

## ATTACHMENT - REQUIRED STATE AGENCY FINDINGS

### FINDINGS

C = Conforming

CA = Conditional

NC = Nonconforming

NA = Not Applicable

DATE: April 29, 2014  
PROJECT ANALYST: Gene DePorter  
TEAM LEADER: Lisa Pittman

PROJECT I.D. NUMBER: J-10238-14/ Residential Services, Inc. / Relocate ten vacant ICF/IID beds from Murdoch Developmental Center to Residential Services, Inc. Retirement Center for a total of 15 ICF/IID beds upon project completion/ Orange

### 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.

### C

The 2014 State Medical Facilities Plan (SMFP) provides a methodology for the transfer of existing adult Intermediate Care Facilities for Individuals with Intellectual Disabilities (ICF/IID) (formerly Intermediate Care Facilities for the Mentally Retarded (ICF/MR)) beds from a state operated developmental center pursuant to Policy ICF/IID-3 in the 2014 SMFP. The applicant, Residential Services, Inc. Retirement Center (RSI-RC) proposes to transfer ten beds from the Murdock Developmental Center to its existing facility Residential Services, Inc. Retirement Center, which is currently serving 5, for a total of 15 ICF/IID beds upon project completion. The applicant proposes no capital cost associated with the transfer of these beds to the existing community-based group home.

### **Policy ICF/IID-3: Transfer of ICF/IID Beds From State Operated Developmental Centers to Community Facilities for Adults With Severe to Profound Developmental Disabilities.**

*“Intermediate Care Facilities for Individuals with Intellectual Disabilities (ICF/IID) beds in state operated developmental centers may be relocated to existing community facilities through the certificate of need process for the replacement of Community Alternatives*

*Program for Individuals with Intellectual and Developmental Disabilities (CAP I/DD) waiver slots lost as a result of the Centers of Medicaid and Medicare Services (CMS) policy designed to prohibit CAP I/DD waiver and ICF/IID beds from being located on the same campus. This policy allows for the relocation or transfer of beds only and does not provide for transfer of residents with the beds. State operated developmental center ICF/IID beds that are relocated to community facilities shall be closed upon licensure of the transferred beds.*

*Facilities proposing to operate transferred beds shall submit an application to the Certificate of Need Section demonstrating a commitment to serve adults who have severe to profound developmental disabilities. This policy applies only to facilities that have lost waiver slots as a result of the CMS ruling and does not apply for expansion beyond the lost beds. To help ensure the relocated beds will serve these residents such proposal shall include a written agreement with the following representatives: director of the local management entity/managed care organization serving the county where the community-based facility is located, the director of the applicable state operated developmental center, the director of the North Carolina Division of State Operated Healthcare Facilities, the secretary of the North Carolina Department of Health and Human Services and the operator of the community-based facility.”*

In Section 1.8, page 4, the applicant states “aging adult ICF/IID residents with varying levels of intellectual disabilities and other related disorders will receive services.” Furthermore on page 16, the applicant states that the only available alternative for the residents of RSI-RC that lost their waiver slots in the Community Alternatives Program for Individuals with Intellectual Disabilities (CAP I/DD) would be institutionalization.

In Exhibit F, the applicant provides a copy of the Memorandum of Agreement (MOA) among the following parties; the Secretary of the Department of Health and Human Services, the Director of North Carolina Division of State Operated Healthcare Facilities, the Director of Murdoch Developmental Center, Cardinal Innovations Healthcare Solutions, the local management entity/managed care organization (LME/MCO), and Residential Services, Inc. Retirement Community. Thus, the applicant adequately demonstrates its conformity with ICF/IID-3.

In addition, the following policy in the 2014 SMFP is applicable to this review, **Policy MH-1: Linkages between Treatment Settings**. Policy MH-1 states:

*“An applicant for a certificate of need for psychiatric, substance abuse, or intermediate care facilities for individuals with intellectual disabilities (ICF/IID) beds shall document that the affected local management entity-managed care organization has been contacted and invited to comment on the proposed services.”*

The MOA in Exhibit F demonstrates that the affected local management entity-managed care organization was contacted and invited to comment on the proposed service and application.

In summary, the applicant adequately demonstrates that the proposal is consistent with, Policy ICF/IID-3 and Policy MH-1 of the 2014 SMFP and is therefore conforming to this criterion.

