALANCE SHEETS AS OF DECEMBER 31, 2011 (In thousands)

	Lutheran Medical and Lutheran Family Health Centers	HealthPlus	Augustana	Senior Housing Projects	Professional Corporations	Other Entities	Elimination Entries	Combined Balances
ASSETS								
CURRENT ASSETS:								
Cash and cash equivalents	\$ 15,045	\$104,431	\$ 3,705	\$ 3,051	\$ 786	\$4,828	\$ -	\$131,846
Investments	35,741	65,127						100,868
Assets limited as to use			249	1,293				1,542
Patient accounts receivable — net	65,053		8,350		1,315	1,884	(6,348)	70,254
Premiums receivable		30,446						30,446
Other receivables	11,983	5,931		104	3	359		18,380
Due from third-party payors	14,772		911		184			15,867
Due from related entities	7,639	249	172	4	359	219	(8,642)	
Other current assets	<u>30,596</u>	<u>3,901</u>	<u>262</u>	<u>260</u>	<u>640</u>	<u>136</u>		<u>35,795</u>
Total current assets	180,829	210,085	13,649	4,712	3,287	7,426	(14,990)	404,998
ASSETS LIMITED AS TO USE — Less current portion	13,988	45,375	8,462	2,535				70,360
DUE FROM RELATED ENTITIES		43					(43)	
PROPERTY AND EQUIPMENT — Net	113,081	5,885	14,729	53,936	380	1,317	(6,164)	183,164
OTHER ASSETS	<u>71,766</u>		<u>55</u>	<u>1,563</u>				<u>73,384</u>
TOTAL	<u>\$379,664</u>	<u>\$261,388</u>	<u>\$36,895</u>	<u>\$62,746</u>	<u>\$3,667</u>	<u>\$8,743</u>	<u>\$(21,197)</u>	<u>\$731,906</u>

(Continued)

The Medical Center discloses its interests in its controlled affiliates using the cost method of accounting.

LUTHERAN HEALTHCARE

SUPPLEMENTAL COMBINING INFORMATION — BALANCE SHEETS AS OF DECEMBER 31, 2011 (In thousands)

	Lutheran Medical and Lutheran Family Health Centers	HealthPlus	Augustana	Senior Housing Projects	Professional Corporations	Other Entities	Elimination Entries	Combined Balances
LIABILITIES AND NET ASSETS								
CURRENT LIABILITIES:								
Accounts payable and accrued expenses	\$ 37,045	\$ 21,773	\$ 2,044	\$ 458	\$ 812	\$ 134	\$ -	\$ 62,266
Accrued salaries and related liabilities	21,424	4,846	1,818	101	1,189	297		29,675
Accrued medical costs		111,936					(6,348)	105,588
Current portion of long-term debt	22,920		399	225				23,544
Current portion of professional liabilities	2,600							2,600
Due to related entities	1,099	1,424	3,561	764	322	1,472	(8,642)	3,922
Other current liabilities		236	357	2,966		363		4,179
Current portion of due to third-party payors	961	2,579	639					4,179
Total current liabilities	86,049	142,794	8,818	4,514	2,323	2,266	(14,990)	231,774
DUE TO THIRD-PARTY PAYORS	29,367							29,367
DUE TO RELATED ENTITIES	43						(43)	
PROFESSIONAL LIABILITIES — Less current portion	79,555							79,555
LONG-TERM DEBT — Less current portion	67,766		24,137	39,524				131,427
ACCRUED PENSION LIABILITY	83,338							83,338
OTHER LONG-TERM LIABILITIES	1,111			20,555				21,666
Total liabilities	347,229	142,794	32,955	64,593	2,323	2,266	(15,033)	577,127
NET ASSETS:								
Unrestricted	28,746	118,594	3,716	(1,847)	1,344	6,477	(6,164)	150,866
Temporarily restricted	3,381		38					3,419
Permanently restricted	308		186					494
Total net assets	32,435	118,594	3,940	(1,847)	1,344	6,477	(6,164)	154,779
TOTAL	\$379,664	\$261,388	\$36,895	\$62,746	\$3,667	\$8,743	\$(21,197)	\$731,906

(Concluded)

BFA Attachment B (cont.)

