

ATTACHMENT - REQUIRED STATE AGENCY FINDINGS

FINDINGS

C = Conforming

CA = Conditional

NC = Nonconforming

NA = Not Applicable

DECISION DATE: May 31, 2013

PROJECT ANALYST: Julie Halatek
ASSISTANT CHIEF: Martha J. Frisone

PROJECT I.D. NUMBER: C-10095-13 / Cleveland County HealthCare System d/b/a Kings Mountain Hospital and Crawley Memorial Hospital, Inc. / Cost overrun for Project I.D. #C-8736-11 (Relocate 28 long-term care hospital beds from Crawley Memorial Hospital to leased space in Kings Mountain Hospital) / Cleveland County

REVIEW CRITERIA FOR NEW INSTITUTIONAL HEALTH SERVICES

G.S. 131E-183(a) The Department shall review all applications utilizing the criteria outlined in this subsection and shall determine that an application is either consistent with or not in conflict with these criteria before a certificate of need for the proposed project shall be issued.

- (1) The proposed project shall be consistent with applicable policies and need determinations in the State Medical Facilities Plan, the need determination of which constitutes a determinative limitation on the provision of any health service, health service facility, health service facility beds, dialysis stations, operating rooms, or home health offices that may be approved.

NA

The applicants are Cleveland County HealthCare System d/b/a Kings Mountain Hospital (KMH) and Crawley Memorial Hospital, Inc. (CMH). CMS operates a long term acute care hospital currently located in Boiling Springs. Effective January 18, 2012, the applicants were issued a certificate of need (CON) for Project I.D. #C-8736-11 to relocate the existing long term acute care hospital to leased space within KMH, located in Kings Mountain, at a total capital cost of \$1,418,151. The applicants submit this current application, Project I.D. #C-10095-13, to request approval for a cost overrun.

The applicants do not propose to change the scope of their project, add any new health services or acquire equipment for which there is a need determination in the 2013 State Medical Facilities Plan (SMFP). Therefore, there are no need determinations in the 2013 SMFP that are applicable to this review. Furthermore, there are no policies in the 2013

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SMFP that are applicable to this review. Consequently, this criterion is not applicable to this review.

- (2) Repealed effective July 1, 1987.
- (3) The applicant shall identify the population to be served by the proposed project, and shall demonstrate the need that this population has for the services proposed, and the extent to which all residents of the area, and, in particular, low income persons, racial and ethnic minorities, women, handicapped persons, the elderly, and other underserved groups are likely to have access to the services proposed.

C

Effective January 18, 2012, KMH and CMH were issued a certificate of need for the original application, Project I.D. #C-8736-11, to relocate the existing long term acute care hospital to leased space within KMH, in Kings Mountain. The approved capital expenditure for the original application is \$1,418,151. This current application, Project I.D. #C-10095-13, seeks approval for a cost overrun of \$1,490,000, which results in a total capital expenditure of \$2,908,151 for the entire project [$\$1,418,151 + \$1,490,000 = \$2,908,151$].

In Section II, page 10, the applicants state that there are no changes in services, beds, or medical equipment from the original application. However, the capital cost for the project will exceed 115 percent of the approved capital cost. In Section VI.1, page 49, the applicants compare the previously approved capital cost with the proposed capital cost. The proposed increase in total capital costs is shown in the table below.

Project Capital Cost			
	Previously Approved	Projected Total Cost	Cost Overrun Amount
Cost of materials/labor	\$743,379	\$1,769,611	\$1,026,232
Asbestos Abatement	\$75,000	\$405,722	\$330,722
Sub-total Construction	\$818,379	\$2,175,333	\$1,356,954
Moveable equipment Purchase/Lease	\$65,000	\$3,000	(\$62,000)
Equipment and furniture (IT)	\$200,000	\$192,400	(\$7,600)
Interiors (signage, artwork)	\$38,000	\$70,912	\$32,912
Architect and Engineering Fees	\$91,672	\$221,471	\$129,799
Consultant/Administrative	\$45,000	\$192,025	\$147,025
Moving fee/contingency	\$160,100	\$53,010	(\$107,090)
Sub-total miscellaneous	\$599,772	\$732,818	\$133,046
Total Capital Cost	\$1,418,181	\$2,908,151	\$1,490,000

The proposed increase in total capital costs of the project is 105 percent more than the approved capital cost [$\$2,908,151 / \$1,418,181 = 2.05$; $2.05 - 1 = 1.05$].

Population to be Served

In Section II.4, page 14 of this application, the applicants state, “*The primary service area...is Cleveland County.*” In Section III of the original application, the applicants provide the current and projected patient origin, as shown in the table below.