- (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

Residential Services, Inc. proposes to transfer ten vacant ICF/IID beds from the Murdoch Developmental Center to its existing RSI-RC facility for a total of 15 ICF/IID beds upon project completion.

Population to be Served

In Section III.6, page 20, the applicant provides the historical and projected patient origin for the existing ICF/IID facility at RSI-RC, as illustrated in the table below:

County	2014 Current Patient Origin		Projected Patient Origin-New Pts.		Existing Plus New Patients Origin	
	# of Clients	% of Total	# of Clients	% of Total	# of Clients	% of Total
<b>Orange</b>	4	80%	8	80%	12	80%
<b>Chatham</b>	1	20%	1	10%	2	13%
<b>Durham</b>	0		1	10%	1	7%
<b>Total</b>	5	100%	10	100%	15	100%

In Section III.5(b), page 19 the applicant states:

*“This project is for a transfer of ICF/IID beds only and does not provide for transfer of residents with the beds. The existing ICF/IID eligible residents living at the existing facility will occupy the beds...”*

In Section III. 6 (d), page 20, the applicant states:

*“The proposal is for the ten individuals that are occupying the 10 non-certified beds to join the 5 ICF/IID residents currently residing in the facility. Therefore, the resident population [of the existing facility plus the ‘new’ residents] will remain the same.”*

The applicant adequately identified the population it proposes to serve.

### Need for Additional ICF/IID Beds

The applicant states the following in Section III.4 (b), page 19;

*“The location currently exists and is providing services to this population in the central part of the catchment area. The site is close to all activities in Chapel Hill, Durham, Carrboro, and Hillsborough.”*

In Section III.1 (a), page 17, the applicant states the addition of ten (10) ICF/IID beds to the existing five (5) bed facility would allow RSI-RC to meet the demand for ICF/IID beds in the service area. The applicant states the following;

*“Operating a facility for seniors with disabilities offers a much needed service not currently provided in this area of the state. There are almost no other community based ICF/IID programs specifically designed to focus on intellectual and developmental disabilities populations over 55. In 2003, when Spring Glen opened as a continuing care retirement center, it was praised as a unique and a model program. Unfortunately, other similar services are not available. And, as described by the Long Term & Behavioral Health Committee Agency Report in response to the Petition to Allow Transfer of ICF/IID beds, the approval of this CON is consistent with Appropriations Bill Session Law 2007-3232 Section 10.50 that calls for the Department to “ensure that the downsizing of the State Developmental Centers is based upon individual needs and the availability of community-based services with a targeted goal of four percent (4%) each year.” The Department must “ensure that placements for ICF/MR level of care shall be made to appropriate community-based settings” and “admissions to a State Operated ICF-MR facility is permitted only as a last resort.” The proposed policy is in keeping with the mandate set forth in this legislation and with the Developmental Disabilities Assistance and Bill of Rights Act of 2000 as determined by the *Olmstead vs. L.C* in that it respects the choice of consumers impacted by the CMS policy change to continue to live in the community rather than an institutional setting.*

...

*The 10 individuals living in Spring Glen who would use the ICF/IID beds and services have an average age of 63. Most have been institutionalized at some point in their lives. Three of the residents are 78 and older. This program is a model for this service. Safety is enhanced by allowing these individuals to continue to live in their own community, continue to see their long-term medical providers, and continue to have family involvement. Some of RSI’s support staff have known these individuals for decades and gotten to know them as they are aging and in the midst of physical and cognitive changes.”*

In Section III.1 (b), pages 17-18, the applicant states:

*“The United States population is aging. The older population (persons 65 years or older)*

*numbered 41.4 million in 2011. They represented 13.3% of the U.S. population, over one in every eight Americans. The number of older Americans increased by 6.3 million or 18% since 2000, compared to an increase of 9.4% for the under-65 population. However, the number of Americans aged 45-64- who will reach 65 over the next two decades – increased by 33% during this period. ❶ In 1998, there were an estimated 526,000 people 60 years or older with a developmental disability in the United States, and this number is expected to double by 2030. ❷ It is estimated that between 5,170 and 12,926 North Carolinians with an I/DD are currently over the age of 60. ❸ There is a true need for residential programs that provide care for older adults with developmental disabilities. Examples of such services and supports that enable adults to maintain functioning and continue living as independently as possible include personal care services, assistive technologies, home health care, techniques for maintaining and improving functioning and other in-home supports. National estimates of waiting lists for this type of service range from 52,000 to 87,000 people. In 2009, Lakin, Larson, Salmi and Scott, reported the residential services waiting to be estimated at approximately 115,000 people nationally.”*

As reported in the 2014 SMFP the ICF/IID bed inventory in each of North Carolina’s state operated developmental centers is as follows:

Center Name	# of Certified Beds*
Caswell Center	808
J. Iverson Riddle Center	489
Murdoch Center	656
O’Berry Center	389
<b>Total</b>	<b>2,342</b>

\* 2014 SMFP, page 402.