The Medical Center discloses its interests in its controlled affiliates using the cost method of accounting.

LUTHERAN HEALTHCARE

SUPPLEMENTAL COMBINING INFORMATION — STATEMENTS OF OPERATIONS FOR THE YEAR ENDED DECEMBER 31, 2011 (In thousands)

	Lutheran Medical and Lutheran Family Health Centers	HealthPlus	Augustana	Senior Housing Projects	Professional Corporations	Other Entities	Elimination Entries	Combined Totals
REVENUE:								
Net patient service revenue	\$469,764	\$ -	\$34,323	\$ -	\$23,380	\$ 6,827	\$(56,371)	\$ 477,923
Premium revenue	8,425	1,039,496					(7,904)	1,040,017
Grant income	47,485							47,485
Investment income	1,107	2,668	27	21	3	5		3,831
Net assets released from restrictions	1,679		3					1,682
Other revenue	11,515	(41)	283	9,204	69	3,319	(4,143)	20,206
Total revenue	539,975	1,042,123	34,636	9,225	23,452	10,151	(68,418)	1,591,144
EXPENSES:								
Salaries and wages	248,104	56,411	15,877	1,027	20,124	6,926	(304)	348,165
Employee benefits	79,583	15,970	5,568	414	2,388	982	(33)	104,872
Supplies and expenses	171,693	76,554	10,525	6,460	7,962	2,249	(15,204)	260,239
Medical costs		876,819					(52,857)	823,962
Depreciation and amortization	14,454	2,265	1,379	2,380	37	18	(162)	20,371
Interest	3,505		1,650	667			(20)	5,802
Provision for bad debts	19,007		831	3		86		19,927
Total expenses	536,346	1,028,019	35,830	10,951	30,511	10,261	(68,580)	1,583,338
EXCESS (DEFICIENCY) OF REVENUE OVER EXPENSES	3,629	14,104	(1,194)	(1,726)	(7,059)	(110)	162	7,806
OTHER CHANGES IN UNRESTRICTED NET ASSETS:								
Defined benefit plan adjustments	(40,937)							(40,937)
Changes in unrealized gains and losses on investments	(470)	315						(155)
Contributions	1,205							1,205
Transfers (to) from related entities	(8,278)				8,278			
Net assets released from restrictions for capital acquisitions	7,739							7,739
INCREASE (DECREASE) IN UNRESTRICTED NET ASSETS	\$(37,112)	\$ 14,419	\$(1,194)	\$(1,726)	\$ 1,219	\$ (110)	\$ 162	\$(24,342)

BFA Attachment B (cont.)

The Medical Center discloses its interests in its controlled affiliates using the cost method of accounting.

LUTHERAN HEALTHCARE

SUPPLEMENTAL COMBINING INFORMATION — BALANCE SHEETS AS OF DECEMBER 31, 2010 (In thousands)

	Lutheran Medical and Lutheran Family Health Centers	HealthPlus	Augustana	Senior Housing Projects	Professional Corporations	Other Entities	Elimination Entries	Combined Balances
ASSETS								
CURRENT ASSETS:								
Cash and cash equivalents	\$ 17,282	\$ 55,490	\$ 2,664	\$ 3,584	\$ 689	\$ 4,752	\$ -	\$ 84,461
Investments	42,059	62,387						104,446
Assets limited as to use	543		267	1,431				2,241
Patient accounts receivable — net	58,614		9,644		1,108	2,050	(6,434)	64,982
Premiums receivable		30,975						30,975
Other receivables	10,613	14,412		202	8	237		25,472
Due from third-party payors	18,701		1,011		105			19,817
Due from related entities	8,808	238	125	2	207	76	(9,456)	-
Other current assets	11,881	4,218	379	288	475	115		17,356
Total current assets	168,501	167,720	14,090	5,507	2,592	7,230	(15,890)	349,750
ASSETS LIMITED AS TO USE — Less current portion	13,034	43,969	8,528	2,260				67,791
DUE FROM RELATED ENTITIES		292					(292)	-
PROPERTY AND EQUIPMENT — Net	106,191	6,461	15,714	56,199	154	1,336	(6,326)	179,729
OTHER ASSETS	51,659		57	1,633				53,349
TOTAL	\$339,385	\$218,442	\$38,389	\$65,599	\$2,746	\$8,566	\$(22,508)	\$650,619

(Continued)

The Medical Center discloses its interests in its controlled affiliates using the cost method of accounting.