County	% of Total Patients	
	Current CY 2010	Projected CY 2013 – CY 2015
Cleveland	66.99%	66.99%
Rutherford	14.56%	14.56%
Gaston	6.80%	6.80%
South Carolina	4.85%	4.85%
Burke	3.88%	3.88%
Lincoln	0.97%	0.97%
McDowell	0.97%	0.97%
Other States	0.97%	0.97%
Total	100.0%	100.0%

The applicants project no change in the population to be served as a result of the cost overrun. The applicants adequately identified the population to be served.

Demonstration of Need

After the CON was issued for Project I.D. #C-8736-11, demolition began of the existing space at KMH. On pages 10-11, the applicants state that more asbestos was found than the applicants had initially thought would be present. This happened because when the existing ceiling in the hospital wing was removed, it was discovered that the original existing drywall and joint compound was in place throughout the entire hospital wing—not just the areas where heavy renovation was to occur. Testing that occurred revealed the presence of asbestos containing materials (ACM) in 100% of the samples tested. The applicants state that because of the additional ACM that is present, it is necessary to remove and replace the ACM to conform to applicable building standards and eliminate safety hazards, which will cause a significant increase in the total capital cost of the project. The applicants adequately demonstrated the need to relocate CMH in the original application. Nothing has changed to alter that determination. In this application, the applicants adequately demonstrate that additional capital is necessary to complete the previously approved project.

Access

In Section IV.2, page 38, the applicants state that the services at KMH will continue to be available to all patients regardless of any factor that would classify the patient as underserved. This is consistent with the applicants’ original application.

In summary, the applicants adequately identified the population to be served, adequately demonstrated the need for the cost overrun, and adequately demonstrated the extent to which all residents, including the medically underserved, will have access to the services. Therefore, the application is conforming to this criterion.

- (3a) In the case of a reduction or elimination of a service, including the relocation of a facility or a service, the applicant shall demonstrate that the needs of the population presently served will be met adequately by the proposed relocation or by alternative arrangements, and the effect of the reduction, elimination or relocation of the service on the ability of low income persons, racial and ethnic minorities, women, handicapped persons, and other underserved groups and the elderly to obtain needed health care.

NA

- (4) Where alternative methods of meeting the needs for the proposed project exist, the applicant shall demonstrate that the least costly or most effective alternative has been proposed.

CA

In Section II.5, pages 31-32, the applicants describe the alternatives considered, which included:

1. Maintaining the Status Quo—the applicants state this alternative means not completing the project.
2. Relocating the Beds to Another Facility—the applicants state this alternative is not as effective because CMS imposes a limit on the number of referrals from the host facility. Since the largest referral source for the projected beds is the only other facility at which the beds could be located, this alternative was discarded as not feasible.
3. Constructing New Space and Renovating Existing Space—the applicants state this alternative would cost more than the proposed cost overrun.

Furthermore, the application is conforming to all other statutory and regulatory review criteria, and thus, is approvable. An application that cannot be approved is not an effective alternative.

In summary, the applicants adequately demonstrate that their proposal is the least costly or most effective alternative to meet the need. Therefore, the application is conforming to this criterion and approved subject to the following conditions.

- 1. Cleveland County HealthCare System d/b/a Kings Mountain Hospital and Crawley Memorial Hospital, Inc. shall materially comply with all**

representations made in Project I.D. #C-8736-11 and Project I.D. #C-10095-13. In those instances in which representations conflict, Cleveland County HealthCare System d/b/a Kings Mountain Hospital and Crawley Memorial Hospital, Inc. shall materially comply with the last made representation.

- 2. Cleveland County HealthCare System d/b/a Kings Mountain Hospital and Crawley Memorial Hospital, Inc. shall not acquire, as part of this project, any equipment that is not included in the proposed capital expenditure in Section VI of the application and that would otherwise require a certificate of need.**
 - 3. Cleveland County HealthCare System d/b/a Kings Mountain Hospital and Crawley Memorial Hospital, Inc. shall acknowledge acceptance of and agree to comply with all conditions stated herein to the Certificate of Need Section in writing prior to the issuance of the certificate of need.**
- (5) Financial and operational projections for the project shall demonstrate the availability of funds for capital and operating needs as well as the immediate and long-term financial feasibility of the proposal, based upon reasonable projections of the costs of and charges for providing health services by the person proposing the service.

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In the original application, Project I.D. #C-8736-11, the applicants were approved for a total capital expenditure of \$1,418,151. As a result of unanticipated increases in the cost of construction, due to the presence of more ACM than previously suspected, the applicants propose an increase in capital costs of \$1,490,000, which results in a total project capital expenditure of \$2,908,151 [$\$1,418,151 + \$1,490,000 = \$2,908,151$]. See Criterion (3) for additional discussion which is hereby incorporated by reference as if fully set forth herein. In the original project, the applicants stated there would be no start up or initial operating expenses associated with the project and proposed to finance the project with cash reserves from Cleveland County HealthCare System (Cleveland), the parent company of CMH and KMH. In Section VII, page 55, of the current application, the applicants do not indicate any start up or initial operating expenses and in Section VI.5, page 51, the applicants propose to finance the additional costs of the project with accumulated reserves from Cleveland. Exhibit 7 contains a letter dated March 4, 2013, signed by the Vice President/Chief Financial Officer for Cleveland, which states in part:

“It is anticipated that the projects [sic] costs will be approximately \$3.0 million, which includes cost overruns of \$1.5M associated with unforeseen asbestos remediation.