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❶ Administration on Aging, (2012) US Department of Health and Human Services. A profile of older Americans: 2012. [http://www.aoa.gov/AoAroot/Aging\\_Statistics/Profile/2012.aspx](http://www.aoa.gov/AoAroot/Aging_Statistics/Profile/2012.aspx). Published in 2012.  
 ❷ Heller T, Factor A. (2000) *Older Adults with Mental Retardation and Their Aging Family Caregivers*. Chicago, IL: Rehabilitation Research and Training Center on Aging with Developmental Disabilities; 2004.  
 ❸ Folts WE, Baumhover LA. (2001) *Aging and Developmental Disabilities: A Blueprint for Change. Report of the North Carolina Task Force on Aging and Developmental Disabilities*. North Carolina Task Force on Aging and Developmental Disabilities.

According to the 2014 SMFP there are 6 licensed ICF/IID facilities in Orange County with 43 beds. Those facilities are shown in the following table:

<b>ICF/IID Facilities in Orange County</b>			
<b>Name of Facility</b>	<b># of Licensed Beds</b>	<b># of CON Approved Beds Awaiting Completion/Licensure</b>	<b>Total Approved &amp; Licensed Beds</b>
Christopher Road	6	0	6
Quail Roost Group Home	6	0	6
Residential Services, Inc. *	13	0	13
Shadylawn	6	0	6
Silo Drive Facility-Chapel Hill	6	0	6
West Main Street Facility-Carrboro	6	0	6
<b>Total</b>	<b>43</b>	<b>0</b>	<b>43</b>

\*8 of 13 beds are licensed/non-certified beds.

As illustrated in the table above, all the ICF/IID group homes in Orange County are licensed for six beds with the exception of RSI-RC's facility that is licensed for 13 beds (5 are certified and 8 are not certified).

Further, the applicant indicates that the 5-bed RSI-RC group home operates with the same ratios and staffing patterns as a 6-bed ICF/IID facility. The applicant states on page 23 that operating RSI-RC as a fifteen bed facility will produce near 100% utilization.

In Section IV, page 22, Table IV.1, the applicant provides utilization at RSI-RC for the three months immediately preceding submittal of the proposed project:

<b>Historical RSI-RC Group Home Utilization</b>			
<b>Month</b>	<b>ICF/IID Client Days</b>	<b>Occupancy Rate</b>	<b># of Certified Beds</b>
1	137	91.33%	5
2	155	100.00%	5
3	155	100.00%	5
<b>Total</b>	<b>447</b>	<b>97.20%</b>	<b>5</b>

In Section IV, page 23, the applicant illustrates in Table IV.2 projected utilization for RSI-RC for the first and second operating years after project approval, as shown below:

	<b>ICF/MR Client Medicaid Days</b>	<b>Occupancy Rate</b>	<b># of Certified Beds</b>
<b>Year 1</b>			
<b>1<sup>st</sup> Quarter</b>	1,380	100.0%	15
<b>2<sup>nd</sup> Quarter</b>	1,380	100.0%	15
<b>3<sup>rd</sup> Quarter</b>	1,350	100.0%	15
<b>4<sup>th</sup> Quarter</b>	1,365	100.0%	15
<b>Year 1 Total</b>	<b>5,475</b>	<b>100.0%</b>	<b>15</b>
<b>Year 2</b>			
<b>1<sup>st</sup> Quarter</b>	1,380	100.0%	15
<b>2<sup>nd</sup> Quarter</b>	1,380	100.0%	15
<b>3<sup>rd</sup> Quarter</b>	1,350	100.0%	15
<b>4<sup>th</sup> Quarter</b>	1,365	100.0%	15
<b>Year 2 Total</b>	<b>5,475</b>	<b>100.0%</b>	<b>15</b>

The applicant further states on page 23 that 100% of its ICF/IID client days of care are reimbursed by Medicaid.