LUTHERAN HEALTHCARE

SUPPLEMENTAL COMBINING INFORMATION — BALANCE SHEETS AS OF DECEMBER 31, 2010 (In thousands)

	Lutheran Medical and Lutheran Family Health Centers	HealthPlus	Augustana	Senior Housing Projects	Professional Corporations	Other Entities	Elimination Entries	Combined Balances
LIABILITIES AND NET ASSETS								
CURRENT LIABILITIES:								
Accounts payable and accrued expenses	\$ 35,090	\$ 15,902	\$ 2,276	\$ 606	\$ 1,257	\$ 135	\$ -	\$ 55,266
Accrued salaries and related liabilities	19,185	4,555	1,424	84	772	270		26,290
Accrued medical costs		90,058					(6,434)	83,624
Current portion of long-term debt	8,356		373	214				8,943
Current portion of professional liabilities	2,600							2,600
Due to related entities	352	1,538	3,084	2,502	592	1,388	(9,456)	-
Other current liabilities		198	397	880		186		1,661
Current portion of due to third-party payors	<u>3,659</u>	<u>2,016</u>	<u>1,150</u>					<u>6,825</u>
Total current liabilities	69,242	114,267	8,704	4,286	2,621	1,979	(15,890)	185,209
DUE TO THIRD-PARTY PAYORS	30,225							30,225
DUE TO RELATED ENTITIES	292						(292)	-
PROFESSIONAL LIABILITIES — Less current portion	58,762							58,762
LONG-TERM DEBT — Less current portion	63,778		24,536	39,749				128,063
ACCRUED PENSION LIABILITY	46,693							46,693
OTHER LONG-TERM LIABILITIES	<u>1,099</u>			<u>21,685</u>				<u>22,784</u>
Total liabilities	<u>270,091</u>	<u>114,267</u>	<u>33,240</u>	<u>65,720</u>	<u>2,621</u>	<u>1,979</u>	<u>(16,182)</u>	<u>471,736</u>
NET ASSETS:								
Unrestricted	65,858	104,175	4,910	(121)	125	6,587	(6,326)	175,208
Temporarily restricted	3,128		41					3,169
Permanently restricted	<u>308</u>		<u>198</u>					<u>506</u>
Total net assets	<u>69,294</u>	<u>104,175</u>	<u>5,149</u>	<u>(121)</u>	<u>125</u>	<u>6,587</u>	<u>(6,326)</u>	<u>178,883</u>
TOTAL	<u>\$ 339,385</u>	<u>\$ 218,442</u>	<u>\$ 38,389</u>	<u>\$ 65,599</u>	<u>\$ 2,746</u>	<u>\$ 8,566</u>	<u>\$ (22,508)</u>	<u>\$ 650,619</u>

(Concluded)

BFA Attachment B (cont.)

The Medical Center discloses its interests in its controlled affiliates using the cost method of accounting.

LUTHERAN HEALTHCARE

SUPPLEMENTAL COMBINING INFORMATION — STATEMENTS OF OPERATIONS FOR THE YEAR ENDED DECEMBER 31, 2010 (In thousands)

