

EXECUTIVE SUMMARY

EVALUATIONS OF THE FOLLOWING TWO CERTIFICATE OF NEED APPLICATIONS PROPOSING TO ADD DIALYSIS STATION CAPACITY TO DOUGLAS COUNTY:

- **DAVITA, INC. PROPOSING ESTABLISH A SEVENTEEN-STATION DIALYSIS CENTER IN EAST WENATCHEE**
- **CENTRAL WASHINGTON HOSPITAL PROPOSING TO ESTABLISH A SEVENTEEN-STATION DIALYSIS CENTER IN EAST WENATCHEE**

BRIEF PROJECT DESCRIPTIONS

DaVita, Inc.

This application proposes to establish a 17-station dialysis facility to be located at 295 Third Street Northeast in East Wenatchee. The new dialysis center would be known as East Wenatchee Dialysis Center and would serve the residents of Douglas County.

The capital expenditure associated with the establishment of the 17-station facility is \$2,003,222. If this project is approved, DaVita anticipates all 17 stations would become operational within eight months of approval—or by December 2010. Under this timeline, year 2011 would be the facility's first full calendar year of operation. [source: Application, p8 & p13; October 30, 2009 supplemental information, p1]

Central Washington Hospital

This application proposes to establish a 17-station dialysis facility to be located at 795 Grant Road in East Wenatchee. The new dialysis center would be known as CWH Douglas County Dialysis Unit and would serve the residents of Douglas County.

The capital expenditure associated with the establishment of the 17-station facility is \$1,451,412. If this project is approved, Central Washington Hospital anticipates all 17 stations would become operational by the end of April 2011. Under this timeline, year 2012 would be the facility's first full calendar year of operation. [source: Application, p10 & p27; October 30, 2009, supplemental information, p1]

APPLICABILITY OF CERTIFICATE OF NEED LAW

Both projects are subject to Certificate of Need review as the establishment of a new healthcare facility under the provisions of Revised Code of Washington (RCW) 70.38.105(4)(a) and Washington Administrative Code (WAC) 246-310-020(1)(a).

CONCLUSIONS

DaVita, Inc.

For the reasons stated in this evaluation, the application submitted on behalf of DaVita, Inc. proposing to establish a seventeen-station dialysis center in East Wenatchee within Douglas County is not considered the best available alternative under WAC 246-310-288, and a Certificate of Need is denied.

Central Washington Hospital

For the reasons stated in this evaluation, the application submitted on behalf of Central Washington Hospital proposing to establish a seventeen-station dialysis center in East Wenatchee within Douglas County is consistent with applicable criteria of the Certificate of Need Program, provided that Central Washington Hospital provides written agreement to the following term.

Prior to providing services at Douglas County Dialysis Unit, Central Washington Hospital will provide an executed copy of the Medical Director Agreement for the department's review and approval. The executed agreement must identify the name and professional license number of the proposed medical director and any temporary substitute medical directors as referenced in the draft agreement. The costs and terms provided in the executed agreement must be consistent with the costs and terms identified in the draft agreement.

The approved capital expenditure associated with the establishment of a seventeen-station dialysis center is \$1,451,612.

EVALUATIONS OF THE FOLLOWING TWO CERTIFICATE OF NEED APPLICATIONS PROPOSING TO ADD DIALYSIS STATION CAPACITY TO DOUGLAS COUNTY:

- **DAVITA, INC. PROPOSING ESTABLISH A SEVENTEEN-STATION DIALYSIS CENTER IN EAST WENATCHEE**
- **CENTRAL WASHINGTON HOSPITAL PROPOSING TO ESTABLISH A SEVENTEEN-STATION DIALYSIS CENTER IN EAST WENATCHEE**

APPLICANT DESCRIPTIONS

DaVita Inc.