As Vice President and Chief Financial Officer of the Cleveland County HealthCare System, I hereby certify that cash of the organization in excess of this amount are available to fund the project.”

Exhibit 8 contains audited statements for Cleveland. As of December 31, 2011, Cleveland had \$12,818,000 in cash and cash equivalents, \$270,512,000 in total assets and \$158,717,000 in net assets.

The applicants provided pro forma financial statements for the first three years of the project. The applicants project revenues will exceed operating expenses in each of the first three operating years of the project, as illustrated in the table below.

	Year 1 (CY 2014)	Year 2 (CY 2015)	Year 3 (CY 2016)
Projected # of Days	5,058	5,813	6,359
Projected Average Charge (Gross Patient Revenue / Projected # of Days)	\$4,100	\$4,182	\$4,265
Gross Patient Revenue	\$20,734,562	\$24,307,243	\$27,124,838
Deductions from Gross Patient Revenue	\$13,848,490	\$16,234,662	\$18,116,516
Net Patient Revenue	\$6,886,072	\$8,072,581	\$9,008,322
Total Expenses	\$7,137,744	\$7,728,996	\$8,201,721
Net Income	(\$251,672)	\$343,585	\$806,601

*Source: Forms C, D, & E, Section XI

The assumptions used by the applicants in preparation of the pro forma financial statements are reasonable, including project utilization, costs and charges. See Section XI for the assumptions regarding costs and charges. See Criterion (3) for discussion regarding projected utilization which is incorporated hereby as if fully set forth herein. The applicants adequately demonstrate that the financial feasibility of the proposal is based upon reasonable projections of costs and charges.

In summary, the applicants adequately demonstrated the availability of funds for the capital needs of the project. Furthermore, the applicants adequately demonstrated that the financial feasibility of the proposal is based upon reasonable projections of costs and charges. Therefore, the application is conforming to this criterion.

- (6) The applicant shall demonstrate that the proposed project will not result in unnecessary duplication of existing or approved health service capabilities or facilities.

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The original application, Project I.D. #C-8736-11, was conforming to this criterion and the applicants propose no changes in this current application to affect that determination. Therefore, the application is conforming to this criterion.

- (7) The applicant shall show evidence of the availability of resources, including health manpower and management personnel, for the provision of the services proposed to be provided.

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The original application, Project I.D. #C-8736-11, was conforming to this criterion and the applicants propose no changes in this current application to affect that determination. Therefore, the application is conforming to this criterion.

- (8) The applicant shall demonstrate that the provider of the proposed services will make available, or otherwise make arrangements for, the provision of the necessary ancillary and support services. The applicant shall also demonstrate that the proposed service will be coordinated with the existing health care system.

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The original application, Project I.D. #C-8736-11, was conforming to this criterion and the applicants propose no changes in this current application to affect that determination. Therefore, the application is conforming to this criterion.

- (9) An applicant proposing to provide a substantial portion of the project's services to individuals not residing in the health service area in which the project is located, or in adjacent health service areas, shall document the special needs and circumstances that warrant service to these individuals.

NA

- (10) When applicable, the applicant shall show that the special needs of health maintenance organizations will be fulfilled by the project. Specifically, the applicant shall show that the project accommodates:
- (a) The needs of enrolled members and reasonably anticipated new members of the HMO for the health service to be provided by the organization; and
 - (b) The availability of new health services from non-HMO providers or other HMOs in a reasonable and cost-effective manner which is consistent with the basic method of operation of the HMO. In assessing the availability of these health services from these providers, the applicant shall consider only whether the services from these providers:
 - 1. Would be available under a contract of at least 5 years duration;
 - 2. Would be available and conveniently accessible through physicians and other health professionals associated with the HMO;
 - 3. Would cost no more than if the services were provided by the HMO; and

4. Would be available in a manner which is administratively feasible to the HMO.

NA

- (11) Repealed effective July 1, 1987.
- (12) Applications involving construction shall demonstrate that the cost, design, and means of construction proposed represent the most reasonable alternative, and that the construction project will not unduly increase the costs of providing health services by the person proposing the construction project or the costs and charges to the public of providing health services by other persons, and that applicable energy saving features have been incorporated into the construction plans.