	Lutheran Medical and Lutheran Family Health Centers	HealthPlus	Augustana	Senior Housing Projects	Professional Corporations	Other Entities	Elimination Entries	Combined Totals
REVENUE:								
Net patient service revenue	\$462,465	\$ -	\$34,017	\$ -	\$21,316	\$ 6,805	\$(55,912)	\$ 468,691
Premium revenue	7,558	871,572					(7,211)	871,919
Grant income	40,640							40,640
Investment income	822	2,841	28	45	2	4		3,742
Net assets released from restrictions	2,327		4					2,331
Other revenue	10,965	17	381	9,083	112	3,574	(6,516)	17,616
Total revenue	524,777	874,430	34,430	9,128	21,430	10,383	(69,639)	1,404,939
EXPENSES:								
Salaries and wages	236,651	52,293	15,630	997	18,834	7,432	(431)	331,406
Employee benefits	73,438	15,266	5,391	469	2,475	1,056	(41)	98,054
Supplies and expenses	167,533	75,685	10,108	3,892	8,465	1,713	(17,045)	250,351
Medical costs		735,795					(52,091)	683,704
Depreciation and amortization	12,625	2,373	1,486	2,378	30	33	(162)	18,763
Interest	3,221		1,674	977			(31)	5,841
Provision for bad debts	26,271		607			83		26,961
Total expenses	519,739	881,412	34,896	8,713	29,804	10,317	(69,801)	1,415,080
EXCESS (DEFICIENCY) OF REVENUE OVER EXPENSES	5,038	(6,982)	(466)	415	(8,374)	66	162	(10,141)
OTHER CHANGES IN UNRESTRICTED NET ASSETS:								
Defined benefit plan adjustments	(4,279)							(4,279)
Changes in unrealized gains and losses on investments	747	2,056						2,803
Contributions	147							147
Transfers (to) from related entities	(1,953)			(7,000)	8,953			-
Net assets released from restrictions for capital acquisitions	11,266							11,266
INCREASE (DECREASE) IN UNRESTRICTED NET ASSETS	\$ 10,966	\$ (4,926)	\$ (466)	\$ (6,585)	\$ 579	\$ 66	\$ 162	\$ (204)

BFA Attachment B (cont.)

The Medical Center discloses its interests in its controlled affiliates using the cost method of accounting.



Public Health and Health Planning Council

Project # 121247-E Queens Long Island Certified Home Health Agency

County: Queens (Flushing)
Purpose: Establishment

Program: Certified Home Health Agency
Submitted: April 18, 2012

Executive Summary

Description

Queens Long Island Certified Home Health Agency, LLC, an existing NYS limited liability company, requests approval to establish a certified home health agency (CHHA) to serve Queens, Nassau and Suffolk counties. The CHHA which will be part of Flushing Manor provider family, which includes: the Dr. William O. Benenson Rehabilitation Pavilion, a 302-bed residential health care facility (RHCF); Flushing Manor Nursing Home LTHHCP; Flushing Manor Care Center, a 278-bed RHCF; Flushing Manor Nursing Home, a 227-bed RHCF; Flushing Manor Dialysis Center, a six-station dialysis center; and Medford Hamlet Assisted Living, a 200-bed program.

The proposed CHHA has four members whom each have 25% membership interest. They are as follows: Michael Benenson, Sharon Benenson, Amy Benenson, and Blanche Benenson.

On December 8, 2011, the Public Health and Health Planning Council adopted an amendment to section 760.5 of Title 10, NYCRR. This emergency regulation authorized the Commissioner of Health to issue a request for applications (RFA) to establish new certified home health agencies, or expand the approved geographic service areas and/or approved population of existing CHHA's. Queens Long Island Certified Home Health Agency submitted an application in response to the competitive RFA, and was awarded RFA approval. This CON application is in response to the RFA approval.

Effective May 1, 2012, a new Episodic Payment System (EPS) reimbursement methodology to reimburse CHHA providers for services provided to Medicaid patients receiving home care services took effect. The EPS is based on a price for 60-day episodes of care which will be adjusted by patient acuity and regional wage differences. The EPS was recommended by the Medicaid Redesign Team (MRT proposal # 5) and authorized in the 2011-12 enacted budget. The EPS is designed to address the

issue of rapid growth in Medicaid costs per patient by better aligning payments with needed services and is part of a broad effort to promote the development of care management arrangements for Medicaid recipients.

For a conservative approach, revenues were calculated in which the lower of incremental cost to episodic payment was projected for year one and year three, and budgets were sensitized.

DOH Recommendation
Contingent approval.

Need Summary

Queens Long Island Certified Home Health Agency, LLC's proposal clearly describes and adequately addresses each of the review criteria used to make determinations for this competitive review.