DaVita, Inc. (DaVita) is a for-profit corporation that provides dialysis services in over 1,400 outpatient centers located in 43 states and the District of Columbia. DaVita also provides acute inpatient dialysis services in approximately 700 hospitals throughout the country. [source: Application, p5; DaVita website]

In Washington State, DaVita owns or operates a total of 23 kidney dialysis facilities in 11 separate counties. Below is a listing of the DaVita facilities in Washington. [source: CN historical files; DaVita Application, p5]

Clark

Vancouver Dialysis Center

Pacific

Seaview Dialysis Center

Island

Whidbey Island Dialysis Center

Pierce

Graham Dialysis Center
Lakewood Community Dialysis Center
Parkland Dialysis Center
Puyallup Community Dialysis Center
Tacoma Dialysis Center

Franklin

Mid-Columbia Kidney Center

Kittitas

Ellensburg Dialysis Center

Yakima

Mt. Adams Kidney Center
Union Gap Dialysis Center
Yakima Dialysis Center

Thurston

Olympia Dialysis Center

King

Bellevue Dialysis Center
Federal Way Community Dialysis Center
Kent Community Dialysis Center
Olympic View Dialysis Center (Mgmt. only)
Westwood Dialysis Center

Snohomish

Everett Dialysis Center
Mill Creek Dialysis Center

Benton

Kennewick Dialysis Center
Chinook Dialysis Center

Central Washington Hospital

The origins of Central Washington Hospital date to the early 1900s with the establishment of Central Washington Deaconess Hospital and St. Anthony's Hospital. The two organizations merged in 1974 to form Central Washington Health Services Association. The St. Anthony's facility was renamed Rosewood Hospital in 1978 and the facilities combined their operations at the remodeled and expanded

Rosewood Hospital site under the name Central Washington Hospital. [source: Central Washington Hospital website]

Central Washington Hospital (CWH) is located at 1201 South Miller Street in Wenatchee, within Chelan County. CWH provides healthcare services to the residents of Chelan County through its hospital, home health agency, hospice agency, and dialysis center. All of the health care facilities are located in Chelan County. [source: CN historical files; CWH Application, Exhibit 1]

PROJECT DESCRIPTIONS

DaVita Inc.

DaVita proposes to establish a 17-station facility to be located at 295 Third Street Northeast in East Wenatchee. The new dialysis center would be known as East Wenatchee Dialysis Center (referenced as "EWDC" in this evaluation) and would serve the residents of Douglas County.

Services to be provided at EWDC include hemodialysis, peritoneal dialysis, and training/support for dialysis patients. The 17-station facility would include a permanent bed station and an isolation station. [source: Application, p9]

The capital expenditure associated with the establishment of the 17-station facility is \$2,003,222. Of that amount 62% is related to leasehold improvements; 32% for fixed/moveable equipment; and the remaining 6% is related to fees. [source: Application, Appendix 7]

If this project is approved, DaVita anticipates all 17 stations would become operational within eight months of approval—or by December 2010. Under this timeline, year 2011 would be the facility's first full calendar year of operation and 2013 would be year three. [source: Application, p8 & p13; October 30, 2009 supplemental information, p2]

Central Washington Hospital

CWH proposes to establish a 17-station facility to be located at 795 Grant Road in East Wenatchee. The new dialysis center would be known as CWH Douglas County Dialysis Unit (referenced as "DCDU" in this evaluation) and would serve the residents of Douglas County.

Services to be provided at DCDU include hemodialysis, peritoneal dialysis, and training/support for dialysis patients. The 17-station facility would a permanent bed station and an isolation station. [source: Application, p7]

The capital expenditure associated with the establishment of the 17-station facility is \$1,451,612. Of that amount 57% is related to leasehold/construction; 37% for fixed/moveable equipment; and the remaining 6% is related to fees. [source: Application, p27]

If this project is approved, CWH anticipates all 17 stations would become operational by the end of April 2011. Under this timeline, year 2012 would be the facility's first full calendar year of operation and 2014 would be year three. [source: Application, p10 & p27; October 30, 2009, supplemental information, p1]

APPLICABILITY OF CERTIFICATE OF NEED LAW

Both projects are subject to Certificate of Need review as the establishment of a new healthcare facility under the provisions of Revised Code of Washington (RCW) 70.38.105(4)(a) and Washington Administrative Code (WAC) 246-310-020(1)(a).

