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August 31, 2012

VIA HAND DELIVERY

Mr. Craig Smith, Chief
NC Division of Health Service Regulation
Certificate of Need Section
Edgerton Building
809 Ruggles Drive
Raleigh, NC 27603

Re: ***Mecklenburg County Home Health Agency application***

Dear Mr. Smith:

On behalf of our client Amedysis Home Health/Emerald Care, Inc., enclosed please find and original and one copy of Emerald Care's Competitive Comments in regard to the above matter.

If you will kindly file-stamp the copy and return to our courier, it would be greatly appreciated.

Thank you for your consideration.

Sincerely,

WYRICK ROBBINS YATES & PONTON LLP

Sarah M. Johnson

SMJ/bab

Enclosure

Project # F-10008-12
Emerald Care, Inc. Comments on Competing CON Applications for Mecklenburg County, NC

The competing applicants in this CON batching cycle are identified in the table below and are associated with a shortened name that will be used throughout these comments of opposition:

Table 1
Mecklenburg 2012 CON Applicants

Project #	Legal Name	Short Name
F-10001-12	Vizion One, Inc.	Vizion
F-10003-12	Maxim Healthcare Services, Inc.	Maxim
F-10004-12	Carolinas Medical Center at Home, LLC	Carolinas
F-10005-12	HKZ Group LLC	HKZ
F-10006-12	Roberson Herring Enterprises, LLC	AssistedCare
F-10007-12	Well Care Home Health, Inc.	Well Care
F-10008-12	Emerald Care, Inc.	Emerald Care
F-10010-12	Continuum II Home Care and Hospice, Inc.	Continuum
F-10011-12	United Home Care, Inc.	UniHealth
F-10012-12	J and D Healthcare Services, Inc.	J&D

Emerald Care's comments are structured as follows:

1. Applicants that are non-conforming to statutory review criteria;
2. Comparative review of CON applications by Section
3. Summary Comparison of Competing Applicants

1. APPLICANTS THAT ARE NON-CONFORMING WITH STATUTORY REVIEW CRITERIA

J and D Healthcare Services Inc.

This CON applicant omitted several areas of data, including a prescribed CON form, and presented other unrealistic data in several instances. More specifically, the following are grounds for finding the application non-confirming to applicable statutory review criteria:

a. No Form C, Operating Statement was filed
b. Only 92 patients are proposed as being served in Year 2
c. No Average Cost per Visit figures were supplied in Section X
d. Funding letter is signed by owner and not verified by independent documentation
e. Insufficient capital costs allocated -- $6,000 (Section VIII)
f. Unrealistic initial operating period: stated as one month (Section IX)
g. Section XII timetable unrealistic: 1) CON issuance date is same day as CON decision; 2) Medicare/Medicaid certification of home health agency is within one month of CON issuance.

Vizion One, Inc.

This CON applicant also had serious omissions of data that warrant a finding of non-conformity with applicable statutory review criteria:

a. Did not provide Table VII.2 data for Year 2
b. Table VII.2 for Year 1 did not include Average Salary per FTE by Discipline
c. No letters of support provided by local (NC or SC) physicians
d. Failure to address quality of care through Home Health Compare or HHCAHPS

2. COMPARATIVE REVIEW OF CON APPLICATIONS BY SECTION

SECTION II: SCOPE OF SERVICES/QUALITY OF CARE

The approved services offered by home health agencies are determined by CMS. However, the manner in which services are delivered and the ways in which quality of care are managed can vary significantly between agencies. In this section, Emerald Care compares some of the means that are used by the applicants to manage and improve quality of care. Emerald Care has deliberately not included a discussion of Quality Improvement Programs or Quality Assurance, since these differ little between applicants. Their existence is assumed. But we have looked at accreditation since one applicant fails to address this issue.

Use of Disease Management Protocols/Clinical Pathways

A key method of assuring that the care provided to clients, apart from licensure, accreditation and quality rating organizations, is to provide the process management and organization tools that support quality. One of these is the use of disease state management protocols, or clinical pathways, by clinical providers.

Clinical care pathways or disease state management programs (DSM) provide specific programs for home health clinicians to manage common as well as difficult referrals (Table 2). These DSM programs improve outcomes, speed recovery, and allow an appropriate mix of clinicians to provide timely care interventions. This approach is very different from the typical case management or care management supervised by nursing staff. While it is desirable for direct care nurses or other appropriate clinicians to oversee both patient treatments and progress, the DSM programs are designed by a specialized and highly skilled clinical team using evidence-based clinical care programs which are too detailed to be addressed by every home health parent office.

Emerald Care has examined each of the applications for this highly desirable approach and finds that only one provider (UniHealth) other than Emerald Care uses this cutting edge approach to management of a variety of patient problems.

Two applicants (Carolinas and Well Care) identify several DSMs, and four applicants (Maxim, HKZ, Continuum, and Assisted Care) identify "case management" or "related disease

management" but provide no documentation about how this implemented. The following table provides a comparative analysis of the applications on this factor.