In Section IV.3, page 23, the applicant provides its methodology and assumptions used to project the days of care;

*“The methodology used to calculate the projected utilization data was based on the number of days per quarter starting with the anticipated start date of the new project (fiscal year of July 1<sup>st</sup>. multiplied by the projected # of certified beds of 15 to come up with ICF Client Days per quarter, then adding them for a total of 5,475 client days per year for years 1 and 2.*

*All of RSI homes generally operate near 100% capacity. This home is expected to operate at 100% capacity effective immediately (no move in period required) and for the next eight quarters of operation and beyond.”*

The applicant does not propose to develop new ICF/IID beds, but rather to transfer ten vacant beds from the Murdoch Center to RSI-RC, for a total of 15 ICF/IID beds upon completion of this project.

Projected utilization of the 15-bed ICF/IID group home is based on reasonable, credible and supported assumptions regarding future utilization, which is based on historical utilization.

In summary, the applicant adequately identifies the population to be served, adequately demonstrates the need the population projected to be served has for the proposed project, and demonstrates all residents of the service area in particular, underserved groups, are likely to have access to the services proposed. 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.

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In Section II.11, page 16, the applicant discusses the alternatives considered for the residents of the facility who lost their waiver slots and why the alternative chosen represents the most effective alternative:

*“The only available alternative for the residents of this facility that lost their waiver slots in the Community Alternatives Program for Individuals with Intellectual Disabilities (CAP I/DD), would be institutionalization. The option to keep their waiver slot and move was neither feasible nor appropriate. Therefore, the transfer of vacant ICF/IID beds from the inventory of the State Operated Healthcare Facilities is the only and most effective alternative.”*

- 1) Status Quo- RSI-RC, Inc. considered maintaining the status quo, however, the applicant concluded to do nothing would not address the State’s goal of increasing community based services or the growing demand for ICF/IID services.
- 2) Relocation of ten beds from a State Operated Developmental Center- The applicant concluded that the relocation of ten existing vacant beds, from the Murdoch Developmental Center to RSI-RC for a total of 15 ICF/IID beds upon project completion is the most effective alternative to meet the growing demand for ICF/IID services in the service area. Thus, the applicant concluded that this was its least costly and most effective alternative to meet the need for additional community based ICF/IID services.

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

The applicant adequately demonstrates that the proposed alternative is the most effective or least costly alternative to meet the need to provide community based ICF/IID services. The application is conforming to this criterion and approved subject to the following conditions.



1. **Residential Services, Inc. Retirement Center shall materially comply with all representations made in the certificate of need application.**
  2. **Upon project completion, Residential Services, Inc. Retirement Center shall be certified for no more than fifteen ICF/IID beds.**
  3. **Residential Services, Inc. Retirement Center shall serve no more than 15 adults who have severe to profound developmental disabilities.**
  4. **The actual Medicaid per diem reimbursement rate shall be determined by the Division of Medical Assistance in accordance with 10A NCAC 22G .0301.**
  5. **Residential Services, Inc. Retirement Center shall acknowledge acceptance of and agree to comply with all conditions stated herein to the Certificate of Need Section in writing prior to 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.

C

RSI-RC is an existing facility. The facility opened in 2003 with a capacity for fifteen residents. The facility currently has five licensed certified beds and 8 licensed/non-certified beds. RSI-RC proposes to relocate ten vacant ICF/IID beds from Murdoch Developmental Center to Residential Services, Inc. Retirement Center for a total of 15 certified, licensed ICF/IID beds upon project completion.

In Section VIII. 1, page 35 and Section IX, pages 39-40 the applicant states that no capital costs, start-up costs or financing is required.

Exhibit K of the application provides the audited financial statements for Residential Services, Inc. for the fiscal year ending June 30, 2013. As of June 30, 2013, RSI had \$2,769,573 in cash and cash equivalents, \$12,374,070 in total assets and \$9,657,773 in net assets (total assets less total liabilities). The applicant adequately demonstrated the availability of sufficient funds, if required, for the proposed project.

In Section X.2 and 4, page 41 the applicant identified the per diem rates for the previous two years immediately preceding the submittal of this application and applied the following

methodology to estimate the per diem rate for year 2015 after implementation of ten additional beds as shown in the following table.