CRITERIA EVALUATION

WAC 246-310-200(1)(a)-(d) identifies the four determinations that the department must make for each application. WAC 246-310-200(2) provides additional direction in how the department is to make its determinations. It states:

“Criteria contained in this section and in WAC 246-310-210, 246-310-220, 246-310-230, and 246-310-240 shall be used by the department in making the required determinations.

(a) In the use of criteria for making the required determinations, the department shall consider:

- (i) The consistency of the proposed project with service or facility standards contained in this chapter;*
- (ii) In the event the standards contained in this chapter do not address in sufficient detail for a required determination the services or facilities for health services proposed, the department may consider standards not in conflict with those standards in accordance with subsection (2)(b) of this section; and*
- (iii) The relationship of the proposed project to the long-range plan (if any) of the person proposing the project.”*

In the event the WAC 246-310 does not contain service or facility standards in sufficient detail to make the required determinations, WAC 246-310-200(2)(b) identifies the types of standards the department may consider in making its required determinations. Specifically WAC 246-310-200(2)(b) states:

“The department may consider any of the following in its use of criteria for making the required determinations:

- (i) Nationally recognized standards from professional organizations;*
- (ii) Standards developed by professional organizations in Washington state;*
- (iii) Federal Medicare and Medicaid certification requirements;*
- (iv) State licensing requirements;*
- (v) Applicable standards developed by other individuals, groups, or organizations with recognized expertise related to a proposed undertaking; and*
- (vi) The written findings and recommendations of individuals, groups, or organizations with recognized expertise related to a proposed undertaking, with whom the department consults during the review of an application.”*

WAC 246-310-280 through 289 contains service or facility specific criteria for dialysis projects and must be used to make the required determinations.

To obtain Certificate of Need approval, each applicant must demonstrate compliance with the applicable criteria found in WAC 246-310-210 (need); 246-310-220 (financial feasibility); 246-310-230 (structure and process of care); and 246-310-240 (cost containment). Additionally, each applicant

must demonstrate compliance with applicable kidney disease treatment center criteria outlined in WAC 246-310-280 through 284.¹

APPLICATION CHRONOLOGY

As directed under WAC 246-310-282(1) the department accepted these two projects under the year 2009 Kidney Disease Treatment Centers-Concurrent Review Cycle #3. Below is a chronologic summary of the projects.

Action	DaVita	CWH
Letter of Intent Submitted	July 31, 2009	July 31, 2009
Application Submitted	August 31, 2009	August 31, 2009
Department's pre-review Activities including screening and responses	September 1, 2009 through November 15, 2009	
Beginning of Review	November 16, 2009	
End of Public Comment	January 15, 2010	
Rebuttal Comments Received	February 15, 2010	
Department's Anticipated Decision Date.	March 31, 2010	
Department's Actual Decision Date	October 21, 2010	

CONCURRENT REVIEW AND AFFECTED PERSONS

The purpose of the concurrent review process is to comparatively analyze and evaluate competing or similar projects to determine which of the projects may best meet the identified need. In the case of the projects submitted by DaVita and CWH, the department will issue one single evaluation regarding whether one, both, or neither of the projects should be issued a Certificate of Need.

For each application, the other applicant sought and received affected person status under WAC 246-310-010. No other entities sought and received affected person status for either of the two projects.