Table 2
Synopsis of Disease State Management/Clinical Pathway Comparison

Applicant	CON #	Commentary
Emerald Care	F-10008	13 DSM programs; Balance; joint recovery; wound care; cardiac disease; diabetes; behavioral health; COPD; Chronic Kidney Disease; Pain; Rehab Therapy; Surgical Recovery; Stroke; Care Transitions
Maxim	F-10003	Case management
Carolinas	F-10004	Identifies Balance, Joint, Nutrition programs; in process of developing Heart Failure & COPD programs
HKZ	F-10005	Case management
AssistedCare	F-10006	P13. IDs "best practices for 8 problems but provides no evidence of protocols or care paths
Well Care	F-10007	Lists 3 DM programs but provides no evidence of protocols or care paths
Continuum	F-10010	Disease management for caregivers, "related disease management" but no clinical path or documented DSM protocols
UniHealth	F-10011	Provides 10 clinical pathways in appendix 20 & 26: Joint: pain; falls; CHF; Stroke; Cardiac; COPD; Diabetes; hypertension; wound care

The following Table 3 more specifically compares 8 applicants (two ignored due to disqualification over larger issues) and the systematic care-based protocols which they currently make available for client treatment. Use of such protocols can improve patient outcomes, reduce the number of visits needed, reduce hospital readmissions and provide the basis for a sustainable long-term personal management of care.

Table 3
Systematic Special Services Proposed beyond the 6 clinical services:
Disease State Management, Clinical Pathway, other evidence-based Protocol for care

	Emerald Care	Maxim	Carolinas	HKZ	Assisted Care	Well Care	Continuum	UniHealth
	F-10008	F-10003	F-10004	F-10005	F-10006	F-10007	F-100010	F-10011
Balance	Yes		Yes			Yes		Yes
Joint Care	Yes		Yes					Yes
Wound Care	Yes				Yes		Yes	Yes
Cardiac Disease	Yes					Yes		Yes
Diabetes	Yes							Yes
Behavioral Health	Yes	Yes			Yes	Yes	Yes	Yes
COPD	Yes		Yes					Yes
Kidney Disease	Yes							
Pain Mgmt	Yes		Yes			Yes		Yes
Rehab Therapy	Yes					Yes		
Surgical Recovery	Yes							
Stroke Recovery	Yes							Yes
Chronic Care Mgmt	Yes	Yes	Yes					Yes

Other quality indicators are addressed in Table 4, below. Only four of the applicants have addressed the substantial issues of Community-based Care Transitions (or "Care Transitions" as abbreviated here) as authorized under Section 3026 of the Affordable Care Act. The goals of this section are to improve transitions of beneficiaries from the inpatient hospital setting to other care settings and to improve the quality of care while reducing readmissions and providing measurable savings to Medicare. These are mentioned by Emerald Care, Carolinas, HKZ and UniHealth. Only two applicants participate in or propose to participate in CAP programs; Emerald Care and AssistedCare. Two applicants have been part of the Medicare Pay for Performance program, and both received performance pay: Emerald Care and UniHealth. Only two applicants are recognized with the Home Care Elite award by OCS; Emerald Care and AssistedCare. Only three applicants have documented their policies and procedures manuals: Emerald Care, Carolinas, and UniHealth.

One applicant does not propose or discuss participation in accreditation: HKZ.

In comparison, in Table 4 below, Emerald Care provides evidence for all of the six following quality indicators, UniHealth provides evidence of 4; Assisted Care and Carolinas provide evidence of 3; and, Maxim, HKZ, Well Care, and Continuum provide evidence of one indicator.

Table 4
Other Quality Indicators

	Emerald Care	Maxim	Carolinas	HKZ	Assisted Care	Well Care	Continuum	UniHealth
	F-10008	F-10003	F-10004	F-10005	F-10006	F-10007	F-100010	F-10011
Care Transitions	Yes		Yes	Yes				Yes
CAP Participant	Yes				Yes			
Accredited	Yes	Yes	Yes		Yes	Yes	Yes	Yes
Pay for Performance	Yes							Yes
Home Care Elite	Yes				Yes			
Manual Documentation	Yes		Yes					Yes
Total	6	1	3	1	3	1	1	4

Use of Home Health Compare and Home Health CAHPS Data

While every Medicare approved home health agency must participate in providing OASIS data and patient satisfaction data to CMS, of the 10 applicants, only 3 reference their serious commitment to the use of CMS data to their ongoing self-assessments of their care (Table 5). Emerald Care demonstrates its Home Health Compare scores as compared to the US and North Carolina averages. UniHealth references its use of Home Health Compare and HH-CAHPS in several ways. AssistedCare uses Home Health Compare indirectly through the proprietary firm OCS. HH-CAHPS is in the process of moving to an ongoing quarterly report of patient satisfaction for home health agencies. Use of this data is an important tool for both HHA and the public to monitor the patient experience with home health care. Failure to recognize the availability of these tools suggests a lack of serious intent to maintain transparency about care.

For this reason, the public commitment of participation of Emerald Care is a substantial indicator of commitment to maintaining quality of care. The failure of Maxim, Carolinas, HKZ, AssistedCare, Well Care and Continuum to directly address their participation in both of these programs is an important issue for the CON Section to consider.

Table 5
HH Compare & Patient Satisfaction HHCAHPS

	Emerald Care	Maxim	Carolinas	HKZ	Assisted Care	Well Care	Continuum	UniHealth
	F-10008	F-10003	F-10004	F-10005	F-10006	F-10007	F-100010	F-10011
HH Compare	Yes				Yes	OASIS		Yes
HH-CAHPS	Yes	Yes				Fazzi	Yes	Yes

In summary, only two applicants, Emerald Care and UniHealth, provide substantial evidence of their commitment to a variety of quality indicators.