In Section X.5, page 42; the applicant states the following:

*“During the last two years, Medicaid gave a one-time 1.34% per diem rate increase. Using the assumption that Medicaid will again do the same, we used the methodology of applying a 1.34% increase to our current Year 1 rate to project the per diem Year 2 rate.”*

<b>Payor</b>	<b>Year</b>	<b>Medicaid Per Diem Rate</b>
<b>Medicaid</b>	2012 *	283.86
	2013	283.86
	2014	283.86
	2015	283.86
	2016	287.66

\*July-December

In Forms A-D, pages 54-71 the applicant provided pro forma financial statements for the first two years of project operation. The applicant projects that the RSI-RC will exceed operating expenses in each of the first two full fiscal years, as illustrated in the following table:

	Project Yr 1	Project Yr 2
Projected number of days of care	5,475	5,475
Gross Service Revenue	\$1,554,134	\$1,574,939
Total Operating Expenses	\$1,500,866	\$1,542,547
Net Income	\$53,268	\$32,392

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

C

Policy ICF/IID-3 of the 2014 SMFP provides a methodology for the transfer of existing adult ICF/IID beds from a state operated developmental center to community facilities for adults with severe to profound developmental disabilities. The applicant, Residential Services, Inc., proposes to transfer ten vacant beds to serve adults who have severe to profound developmental disabilities

beds from the Murdoch Developmental Center to its existing facility, RSI-RC in Durham, for a total of fifteen ICF/IID beds upon project completion. The applicant does not propose to increase the number of ICF/IID beds in North Carolina. The applicant adequately demonstrates the need for ten additional beds. See Criterion (3) for the discussion regarding the need for the proposal which is incorporated hereby as if fully set forth herein.

The applicant adequately demonstrates the project will not result in the unnecessary duplication of existing or approved ICF/IID services in Orange County. Consequently, 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.

C

In Section VII.5, pages 31-32, Tables 1 and 2, the applicant provides its current and projected full time equivalent (FTE) staff for RSI-RC by the end of the first year of operation. The applicant intends to increase staff by 3.75 FTE's. Consultant hours will remain the same.

**Current and Projected Staff for RSI-RC**

<b>Position</b>	<b>Current # of FTE's</b>	<b>Annual Salary</b>	<b>Consultant Hours</b>	<b>Projected # of FTE's</b>	<b>Annual Salary</b>	<b>Consultant Hours</b>
QMRP	2.00	\$35,000		2.00	\$35,000	
Group Home Manager	2.00	\$32,000		2.00	\$32,000	
RN's	0.50	\$25,000		0.50	\$25,000	
LPN's				3.70	\$30,000	
Direct Care Staff	14.65	\$24,500		15.40	\$24,500	
Habilitation Staff/Day Care	3.75	\$22,984		3.75	\$22,984	
Property Maintenance	0.30	\$28,000		0.30	\$28,000	
Psychology Services			65			65
Utilization Review			10			10
Dietary Staff			47			47
Social Services Staff			215			215
Physical Therapy			19			19
<b>Total Staff</b>	<b>23.90</b>		<b>356</b>	<b>27.65</b>		<b>356</b>

Exhibit J contains the job descriptions for major positions. On page 30, the applicant states that the staffing ratios are above the minimum requirements and are in compliance with licensure rules from 10A NCAC 27G .2102.

In Section VII.4, page 33, the applicant provides the number of direct care staff per shift, as illustrated in the table below.

**Direct Care Staffing Chart**

<b>Day of Week</b>	<b>Shifts</b>			<b>Total</b>
	<b>Day</b>	<b>Evening</b>	<b>Night</b>	<b>Per Day</b>
Sunday	5	5	1	11
Monday	5	5	1	11
Tuesday	5	5	1	11
Wednesday	5	5	1	11
Thursday	5	5	1	11
Friday	5	5	1	11
Saturday	5	5	1	11
<b>Total per Week</b>	35	35	7	77

In Section VII. 5, page 33, the applicant provides the staffing pattern by shift.

<b>Position</b>	<b>Shifts</b>			<b>Total</b>
	<b>Day</b>	<b>Evening</b>	<b>Night</b>	<b>Per Shift</b>
RNs	0.5			0.5
LPNs	0.5	1.0	1.0	2.5
Direct Care Staff	5.0	5.0	1.0	11.0
<b>Total per Week</b>	6.0	6.0	2.0	14.0

In Section VII.8, page 34, the applicant states the following;

*“The site is near two major universities and 2 major university health systems. The site is nearest Duke University and the Duke University Medical Center. UNC-Chapel Hill, UNC Hospitals, Durham Regional Hospital and Lennox Baker Children’s Hospital are all within 15-20 minutes driving distance. The close proximity of these medical centers greatly increases the number of health professionals living and working in this area who are available to RSI. The university community also increases the availability of professionals such as occupation and physical therapists, social workers and direct care staff.”*

The applicant further states that Residential Services, Inc. offers competitive salaries and excellent benefits to full time and contract employees. RSI employs a human resources director and recruiting specialist who actively recruit professional staff from the research triangle area.