NA

- (13) The applicant shall demonstrate the contribution of the proposed service in meeting the health-related needs of the elderly and of members of medically underserved groups, such as medically indigent or low income persons, Medicaid and Medicare recipients, racial and ethnic minorities, women, and handicapped persons, which have traditionally experienced difficulties in obtaining equal access to the proposed services, particularly those needs identified in the State Health Plan as deserving of priority. For the purpose of determining the extent to which the proposed service will be accessible, the applicant shall show:
 - (a) The extent to which medically underserved populations currently use the applicant's existing services in comparison to the percentage of the population in the applicant's service area which is medically underserved;

C

The original application, Project I.D. #C-8736-11, was conforming to this criterion and the applicants propose no changes in this current application to affect that determination. Therefore, the application is conforming to this criterion.

- (b) Its past performance in meeting its obligation, if any, under any applicable regulations requiring provision of uncompensated care, community service, or access by minorities and handicapped persons to programs receiving federal assistance, including the existence of any civil rights access complaints against the applicant;

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The original application, Project I.D. #C-8736-11, was conforming to this criterion and the applicants propose no changes in this current application to affect that determination. Therefore, the application is conforming to this criterion.

- (c) That the elderly and the medically underserved groups identified in this subdivision will be served by the applicant's proposed services and the extent to which each of these groups is expected to utilize the proposed services; and

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In Section IV.6, page 41, the applicants provide the projected payor mix for the second full fiscal year (CY2014) which has been updated from the original application based on the most recent payor mix (CY2012). The first table below illustrates the projected payor mix for CY2014 from the original application. The second table below illustrates the revised payor mix for CY2014 from the cost overrun application.

PAYOR CATEGORY (CY 2014 ORIGINAL)	PERCENTAGE OF TOTAL UTILIZATION
Self-Pay	0.54%
Medicare	70.83%
Medicaid	26.63%
Managed Care/Commercial	1.36%
Other (includes TriCare and other government)	0.64%
Total	100%

*Source: Section VI.15(b), Project I.D. #C-8736-11

PAYOR CATEGORY (CY 2014 UPDATED)	PERCENTAGE OF TOTAL UTILIZATION
Self-Pay	0%
Medicare	85%
Medicaid	3%
Managed Care/Commercial	12%
Other	0%
Total	100%

*Source: Section IV.6, page 41.

The applicants demonstrated that medically underserved populations will have adequate access to the proposed services. Therefore, the application is conforming to this criterion.

- (d) That the applicant offers a range of means by which a person will have access to its services. Examples of a range of means are outpatient services, admission by house staff, and admission by personal physicians.

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The original application, Project I.D. #C-8736-11, was conforming to this criterion and the applicants propose no changes in this current application to affect that determination. Therefore, the application is conforming to this criterion.

- (14) The applicant shall demonstrate that the proposed health services accommodate the clinical needs of health professional training programs in the area, as applicable.

C

The original application, Project I.D. #C-8736-11, was conforming to this criterion and the applicants propose no changes in this current application to affect that determination. Therefore, the application is conforming to this criterion.

- (15) Repealed effective July 1, 1987.
- (16) Repealed effective July 1, 1987.
- (17) Repealed effective July 1, 1987.
- (18) Repealed effective July 1, 1987.
- (18a) The applicant shall demonstrate the expected effects of the proposed services on competition in the proposed service area, including how any enhanced competition will have a positive impact upon the cost effectiveness, quality, and access to the services proposed; and in the case of applications for services where competition between providers will not have a favorable impact on cost-effectiveness, quality, and access to the services proposed, the applicant shall demonstrate that its application is for a service on which competition will not have a favorable impact.

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The original application, Project I.D. #C-8736-11, was conforming to this criterion and the applicants propose no changes in this current application to affect that determination. Therefore, the application is conforming to this criterion.

- (19) Repealed effective July 1, 1987.
- (20) An applicant already involved in the provision of health services shall provide evidence that quality care has been provided in the past.

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CMH and KMH are accredited by the Joint Commission and certified by CMS for Medicare and Medicaid participation. According to the records in the Acute and Home Care Licensure and Certification Section, DHSR, no incidents have occurred at CMH or KMH within the eighteen months immediately preceding the date of this decision for which any

sanctions or penalties related to quality of care were imposed by the State. Therefore, the application is conforming to this criterion.

- (21) Repealed effective July 1, 1987.
- (b) The Department is authorized to adopt rules for the review of particular types of applications that will be used in addition to those criteria outlined in subsection (a) of this section and may vary according to the purpose for which a particular review is being conducted or the type of health service reviewed. No such rule adopted by the Department shall require an academic medical center teaching hospital, as defined by the State Medical Facilities Plan, to demonstrate that any facility or service at another hospital is being appropriately utilized in order for that academic medical center teaching hospital to be approved for the issuance of a certificate of need to develop any similar facility or service.

NA