The following applicants will not improve the standard of home health care in Mecklenburg County and should thus be found non-conforming by the CON Section:

Vizion,
Carolinas,
HKZ,
J&D Healthcare.

SECTION III: NEED FOR SERVICES:

Applicants have taken three approaches. One group relies entirely or primarily upon the 2012 SMFP to identify need for an additional home health agency. The second approach is to examine the specific factors or age cohorts and determine need on a cohort level. The third approach is to show population growth and impute an increasing need from this.

Only Emerald Care, of the 10 applicants, has considered the linear regression of use rates trends by age group and has used this as the basis for confirming potential patient volumes in Mecklenburg County for future years. Use of regression trend lines is a standard technique that allows forecasting the future by Ordinary Least Squares regression. The other applicants have relied solely upon the forecasts of the 2012 SMFP or have simply observed that the population is both growing and aging and have used this crude approximation to validate their proposed service. With one exception, those applicants who have examined unmet need concur that the need is greater than the 651 unserved patients identified by the 2012 SMFP. Only two applicants (Emerald Care and Carolinas) have examined the inaccuracies in the 2009 data used by the 2012 SMFP and have concurred that even with this inaccurate data the 2012 SMFP would still show a need for two additional home health agencies.

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Carolinas Medical Center (Healthy @ Home)
Carolinas argues that given the number of home health agencies serving Mecklenburg County there is no need for new home health agencies (page 80, Carolinas application F-10004), but rather that there is a need for Carolinas to have an addition branch office in Mecklenburg County. An examination of their argument shows that *rather than improving access to residents of Mecklenburg County* the proposed Carolinas offices *would improve access of Carolinas to adjacent counties.*

Since Carolinas has not been able to satisfy need in Mecklenburg even though it is the largest provider of HH care, it is not evident how the granting of an additional office to Carolinas would improve quality based completion or increase access to DSM based home health care. According to the 2012 SMFP, Carolinas serves 28.1% of the Mecklenburg County patients, or 4,174 patients (Table 6, taken from page 33, Table K in the Emerald Care CON application). The next largest provider is Advanced Home Care serving 2,823 persons, or 19% of patients. In all, the five largest home health agencies, each with more than 1,300 patients, serve 84.1% of Mecklenburg patients. There are another 4 HHA based in Mecklenburg County, 3 of which who serve more than the 275 minimum number of patients for a total of 1,753 persons served, or 11.8% of the 2010 market.

Table 6
Mecklenburg County Patients Served by Home Health Agency, 2010

			2010	2010
	ID #	Base County	Patients	% of Total
Healthy@Home-Carolinas Medical Center	HC1038	Mecklenburg	4,174	28.1%
Advanced Home Care	HC0171	Mecklenburg	2,823	19.0%
Gentiva Health Services	HC0787	Mecklenburg	2,362	15.9%
Total Care Home Health	HC0097	Mecklenburg	1,772	11.9%
Interim HealthCare of the Triad	HC1901	Mecklenburg	1,366	9.2%
Total Care Home Health	HC0138	Mecklenburg	851	5.7%
Home Health Professionals	HC0355	Mecklenburg	557	3.7%
Liberty Home Care and Hospice	HC3694	Mecklenburg	345	2.3%
Emerald Care	HC0353	Gaston	201	1.4%
Advanced Home Care	HC0281	Cabarrus	161	1.1%
Home Health Professionals	HC0356	Gaston	68	0.5%
Lake Norman Regional Medical Center-Home Care	HC1325	Iredell	66	0.4%
Cabarrus Health Alliance/Home Health-Bayada	HC0486	Cabarrus	28	0.2%
Hospice and Palliative Care Charlotte	HC0369	Mecklenburg	24	0.2%
Union Regional Home Care	HC1238	Union	20	0.1%
Personal Home Care of NC, LLC	HC3966	Union	17	0.1%
Healthy@Home-Cleveland	HC0042	Cleveland	9	0.1%
Healthy@Home-Carolinas Medical Center Lincoln	HC0135	Lincoln	8	0.1%
Advanced Home Care	HC0906	Gaston	7	0.0%
Advanced Home Care	HC0399	Rowan	4	0.0%
Liberty Home Care	HC0196	New	3	0.0%
Advanced Home Care	HC0297	Guilford	2	0.0%
Home Care of the Carolinas	HC0308	Stanly	2	0.0%
Iredell Home Health	HC0515	Iredell	2	0.0%
Advanced Home Care	HC0499	Forsyth	2	0.0%
Liberty Home Care	HC0002	Moore	2	0.0%
Liberty Home Care	HC0274	Cumberland	1	0.0%
Liberty Home Care	HC2562	Wake	1	0.0%

			2010	2010
	ID #	Base County	Patients	% of Total
Total Patients Served by Mecklenburg Based HHA			*14,274*	95.9%
Total Patients Served by Non-Mecklenburg Based			*604*	4.1%
Total (all patients)			14,878	100.0%

Source: 2012 SMFP, Chapter 12, Table 12A: Home Health Data by County of Patient Origin - 2010 Data - Agencies or Offices Serving Residents of Counties by Age

An additional 20 home health agencies serve the remaining 4.1% of patients (604 persons), or an average of 30 patients each. Even though the home health market in Mecklenburg County appears highly competitive with 28 home health agencies, the fact that only 9 HHAs serve 96% of the market and only 5 serve 84% of the market is evidence that the current market place is highly concentrated. Allowing the expansion of Carolinas, which already has an office in Mecklenburg County, would only further concentrate delivery of home health care among a small group of current providers and, as Carolinas says, would concentrate a variety of health care services into a single parent corporation. This anti-competitive approach to home health care does not serve the aggregate interests of residents of Mecklenburg County.