Program Summary

A review of all personal qualifying information indicates there is nothing in the background of the principals listed above to adversely effect their positions in the proposed organizational structure. The applicant has the appropriate character and competence under Article 36 of the Public Health Law.

Financial Summary

There are no project costs associated with this application.

Incremental Budget:	<i>Revenues:</i>	\$ 6,485,636
	<i>Expenses:</i>	<u>4,966,119</u>
	<i>Gain/(Loss):</i>	\$ 1,519,517

Subject to the noted contingency, it appears that the applicant has demonstrated the capability to proceed in a financially feasible manner.

Recommendations

Health Systems Agency

There will be no HSA recommendation for this application.

Office of Health Systems Management

Approval contingent upon:

1. Submission of new incremental budgets to be re-evaluated for financial feasibility for all counties approved for establishment or expansion that are acceptable to the Department. [BFA]
2. The applicant must submit a plan acceptable to the Department that details how it will achieve compliance with the provision of no less than 2% charity care in accordance with all the requirements outlined in Section 763.11(a)(11) of Title 10 NYCRR. [CHA]
3. The applicant must submit a signed statement that the proposed financial / referral structure has been assessed in light of anti-kickback and self referral laws, and with the consultation of legal counsel, it has been concluded that proceeding with the proposal is appropriate. [CHA]
4. Submission of a photocopy of the applicant's fully executed and dated Articles of Organization, as filed with the Secretary of State, which must be acceptable to the Department. [CSL]
5. Submission of a photocopy of the fully executed and dated Lease between 36-25 Parsons Realty LLC, c/o S.W. Management LLC (Landlord) and FMNH, LLC, as tenant (Assignor), including, but not limited to, a description of the leased premises (Leased Premises), which must be acceptable to the Department. [CSL, BFA]
6. Submission of a photocopy of a fully executed and dated Assignment of Lease among the Landlord, the Assignor, and the applicant, including, but not limited to, a description of the portion of the Leased Premises, which are now being assigned to the applicant, which must be acceptable to the Department. [CSL, BFA]

Council Action Date

August 9, 2012.

Need Analysis

Background

On December 8, 2011 the Public Health and Health Planning Council adopted an amendment to Section 750.5 of Title 10, NYCRR authorizing the Commissioner of Health to issue a request for applications (RFA) to establish new certified home health agencies (CHHAs) or expand existing CHHAs. Public need was based on established criteria in section 709.1(a) of Title 10 and that approval of the application will facilitate implementation of Medicaid Redesign Initiatives to shift Medicaid beneficiaries from traditional fee-for-service programs to managed care, managed long term care systems, integrated health systems or similar care coordination models or that approval will ensure access to CHHA services in counties with less than 2 existing CHHAs.

Solicitation

The RFA for the establishment of new or expansion of existing CHHAs was released on January 25, 2012 with RFA applications due on March 9, 2012 and CON applications due on April 20, 2012.

Applicants were further permitted to submit questions to the Department to seek additional clarification regarding this process. The Department's answers were provided to all applicants prior to the submission deadline, to ensure consistent information was shared regarding the process.

Competitive Review

The applications were reviewed competitively by the Department and recommendations are being made separately for Downstate and Upstate counties. Downstate counties consist of the counties Kings, Queens, New York, Richmond, Bronx, Nassau, Suffolk, and Westchester. Upstate counties consist of the remaining counties in New York State not listed in the preceding Downstate counties. All applications were reviewed and ranked against other applicants for each county they proposed to serve. If applicants requested Upstate and Downstate counties, they will be presented to the Public Health and Health Planning Council with other applicants who have requested the same county or counties.

The CON determination of need was based on the applicant's response to the RFA. The applications were reviewed competitively on criteria that included, but were not limited to:

- Organizational capacity to successfully implement the MRT initiatives and potential of the proposal to support the goals of the Department in advancing MRT initiatives;
- Knowledge and experience in the provision of home health services;
- Demonstration of public need based on 709.1(a) as well as a description of community need and the health needs of the community supported by data;
- Potential of the approved application to produce efficiencies in the delivery of home care services to the home care population;
- Comprehensive and effective quality assurance plan which described how the agency will use data to implement an ongoing quality assessment and performance improvement program that leads to measurable and sustained improvement in performance.