The applicant demonstrated the availability of adequate personnel resources to provide the proposed services. Therefore, the applicant 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.

C

In Section VII.5, Table 2, page 32, the applicant demonstrates it will have facility paid consultants for the following ancillary and support services: psychology services, utilization review services, nursing, dietary services, and physical therapy services.

In Section VII. 5, page 30 the applicant states that “*Developmental Day Services will not be provided by this operator.*”

In Section II. 2(d) page 11, the applicant states that Vocational and Day Activity services will be provided off-site. On page 9, the applicant states that all of the ICF/IID homes currently operated by Residential Services, Inc. comply with licensure standards. This home will continue to comply with licensure standards. All services will be provided as required by 45 CFR 249.13.

In Section V. pages 24-25, the applicant discusses various ways in which the facility and its services are already coordinated with the existing health care system. Exhibit F contains a letter of support from the LME Cardinal Innovations. Exhibit F also contains the MOA with applicable area and state authorities.

The applicant adequately demonstrated that the necessary ancillary and support services will be available and that the proposed services will be coordinated with the existing health care system. 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:
- (i) would be available under a contract of at least 5 years duration;
  - (ii) would be available and conveniently accessible through physicians and other health professionals associated with the HMO;
  - (iii) would cost no more than if the services were provided by the HMO; and

(iv) 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

RSI-RC is an existing facility. This proposed project does not call for construction or renovations to the existing facility.

(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

In Sections VI.9 and VI.10, page 28, the applicant states the current payor mix for RSI-RC is 100% Medicaid and the projected payor mix for the second year of operation will continue to be 100% Medicaid.

The Division of Medical Assistance (DMA) maintains a website which offers information regarding the number of persons eligible for Medicaid assistance and estimates of the percentage of uninsured for each county in North Carolina. The following table illustrates those percentages for Orange County and statewide.

	<b>Total # of Medicaid Eligibles as % of Total Population</b>	<b>Total # of Medicaid Eligibles Age 21 and older as % of Total Population</b>	<b>% Uninsured CY 2009 (Estimate by Cecil G. Sheps Center)*</b>
Orange County	8.6%	3.5%	18.9%
Statewide	16.5%	6.7%	19.7%

\*More current data, particularly with regard to the estimated uninsured percentages, was not available.

The majority of Medicaid eligibles are children under the age of 21. This age group does not utilize the same health services at the same rate as older segments of the population, particularly the services offered by Residential Services, Inc.

The Office of State Budget & Management (OSBM) maintains a website which provides historical and projected population data for each county in North Carolina. In addition, data are available by age, race or gender. However, a direct comparison to the applicant's current payer mix would be of little value. The population data by age, race or gender do not include information on the number of elderly, minorities or women utilizing health services. Furthermore, OSBM's website does not include information on the number of handicapped persons.

The applicant demonstrates that medically underserved populations currently have adequate access to the services offered at RSI-RC. 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;

C

In Section VI.6, pages 26-27, the applicant discusses its admission process. See Exhibit H for a copy of Residential Services, Inc.'s admission policy. In Section VI.8 (a), page 28, the applicant states there have been no civil rights, equal access complaints, or Division of Facility Services Licensure Section patient rights complaints filed against RSI facilities operating in North Carolina catchment area in the past five years. 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

C

In Section VI.2, page 26, the applicant states it will provide services to persons with disabilities and does not discriminate on the basis of economic status, gender, social, religious or ethnic background. The applicant proposes that 100% of its client days will be provided to Medicaid recipients in the second year of operations. The applicant demonstrated that it will provide access to medically underserved populations, and, 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.

C

In Section VI. 7(a), page 27, the applicant states that referrals may come from any individual or group. They may get referrals from the local MCO, from DSS, from the ARC, and from various university sources, including The University of North Carolina TEACCH Autism Program.