While the reliance of applicants upon the estimated need in the 2012 SMFP is not unreasonable, and all applicants depend upon this analysis to support an application -- failure to further consider the dynamics underlying need for home health care in Mecklenburg County belies an incautious approach to establishing a new agency: this is the Field of Dreams approach- "Build it and they will come." Failure to establish a solid and reasonable basis for a new business beyond the stated need in the 2012 SMFP renders an application suspect, and the CON Section should closely consider whether such applicants are conforming with Criterion 3.

Table 7
Need For Service

	Emerald Care	**Maxim**	**Carolinas**	**HKZ**	**Assisted Care**	**Well Care**	**Continuum**	**UniHealth**
	F-10008	**F-10003**	**F-10004**	**F-10005**	**F-10006**	**F-10007**	**F-100010**	**F-10011**
Method used to estimate or confirm need	Estimates need Uses both linear regression and weighted average methods to forecast Uses NCOSBM popn forecasts compares COG use rates	Confirms need Popn growth rates; Popn aging use rate change rates by cohort; Applies mkt share to projected patients	Estimates need Historic use trends. Change rates by cohort	Confirms need Popn growth in both counties. *HH Use rates increase in both counties	Confirms need COG rate comparison; Below average use rates. Popn growth; Aging; Behavior health need. Median agency size 1,394	Confirms need Popn growth Popn aging	Estimates need Popn estimates	Estimates need Pop growth Aging Diversity
Alternative estimate of Unmet Need	Unmet need of between 2,514 and 3,575 persons in 2013	x	658 based on recalculation of SFMP with corrected data	x	x	x	665 unserved persons 2015	1,596 unserved persons in FY2016.

	Emerald Care	Maxim	Carolinas	HKZ	Assisted Care	Well Care	Continuum	UniHealth
	F-10008	F-10003	F-10004	F-10005	F-10006	F-10007	F-100010	F-10011
Examines Use Rates	Uses linear regression and weighted average methods to forecast	Use rate % change by cohort	*Historic use trends. *% change by cohort	2008-2011 % change basis		uses % change based on SFMP	HH Use rates % changes *Pats Served % change	*% change of popn.and other factors *.

Because Carolinas clearly states that it does not agree that there is a need for an additional home health agency and because the intent of Carolinas is to simply use this CON opportunity to add an office in a county where it already has an existing office *the Carolinas application should be found to be non-conforming with Criterion 3 since it does not believe that it will fill unmet need. Its sole purpose appears to be to provide services to its currently existing expanded service area not to increase access to residents of Mecklenburg County. Obviously, as the largest existing single provider in Mecklenburg County, Carolinas currently has the opportunity and capacity to expand its Mecklenburg patient service should it choose to do so. The Carolinas proposal only serves to limit competition.* An outcome of limiting competition, as Carolinas proposes, is to reduce incentives for Carolinas to increase the quality of service to the level which Emerald Care is already able to provide.

We also want to note that the Carolina's projected utilization Exhibit 20 (p.69) is misleadingly described as projecting patients in "North Mecklenburg County" and in "South Mecklenburg County". These numbers tie to their Exhibit 8 (p.54) for their North Zone and South Zone which include zips from Gaston, Union, Rowan, Cabarrus, and Stanley County. Therefore it is not possible to discern which part of the 971 incremental patients they claim are actually expected to be from Mecklenburg County, the only county in need of an additional home health agency. To the contrary, Emerald Care is the only applicant to examine the dynamics of both use rate trends and population growth by age cohort using linear trend and weighted average analysis to validate future unmet need in Mecklenburg County. This approach is not only conforming with Criterion 3, but it is also the most comparatively superior applicant on these factors.

Several applicants rely solely upon confirming need using change rates such as the Cumulative Annual Growth Rate (CAGR) or upon Average Annual Growth Rates (AAGR -- or AARC: average annual rate of change), which are measures of percent change. These are performed for a period of 3 to 5 years to forecast future behavior. Because these rely upon beginning and end points without accounting for year to year fluctuations, or use year to year changes without comparison to overall trends, they are less reliable than use of linear trend estimates which examine the aggregate effect of year to year changes by calculating a trend line that minimized the distance between the actual data points and the trend line for all data points. Only Emerald Care uses this approach.

SECTION 4: UTILIZATION

Table 8
Patient Utilization and Cost Profiles, Year 2

	Emerald Care	Maxim	Carolinas	HKZ	Assisted Care	Well Care	Continuum	UniHealth
Patients	476	503	2,993	395	352	591	492	548
Visits	12,572	9,500	47,780	8,578	6,157	11,268	8,556	11,257
Visits/Pt	26.4	18.9	16.0	21.7	17.5	19.1	17.4	21.0
Total Expenses	1,658,683	1,175,704	6,793,650	1,196,680	791,567	1,494,904	1,299,562	1,711,184
Tot-Exp per Visit	$131.93	$123.76	$142.19	$139.51	$128.56	$132.67	$151.89	$148.45

The broader context of this comparison of utilization patterns is that Emerald Care provides more visits per patient than any other provider. This utilization is supported by Emerald Care's evidence-based, clinical best practice, disease management protocols, by its superior quality outcomes and reports. Emerald Care devotes a high level of clinical resources to its patients to achieve the best outcomes, yet still remains among the most cost-effective applicants.