From this review, applicants were ranked in each county proposed against other applicants for that county based on how well their proposal addressed each of the aforementioned criteria. The top ranked applications were then selected for recommendation for approval within each county. Ultimately, fourteen of eighty-seven applications were recommended for approval to expand or establish a new general purpose CHHA in one or more of the eight Downstate counties.

Queens Long Island Certified Home Health Agency, LLC's (QLI CHHA) proposal clearly describes and adequately addresses each of the review criteria used to make determinations for this competitive review. This proposal demonstrates the applicant has the organizational capacity to successfully implement the MRT initiatives and supports

the goals of the Department in advancing these initiatives. The applicant demonstrates public need based on 709.1(a) and provides a description of community need and the health needs of the community supported by data. The applicant has the requisite knowledge and experience in the provision of home health services and demonstrates the potential to produce efficiencies in the delivery of home care services. Finally, the application provides a description how the agency will use data to implement an ongoing quality assessment and performance improvement program that leads to measureable and sustained improvement in performance.

Recommendation

From a need perspective, approval is recommended.

Programmatic Analysis

Background

Queens Long Island Certified Home Health Agency, LLC, is an existing proprietary limited liability company requesting approval to become established as a CHHA under Article 36 of the Public Health Law, with approval to serve the downstate counties of Queens, Nassau, and Suffolk. The LLC will be related to the Flushing Manor family of providers, in that the members of Queens Long Island Certified Home Health Agency, LLC, are also LLC members, corporate stockholders, or partners in the Flushing Manor family of providers listed below. However, Queens Long Island Certified Home Health Agency, LLC, will have no corporate member, parent, or subsidiary entities in its organizational structure. All of the LLC members of Queens Long Island Certified Home Health Agency, LLC, are also LLC members, corporate stockholders, or partners of the following Flushing Manor family of providers:

- Flushing Manor Geriatric Center, Inc., d/b/a Dr. William O. Benenson Rehabilitation Pavilion (RHCF), Flushing Manor Care Center, Inc. (RHCF),
- FMNH LLC, d/b/a Flushing Manor Nursing Home (RHCF and LTHHCP),
- Manhattanville SBV, LLC, d/b/a Manhattanville Health Care Center (RHCF) – up through 2005 only,
- Flushing Manor Dialysis Center, LLC (D&TC Chronic Renal Dialysis Center),
- The Medford Hamlet Assisted Living Program (ALP),
- Medford Hamlet Home Care (LHCSA),
- Hudson Valley Home Health Care, LLC (PHHPC-approved, but not-yet-operational LHCSA, which will be a component of the proposed, but not-yet-approved Wallkill Hamlet Assisted Living Program).

The applicant proposes to operate the CHHA from an office located at 36-25 Parsons Boulevard, Flushing, New York 11354. The applicant proposes to provide the following health care services:

Nursing	Home Health Aide	Personal Care
Physical Therapy	Occupational Therapy	Respiratory Therapy
Speech Language Pathology	Audiology	Medical Social Services
Nutrition	Homemaker	Physician Services
Medical Supplies, Equipment, and Appliances		Housekeeper

The members and managers of Queens Long Island Certified Home Health Agency, LLC, and the percentage of ownership interest for each, are as follows:

- | | |
|--|---|
| Amy L. Benenson, Registered Architect – 25%
Building Coordinator / Facilities and Project Manager, Flushing Manor Nursing Home | Blanche S. Benenson, MD – 25%
Pediatric Physician, Montefiore Medical Center |
| Michael J. Benenson, LNHA – 25%
Manager, Filben Development, LLC (senior housing real estate development),
Board Chairman, CareNext Insurance, Inc. (health care professional liability insurance), | Sharon Benenson Sydney, LNHA – 25%
Vice President, SCT Wireless (electronics) |

Board Chairman, The SubAcute Network, LLC (health care purchasing and support services),
President, Benenson and Associates, Inc. (health care consulting)

All four LLC members are also managers of the LLC, and all are affiliated with each of the Flushing Manor family of providers listed above.