- (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 applicant states in Section V.1 (c), page 24:

*“This is an existing program. We already work closely with providers and have several formal relationships. Our two most recent partnerships are with The Carolina Institute for Developmental Disabilities (CIDD) and the School of Dentistry at The University of North Carolina at Chapel Hill and the School. CIDD is partnering with this facility to help identify the incidence, risk factors, and causes of falls in individuals with intellectual and developmental disabilities. The School of Dentistry is working with RSI to help develop a formal curriculum of teaching direct care staff to care for the oral health of individuals with intellectual and developmental disabilities. Both projects have immediate benefits to the residents at RSI, but are projected to help individuals on a much greater scale.*

The applicant adequately demonstrates that the proposed facility will accommodate the clinical needs of area health professional training programs. The information provide in Section V.1 is reasonable and creditable and supports a finding of conformity 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.

C

In this application, the applicant proposes to transfer ten vacant ICF/IID beds from a state operated developmental center to RSI-RC according to Policy MH-1 and Policy ICF/IID-3 of the 2014 SMFP. The applicant does not propose to increase the number of ICF/IID beds in North Carolina.

According to the records in the 2014 SMFP there are 6 licensed ICF/IID facilities in Orange County with 43 beds. The 2014 SMFP indicates that 5 of the 6 facilities are licensed for 6 beds while RSI-RC’s facility is licensed for 13 beds: 5 licensed and certified and 8 licensed but not certified. Those facilities, as reported in the 2014 SMFP are shown in the following table.

<b>ICF/IID Facilities in Orange County</b>			
<b>Name of Facility</b>	<b># of Licensed Beds</b>	<b># of CON Approved Beds Awaiting Completion/Licensure</b>	<b>Total Approved &amp; Licensed Beds</b>
Christopher Road	6	0	6
Quail Roost Group Home	6	0	6
Residential Services, Inc. *	13	0	13
Shadylawn	6	0	6
Silo Drive Facility-Chapel Hill	6	0	6
West Main Street Facility-Carrboro	6	0	6
<b>Total</b>	<b>43</b>	<b>0</b>	<b>43</b>

\*8 of 13 beds are licensed/non-certified beds.

In Section V.6, page 25, the applicant discusses the expected effects of the proposal on competition in the service area including how any enhanced competition will have a positive impact on the cost-effectiveness, quality and access to the proposed services. The applicant states:

*“As mental health resources become more community based, and the population of the state’s developmental centers shrinks, it becomes more costly to treat consumers in an institutional setting. As stated in the Human Services Research Institutes Report to the North Carolina Council on Developmental Disabilities (January 2012), the average cost of serving an*

*individual in a developmental center in North Carolina is almost 50% higher than providing service through a community-based ICF/IID facility. The proposed project will focus services on individuals 55 years and older. Quality of care will be enhanced by (1) maintaining continuity of care and enabling individuals to age in place, (2) preserving existing social supports as means of improving positive long-term health outcomes, and (3) adhering to best practice of providing community-based care in the least restrictive environment. This project will have a positive impact on access by increasing the capacity to serve more individuals at the only community-based ICF/IID facility in the state that focuses services on individuals 55 years and older.”*

See also Sections II, III, V, VI and VII where the applicant discusses the impact of the project on cost-effectiveness, quality and access to the proposed services.

The information provided by the applicant in those sections is reasonable and credible and adequately demonstrates that the expected effects of the proposal on competition in the service area include a positive impact on cost-effectiveness, quality and access to the proposed services. This determination is based on the information in the application and the following:

- The applicant adequately demonstrates the need to transfer ten vacant ICF/IID beds from Murdoch Developmental Center to RSI-RC and that the transfer is a cost-effective alternative;
- The applicant adequately demonstrates that Residential Services, Inc. will continue to provide quality services; and
- The applicant demonstrates that Residential Services, Inc. will continue to provide adequate access to medically underserved populations.

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.

## C

According to the Mental Health Licensure and Certification Section, no incidents have occurred at Residential Services, Inc. ICF/IID facilities operated in Orange County, within the eighteen months immediately preceding the date of this decision, for which any conditional level citations or penalties have been imposed related to the quality of care. 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

The applicant does not propose to develop new ICF/IID beds, but rather to relocate ten vacant existing ICF/IID beds from Murdoch Developmental Center to its existing RSI-RC facility for a total of 15 ICF/IID beds upon project completion. Therefore, the Criteria and Standards for Intermediate Care Facility/Mentally Retarded (ICF/MR) in 10A NCAC 14C .2400, are not applicable to this review.