Table 9
Distribution of Visits and Average Costs by Discipline, Year 2

	Emerald Care	Maxim	Carolinas	HKZ	Assisted Care	Well Care	Continuum	UniHealth
Total Visits	12,572	9,500	47,780	8,578	6,157	11,268	8,556	11,257
Nursing	41%	46%	51%	52%	57%	59%	46%	47%
PT	41%	36%	33%	32%	27%	25%	36%	33%
ST	2%	2%	1%	2%	3%	6%	3%	1%
OT	6%	8%	7%	6%	4%	2%	8%	10%
MSW	4%	1%	2%	0%	1%	1%	1%	0%
HHA	5%	6%	6%	7%	7%	7%	6%	8%
Weighted Avg Cost per visit*	$87.64	$82.51	$104.35	$85.67	$138.81	$134.91	$151.89	$90.52

*calculated from Section X Cost per Visit by discipline table and Table IV.2 distribution of visits by discipline

The preceding table is comprised of data taken from Table IV.2 and Section X, first table that examines the direct cost per visit by clinical discipline. The purposes of this table are to: 1) generally compare the mix of visits by clinical discipline across competing applicants; and, 2) compare the calculated direct costs per visit using the data provided by the applicants in these two tables.

The mix of visits among the clinical disciplines can vary among providers for a variety of reasons: treatment protocol differences, types of specialized services provided, mix of patients received, among others. Emerald Care has nearly equivalent usage of Nursing and Physical Therapy; other providers are weighted more toward nursing care. The main difference for Emerald Care is that it devotes more visits to Social Workers for case management purposes that deal with the particular living circumstances of the patient, the community support needs that the patient will need for ongoing health care, for follow-up with family, and/or the proper documentation to obtain third party coverage for payment of services rendered. By doing so, Emerald Care is able to address underlying environmental causes of acute exacerbations for its

patients, which for some patients means reduced emergency room visits or hospital readmissions. Emerald Care has 4% of its visits for social workers, while the typical applicant is proposing 1%, making Emerald Care the most comparatively superior applicant on this factor.

SECTION 5: COORDINATION OF CARE

There are 7 dimensions to coordination of care in the CON application. The most significant of these are letters of support from community organizations and physicians as summarized in Table 10 below. Only two applicants receive substantial support for their applications: Emerald Care and Carolinas. The lowest levels of professional support were received by Maxim, HKZ, and Continuum. Marginal support was obtained by Maxim, AssistedCare, and Well Care.

Table 10
Letters of Support Documentation

	Emerald Care	Maxim	Carolinas	HKZ	Assisted Care	Well Care	Continuum	UniHealth
	F-10008	F-10003	F-10004	F-10005	F-10006	F-10007	F-100010	F-10011
Letters of Support	50 LOS	8 LOS	111 LOS	1 LOS	14 LOS	19 LOS	No LOS	24 LOS

It is not surprising that Carolinas was able to obtain the most support letters given its presence as the single-largest provider of home health services in Mecklenburg County. Given that Emerald Care would be a new provider of home health services in Mecklenburg County, the 50 letters in support of Emerald Care's application are a significant factor that should be considered by the CON Section in this review.

In the following Table 11, only Emerald Care and UniHealth appear to have "touched all the bases" in their work to inform the professional community and to seek support. Other applicants did not demonstrate significant community support for their projects and are thus comparatively inferior on this important factor.

Table 11
Community Support Activity

	Emerald Care	Maxim	Carolinas	HKZ	Assisted Care	Well Care	Continuum	UniHealth
	F-10008	F-10003	F-10004	F-10005	F-10006	F-10007	F-100010	F-10011
1.a Training programs	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
1.b. school access	Yes	Yes	Yes	Yes		Yes	Yes	Yes
1.c. document efforts	Yes	Yes		Yes	Yes	Yes		Yes
2.a. doc efforts for MD relations	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
2.b. MD LOS	Yes	Yes	Yes	Yes	Yes	Yes		Yes

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	Emerald Care	Maxim	Carolinas	HKZ	Assisted Care	Well Care	Continuum	UniHealth
	F-10008	F-10003	F-10004	F-10005	F-10006	F-10007	F-100010	F-10011
3.a. efforts for relation to other HC providers	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
3.b. any services by other institutions	NA	NA		NA	NA	NA	NA	NA
4. other specific support	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
5.a. involve community in planning	Yes + meeting + public newspaper announce ment			Yes	Yes	Yes	Yes	Yes + meeting
5.b. providers visited	Yes	unclear	Yes	Yes	Yes	Yes	--	Yes
6. work with county health dept	Yes		unclear				Yes	Yes
7.a. foster competition	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Total	11	8	8	10	9	10	8	11

Of the 8 applicants under review, only two have clearly complied with the intentions of Section 5 for coordination of care with healthcare providers: Emerald Care and Carolinas via their documented letters of support from physicians and other health care providers.

For general compliance with Section 5, only Emerald Care and UniHealth have addressed all 11 of the relevant criteria. However, only Emerald Care held public hearings that were announced in the newspaper and involved a variety of people to solicit community input.