A search of the individuals named above revealed no matches on either the NYS OMIG Medicaid Disqualified Provider List, or the US DHHS Office of the Inspector General Exclusion List.

The Office of the Professions of the NYS Education Department, the NYSDOH Physician Profile, and the NYSDOH Office of Professional Medical Conduct all indicate no issues with the professional health care licenses, and other professional licenses, associated with this application. The NYSDOH Bureau of Professional Credentialing has indicated that the active nursing home administrator licenses associated with this application are in good standing with no history of disciplinary action by the Board of Examiners of Nursing Home Administrators.

A review of the following facilities was performed for the affiliated time periods listed:

- Flushing Manor Geriatric Center, Inc., d/b/a Dr. William O. Benenson Rehabilitation Pavilion (RHCF) – 2002 to present,
- Flushing Manor Care Center, Inc. (RHCF) – 2002 to present,
- FMNH LLC, d/b/a Flushing Manor Nursing Home (RHCF and LTHHCP) – 2008 to present,
- Manhattanville SBV, LLC, d/b/a Manhattanville Health Care Center (RHCF) – 2002 to 2005,
- Flushing Manor Dialysis Center, LLC (D&TC Chronic Renal Dialysis Center) – 2008 to present,
- The Medford Hamlet Assisted Living Program (ALP) – 2007 to present,
- Medford Hamlet Home Care (LHCSA) – 2008 to present

The Division of Residential Services has indicated the following:

Flushing Manor Geriatric Center, Inc., d/b/a Dr. William O. Benenson Rehabilitation Pavilion RHCF had a civil penalty of \$6,000 imposed pursuant to a stipulation and order dated August 28, 2007 for surveillance findings of June 22, 2006, and July 26, 2006. Violations were cited in 10 NYCRR 415.4(b) Resident Behavior and Facility Practices: Staff Treatment of Residents, 415.12(h)(2) Quality of Care: Accidents, and 415.12 Quality of Care.

Flushing Manor Care Center, Inc. RHCF had a civil penalty of \$1,000 imposed pursuant to a stipulation and order dated May 29, 2007 for surveillance findings of February 26, 2004. Violations were cited in 10 NYCRR 415.12(h)(2) Quality of Care: Accidents.

The information provided by the Division of Residential Services has indicated that the nursing homes reviewed have provided sufficient supervision to prevent harm to the health, safety and welfare of residents and to prevent recurrent code violations.

The information provided by the Division of Certification and Surveillance has indicated that the renal dialysis center has provided sufficient supervision to prevent harm to the health, safety and welfare of patients and to prevent recurrent code violations.

The information provided by the Division of Home and Community Based Services has indicated that the licensed home care services agency and long term home health care program have provided sufficient supervision to prevent harm to the health, safety and welfare of patients and to prevent recurrent code violations.

The information provided by the Division of Assisted Living has indicated that the assisted living program has provided sufficient supervision to prevent harm to the health, safety and welfare of patients and to prevent recurrent code violations.

A review of all personal qualifying information indicates there is nothing in the background of the principals listed above to adversely effect their positions in the proposed organizational structure. The applicant has the appropriate character and competence under Article 36 of the Public Health Law.

Recommendation

From a programmatic perspective, contingent approval is recommended.

Financial Analysis

Assignment of Lease

The applicant has submitted a draft assignment and assumption of the lease agreement between current landlord, 36-25 Parsons Realty, LLC, and Assignor to be assigned to Queens Long Island Certified Home Health Agency, LLC upon approval of the CON application by PHHPC for the premises located at 36-25, known as lobby 1 and 2, Parsons Boulevard in Queens, the terms of which are summarized below:

- Assignor:* FMNH, LLC
- Assignee:* Queens Long Island Certified Home Health Agency, LLC
- Rental:* Year one- \$30,240 annually (\$2,520/month) with a 5% increase per year.
- Terms:* Until December 31, 2012 with a 3 year renewal
- Provisions:* Insurance , Maintenance and utilities

The applicant has stated there will be no patient care services provided at this location and is for administrative purposes only.

The assignment and assumption of lease is a non-arm's length agreement, since the members of FMNH, LLC and Queens Long Island CHHA are the same. Letters of opinion from licensed commercial real estate brokers have been submitted indicating rent reasonableness.

Operating Budget

The applicant has submitted an incremental operating budget for the first and third years, in 2012 dollars, which is summarized below:

	<u>Year One</u>	<u>Year Three</u>
Revenues:		
Medicaid	\$ 570,499	\$1,677,204
Medicare	1,248,313	4,172,930
Commercial	<u>190,107</u>	<u>635,502</u>
Total Revenues	\$2,008,920	\$6,485,636
Expenses	<u>1,653,814</u>	<u>4,966,119</u>
Net Gain(Loss)	\$ 355,106	\$ 1,519,517

Utilization by payor source in the first and third years is as follows:

<u>Payor</u>	<u>Year One and Year Three</u>
Commercial Managed Care	10.0%
Medicare Fee-for-Service	54.0%
Medicaid Managed Care	34.0%
Charity Care	2.0%

Expense and utilization assumptions are based on the existing CHHA Program's historical experience. Revenues are reflective of current payment rates, as well as the recent implementation of the Medicaid Episodic Payment system, in which the lower of incremental cost to episodic payment was projected for year one and year three for a conservative approach.

Capability and Feasibility

There are no project costs associated with this application.

Working capital requirements estimated at \$827,687, appear reasonable based on two months of third year expenses and will be provided through proposed member's equity. Presented as BFA Attachment A is the net worth statements of proposed members, which shows sufficient equity.

The submitted budget indicates that the applicant will achieve a \$355,106 and \$1,519,517 incremental net revenue in the first and third years of operations, respectively. Revenue is based on current payment rates for Certified Home Health Agencies. DOH staff has sensitized the budgets to reflect the effect of the EPS payments.

Presented on BFA Attachment C is the sensitivity analysis. The budget appears reasonable.

Presented as BFA Attachment B is the Pro-forma Balance Sheet for Queens Long Island Certified Home Health Agency, LLC, which shows member's equity of \$827,687.

Based on the preceding, it appears that the applicant has demonstrated the financial capability to proceed in a financially feasible manner, and contingent approval is recommended.

Recommendation

From a financial perspective, contingent approval is recommended.

Attachments

BFA Attachment A	Proposed Members Net Worth Statements
BFA Attachment B	Pro-forma-Balance Sheet
BFA Attachment C	Sensitivity Analysis for Episodic Payment System

QUEENS LONG ISLAND
CERTIFIED HOME HEALTH AGENCY, LLC

Establish a New CHHA

PRO FORMA BALANCE SHEET

ASSETS

Working Capital* \$827,687

TOTAL ASSETS \$827,687

LIABILITIES AND MEMBER EQUITY

LIABILITIES

Working Capital Loan \$0

TOTAL LIABILITIES \$0

MEMBER EQUITY \$827,687

TOTAL LIABILITIES AND
MEMBER EQUITY \$827,687

*Working capital will be provided by the members of
Queens Long Island CHHA.

BFA AttachmentC

Queens Long Island CHHA, LLC

<u>Incremental Budget</u>			<u>Revenues</u>
<u>YEAR ONE</u>			
	<u>Rate</u>	<u>Cases</u>	
Episodic Payment	\$4,010.84	178.5	\$715,935
Ceilings-Cost	\$3,196.07	178.5	<u>\$570,498</u>
Excess Revenues			\$145,436
<u>YEAR THREE</u>			
	<u>Rate</u>	<u>Cases</u>	
Episodic Payment	\$4,010.84	596.6	\$2,392,867
Ceilings-Cost	\$2,811.27	596.6	<u>\$1,677,204</u>
Excess Revenues			\$715,663

Note:

- (1) Medicaid Episodic Payment Rate is higher than Medicare.
- (2) Cases are based on the 2010 Cost Report.
- (3) Medicaid Cost based on ceiling payments can be crossed check with Medicaid utilization times total incremental costs.