SECTION 7: STAFFING

Table 12
Staffing Complement, Year 2

	Emerald Care	Maxim	Carolinas	HKZ	Assisted Care	Well Care	Continuum	UniHealth
Patients	476	503	2,993	395	352	591	492	548
Visits	12,572	9,500	47,780	8,578	6,157	11,268	8,556	11,257
Visits/Pt	26.4	18.9	16.0	21.7	17.5	19.1	17.4	21.0
Clinical FTEs	10.60	8.05	45.20	8.41	4.70	8.68	7.97	10.01
Visits per Clinical FTE	1,186	1,180	1,057	1,020	1,310	1,298	1,074	1,125
Admin. FTEs	6.00	2.38	21.50	2.50	2.00	3.50	5.53	6.00

Table 12 examines the proposed levels of clinical care (patient visits) and staffing (FTEs) among the competing applicants. Following evidence-based, clinical best practices, Emerald Care projects the highest number of visits per patient at 26.4, based on its historical data through its use of a broad array of disease management protocols. Competing CON applicants provide as low as 16.0 visits per patient.

Emerald Care uses a reasonable set of assumptions about clinical staff productivity. The projected level of 1,186 visits per FTE per year by Emerald Care fits comfortably within the range of 1,020 – 1,310 of the viable competing applicants. Emerald Care makes reasonable assumptions about its staffing costs and does not propose artificially high levels of productivity to reduce the number of FTEs and, therefore, staffing costs.

Emerald Care adequately staffs the necessary administrative functions by proposing a total of 6.0 FTEs for non-clinical care. While Emerald Care benefits from having certain clerical functions and dietician consultation costs covered by the parent office in Gastonia, it is difficult to envision how some competitors can adequately cover the necessary management and business development functions with 2.0 to 4.0 FTEs to feasibly implement their proposed projects. Only Emerald Care and Carolinas Healthy @ Home are existing home health agencies. All other applicants are new home health agency applicants. The full complement of administrative and clinical personnel must be reflected in the pro forma, even if an existing business could provide some support services for a certified home health agency.

Note: for these comparisons, contract personnel were included in total clinical FTEs.

Table 13
Average Salary per FTE by Discipline, Year 2

Comparison of Emerald Care to the High and Low Salary Applicants					
	Emerald Care	HIGH		LOW	
Nursing	$ 66,182	$ 77,798	UniHealth	$ 56,847	HKZ
Physical Therapy	75,559	99,554	UniHealth	70,067	HKZ
Speech Therapy	112,828	112,828	Emerald Care	54,286	HKZ
Occupational Therapy	83,785	99,972	UniHealth	51,000	HKZ
Medical Social Work	86,822	86,822	Emerald Care	21,134	Carolinas
Home Health Aide	32,493	33,312	Maxim	21,679	Continuum

Emerald Care realistically assesses its clinical personnel costs in the construction of its pro forma. For the four disciplines which have the largest proportion of visits (Nursing, PT, OT, HHA), Emerald Care's salaries are above the midpoint of the salary ranges of competing applicants. For two disciplines having the lowest proportion of visits (ST, MSW), Emerald Care proposes the highest salary per FTE. In this analysis, the more scrutinized applicants should be those who consistently propose the lowest salaries. **Emerald Care finds that quality of care improves with well-qualified employees who are properly compensated. However, HKZ consistently underestimates its labor costs.**

Notes: The preceding calculations use total Salary figures by discipline from "FORM C: Operating Statement" for the proposed project and divide those dollar amounts by the Year 2 FTEs declared on Table VII.2 by discipline. Vizion and J & D were not included in the comparisons because they either did not provide such data or they are considered non-viable options.

Table 14
Staffing Data and Cost-Savings: Table VII.2

	Emerald Care	Maxim	Carolinas	HKZ	Assisted Care	Well Care	Continuum	UniHealth
Provided Salary Data	Yes	Yes	NO	PARTIAL	Yes	Yes	Yes	Yes
Use LPNs	Yes	No	?	Yes	Yes	Yes	Yes	No
Use LPTA	Yes	No	?	No	Yes	No	Yes	No

The CON application of Carolinas is deficient of complete information. This applicant did not provide Average Salary data in Table VII.2; therefore, it is not possible to determine whether its pro forma is consistent with its stated levels of salaries and FTEs. HKZ did not supply average salary data for Speech Therapy, Occupational Therapy, and Medical Social Work even though it declared some levels of employed FTEs for these disciplines. It is thus impossible to determine whether or not HKZ's pro forma is consistent with its stated levels of FTEs and salaries. To the contrary, Emerald Care has supplied the full complement of data that was required by the CON application form.

Emerald Care employs Licensed Professional Nurses and Licensed Physical Therapy Assistants. This enables Emerald Care to deliver appropriate levels of professional care to its patients while being careful to control and manage healthcare costs. Many of the other competing applicants do not utilize these personnel, efficiency or cost-controlling measures. In the case of Carolinas, no information was provided.

SECTION 8: CAPITAL COSTS
SECTION 9: START-UP AND INITIAL OPERATING EXPENSES

Table 15
Financial Feasibility and Ability to Implement

	Emerald Care	Maxim	Carolinas	HKZ	Assisted Care	Well Care	Continuum	UniHealth
Capital Costs	$111,713	$65,000	$450,000	$62,400	$31,874	$110,000	$92,270	$196,196
Start-Up Expenses	$102,283	$40,000	Blank	$122,137	$65,966	$70,000	$42,826	$171,554
Initial Op. Period	3m	6m	blank	9m	6m	6m	12m	19m
$ Required in IOP	$64,638	$225,000	$600,000	$31,455	$341,221	$480,000	$247,565	$539,614

With regard to Capital Costs, Emerald Care proposed the necessary IT/communications infrastructure and moveable equipment and furnishings to implement the proposed project in a cost-effective manner.

At the low end is Maxim. Maxim proposes to use an existing site from where non-certified home care-related services are administered. This is also the situation with Continuum. However, Continuum proposes to add $91,000 of moveable equipment and furnishings, while Maxim only allocates $25,000 to these areas. Similarly, if one examines the detail provided by HKZ, this applicant only devotes $19,000 toward moveable equipment and furnishings to a site that is not presently used by this new home health agency applicant. Assisted Care, similarly, proposes a very low capital cost of $31,874 for furnishings and moveable equipment to establish a new home health agency site.

These three agencies – Maxim, HKZ, and Assisted Care – propose to fund an IT/communication infrastructure, moveable equipment and furnishings at a level that cannot begin to match the technology and equipment necessary to provide the level of care proposed by Emerald Care.

At the other end of the spectrum is Carolinas Healthy @ Home where $450,000 in capital costs are proposed along with another $600,000 in operating expense – totaling over $1,050,000 in funds to start up a home health agency. When compared to Emerald Care's total figure of $278,000 to establish a full-service home health provider that provides care at the highest level of outcomes quality – the Carolinas applicant is a high-cost provider, and unnecessarily so.

The Initial Operating Period (IOP) until the proposed project contributes a positive cash flow ranges from 3 months (Emerald Care) to 19 months (UniHealth). It should be noted that Carolinas did not even provide such a figure. Emerald Care is best positioned to quickly turn a positive cash flow due to the fact that this is an expansion of a second office for an existing home health agency in another county that is Medicare/Medicaid certified and fully licensed and accredited.

If awarded the CON, Emerald Care will be able to implement the proposed project quickly and also be able to take patients from the full complement of payers. By contrast, UniHealth must obtain Medicaid and Medicare certification, as well as licensure. UniHealth also shows that it is a higher cost capitalization alternative and (as we shall later show in Table 17) a high-cost Operating pro forma. It must hit projections precisely to turn a positive cash flow in the 19th month. Therefore, Emerald Care is the best applicant with the ability to start up quickly and with reasonable start-up costs.

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SECTION 10: COSTS AND REVENUES

Table 16
Patient Utilization and Comparative Cost Profiles, Year 2

	Emerald Care	Maxim	Carolinas	HKZ	Assisted Care	Well Care	Continuum	UniHealth
Patients	476	503	2,993	395	352	591	492	548
Visits	12,572	9,500	47,780	8,578	6,157	11,268	8,556	11,257
Visits/Pt	26.4	18.9	16.0	21.7	17.5	19.1	17.4	21.0
Total Expenses	1,658,683	1,175,704	6,793,650	1,196,680	791,567	1,494,904	1,299,562	1,711,184
Tot-Exp per Visit	$131.93	$123.76	$142.19	$139.51	$128.56	$132.67	$151.89	$148.45
Weighted Avg Cost per visit*	$87.64	$82.51	$104.35	$85.67	$138.81	$134.91	$151.89	$90.52

*calculated from Section X Cost per Visit by discipline table and Table IV.2 distribution of visits by discipline

The broader context of this cost data is that, as a result of following evidence-based clinical best practices, Emerald Care provides more visits per patient than any other provider. This utilization is supported by its clinically-appropriate disease management protocols and by its superior quality outcomes and reports. Emerald Care devotes a high level of clinical resources to its patients to achieve the best outcomes. When examining its total costs per visit, Emerald Care is about average when compared to the competing applicants. However, as the table shows, Emerald Care is among the most cost-effective applicants on a direct cost per visit basis while proposing the most number of visits per patient.

Table 16 portrays two measures of Expense or Cost per Visit. "Tot-Exp per Visit" includes all expenses from the Operating Statement (Section X). The "Weighted Avg Cost per Visit" was footnoted accordingly. Most applicants had the latter measure of Cost reflect direct costs of care by clinicians. This Cost should be significantly lower than Total Expenses per Visit – and was for Emerald Care, Maxim, Carolinas, HKZ and UniHealth. One applicant, Continuum, incorporated the administrative and overhead expenses in its statistic, so both measures were the same. However, **AssistedCare** and **Well Care** had the Weighted Average Cost per Visit greater than Total Expenses per Visit. Consequently, the mix of visits by discipline and the associated costs of direct care and administrative and overhead costs do not tie to the Operating Statement in Section X. This brings into question their Operating Statement and other Utilization & Staffing assumptions.

The following table compares Emerald Care to the other applicants in its operating statement.

Table 17
Operating Statement Comparisons, Year 2

	Emerald Care	Maxim	Carolinas	HKZ	Assisted Care	Well Care	Continuum	UniHealth
Patients	476	503	2,993	395	352	591	492	548
Total Visits	12,572	9,500	47,780	8,578	6,157	11,268	8,556	11,257
Gross Rev.	2,073,092	1,632,536	7,551,470	1,323,126	1,105,895	1,883,517	1,296,768	2,153,123

	Emerald Care	Maxim	Carolinas	HKZ	Assisted Care	Well Care	Continuum	UniHealth
Deductions	135,570	103,961	620,429	98,925	174,242	142,576	313,910	400,482
Net Rev.	1,937,522	1,528,575	6,931,041	1,224,201	931,653	1,740,941	1,610,678	1,752,641
Total Exp.	1,658,683	1,175,704	6,793,650	1,196,683	859,289	1,494,905	1,299,560	1,711,184
Net Income	278,839	352,871	137,391	27,518	72,364	246,036	311,118	41,457
Net Inc/ Net Rev	14.4%	23.1%	2.0%	2.2%	7.8%	14.1%	19.3%	2.4%
Net Inc per Patient	$586	$702	$46	$70	$206	$416	$632	$76

*Emerald Care projects its Medicare revenue at expected payment levels; therefore, no contractual allowances for Medicare

Emerald Care projects to meet the entire unmet need in Year 2 in addition to its existing patient base from Mecklenburg County by virtue of its immediate Medicare/Medicaid certification and licensed status since this is a branch office of an existing provider. The projected Net Income represents a 14.4% margin from Net Revenue and a profit before taxes of $586 per patient.

These margins are important because they provide some cushion against unforeseen changes in reimbursement rates, payer mix, or costs. Those applicants without an adequate margin risk having the respective proposed projects as not financially feasible if the initial cost or revenue assumptions are unrealistic. Of those particularly at risk are Carolinas, HKZ, and UniHealth because these applicants show Income to Revenue margins of 2.0-2.5%, or between $46-76 per patient. At the other extreme, two applicants (Maxim and Continuum) have very large margins of 23.1% and 19.3%, respectively.

SECTION 12: PROPOSED SCHEDULE

Table 18
Proposed Implementation Timeline

	Emerald Care	Maxim	Carolinas	HKZ	Assisted Care	Well Care	Continuum	UniHealth
CON issued	Jan '13	Jan '13	Jan '13	Jan '13	Jan '13	Jan '13	Jan '13	Jan '13
Staff hired	Jan '13			Aug '13	Feb '13	Aug '13	Mar '13	Jun '13
Equipment	Jan '13		Sep '13			Sep '13	Mar '13	Jul '13
Licensed	Feb '13	Mar '13	Oct '13	Jan '14	Mar '13	Sep '13	Jun '13	Oct '13
Certified	Feb '13	Oct '13		Jan '14	Oct '13	Jan '14	Jan '14	Apr '14

This table reflects the advantage of Emerald Care over the other applicants due to its being an expansion of an existing home health agency whose parent office is located in Gaston County. While some delays are normal for licensure and Medicare/Medicaid certification, UniHealth has the longest duration from CON award to licensure and certification – that latter occurring 14 months after CON award. **By contrast, Emerald Care can be recognized as fully certified and licensed within two months of CON award.**

3. SUMMARY COMPARISON OF COMPETING APPLICANTS

This final table summarizes the discussions contained around the preceding comparative tables so that a global comparison of competing CON applications can be understood. We invite the reader to read the table-specific comparisons in the preceding pages for a more complete understanding of these ratings.

For Table 19, only the exceptional applicants are noted. A "+" sign is designated for applicants showing the most complete or most positive statistics, while a "-" sign is used for applicants having missing data or extreme data of negative performance. Those without a designation have data that show neither exceptionally good nor poor performance.

TABLE 19
Summary Comparison

	Emerald Care	Maxim	Carolinas	HKZ	Assisted Care	Well Care	Contin-uum	Uni-Health
Table 2/3 DSMs	+	-		-	-		-	
Table 4 Quality Indicators	+		+	-	+			+
Table 5 Medicare Quality	+		-	-				+
Table 6 HH Data	Not a comparative table							
Table 7 Need	+		-					
Table 8 Utilization	+		-				-	
Table 9 Discipline Utilization/Costs	+				-		-	
Table 10 Letters of Support	+		+	-			-	
Table 11 Community Outreach	+							+
Table 12 Staffing	+	-	+	-	-		+	+
Table 13 Salary per FTE				-				
Table 14 Staffing Data & LPN/LPTAs Use	+		-	-	+		+	
Table 15 Ability to Implement	+		-					-
Table 16 Comparative Costs/Visit	+				-	-		
Table 17 Operating Margin	+		-	-	+	+		-
Table 18 Timeline to Implement	+							-
Total +	**14**	**0**	**3**	**0**	**3**	**1**	**2**	**4**
Total -	**0**	**2**	**5**	**8**	**4**	**1**	**4**	**3**

As summarized here, Emerald Care's application demonstrates that it is the most comparatively superior applicant whose past performance establishes both credibility and reasonableness in what it proposes. Emerald Care has presented 18 tables, of which we made 15 points of comparisons with the other CON applications. In 14 out of 15 instances, Emerald Care

demonstrated exceptional performance. Only Emerald Care has demonstrated the breadth of strength across many areas, including:

1) Quality of Care: The development and use of Disease State Management (DSM) protocols developed by the Amedisys parent is far stronger than is any other applicant. The variety of quality measures that Emerald care provides is beyond that of other applicants.

2) Forecasting Need: Emerald Care uses more rigorous methods of projecting future need trends than do other applicants.

3) Community Support: Emerald Care provides more letters of support from non-affiliated physicians and referral sources than does any other applicant. Emerald Care is the only applicant to host a community meeting publically announced in the local newspaper to solicit comment.

4) Time to Implementation: Emerald Care is the only applicant that can be operational within two months. Other applicants may require over a year to reach operational status.

5) Staffing: Emerald Care is the only applicant to staff in conformance with patient needs based upon experience with delivering care with DSM-based services.

Consequently, Emerald Care is the superior applicant as it conforms to all statutory review criteria and is the most effective alternative when compared to the other applicants.