SOURCE INFORMATION REVIEWED

- DaVita, Inc.'s Certificate of Need application submitted August 31, 2009
- Central Washington Hospital's Certificate of Need application submitted August 31, 2009
- DaVita, Inc.'s supplemental information dated October 30, 2009
- Central Washington Hospital's supplemental information dated October 30, 2009
- Public comment received during the review
- DaVita, Inc.'s rebuttal comments received February 16, 2010
- Central Washington Hospital's rebuttal comments received February 16, 2010
- Years 2003 through 2008 historical kidney dialysis data obtained from the Northwest Renal Network
- Year 2008 Northwest Renal Network 4th Quarter Data
- Licensing and/or survey data provided by the Department of Health's Investigations and Inspections Office
- Licensing and/or survey data provided by out of state health care survey programs

¹ Each criterion contains certain sub-criteria. The following sub-criteria are not discussed in this evaluation because they are not relevant to this project: WAC 246-310-210(3), (4), (5), and (6); and WAC 246-310-287.

SOURCE INFORMATION REVIEWED (continued)

- Data obtained from DaVita, Inc.'s webpage (www.davita.com)
- Data obtained from Central Washington Hospital's webpage (www.cwhs.com)
- Data obtained from Centers for Medicare and Medicaid Services (CMS) webpage (www.medicare.gov/dialysis)
- Data obtained from the Washington Secretary of State office and webpage
- Data obtained from the Douglas County Assessor webpage
- Maps and driving directions (maps.yahoo.com)
- Certificate of Need historical files

CONCLUSIONS

DaVita, Inc.

For the reasons stated in this evaluation, the application submitted on behalf of DaVita, Inc. proposing to establish a seventeen-station dialysis center in East Wenatchee within Douglas County is not considered the best available alternative under WAC 246-310-288, and a Certificate of Need is denied.

Central Washington Hospital

For the reasons stated in this evaluation, the application submitted on behalf of Central Washington Hospital proposing to establish a seventeen-station dialysis center in East Wenatchee within Douglas County is consistent with applicable criteria of the Certificate of Need Program, provided that Central Washington Hospital provides written agreement to the following term.

Prior to providing services at Douglas County Dialysis Unit, Central Washington Hospital will provide an executed copy of the Medical Director Agreement for the department's review and approval. The executed agreement must identify the name and professional license number of the proposed medical director and any temporary substitute medical directors as referenced in the draft agreement. The costs and terms provided in the executed agreement must be consistent with the costs and terms identified in the draft agreement.

The approved capital expenditure associated with the establishment of a seventeen-station dialysis center is \$1,451,612.

A. Need (WAC 246-310-210)

Based on the source information reviewed, the department concludes:

- DaVita, Inc.'s project has met the need criteria in WAC 246-310-210(1) and (2) and the kidney disease treatment facility methodology and standards in WAC 246-310-284 and WAC 246-310-286; and
- Central Washington Hospital's project has met the need criteria in WAC 246-310-210(1) and (2) and the kidney disease treatment facility methodology and standards in WAC 246-310-284 and WAC 246-310-286.

(1) The population served or to be served has need for the project and other services and facilities of the type proposed are not or will not be sufficiently available or accessible to meet that need.

WAC 246-310-284 requires the department to evaluate kidney disease treatment centers applications based on the populations need for the service and determine whether other services and facilities of the type proposed are not, or will not, be sufficiently available or accessible to meet that need as required in WAC 246-310-210. The kidney disease treatment center specific numeric methodology applied is detailed under WAC 246-310-284(4). WAC 246-310-210(1) criteria is also identified in WAC 246-310-284(5) and (6).

Kidney Disease Treatment Center Methodology WAC 246-310-284

WAC 246-310-284 contains the methodology for projecting numeric need for dialysis stations within a planning area. This methodology projects the need for kidney dialysis treatment stations through a regression analysis of the historical number of dialysis patients residing in the planning area using verified utilization information obtained from the Northwest Renal Network.²

The first step in the methodology calls for the determination of the type of regression analysis to be used to project resident in-center station need. [WAC 246-310-284(4)(a)] This is derived by calculating the annual growth rate in the planning area using the year-end number of resident in-center patients for each of the previous six consecutive years, concluding with the base year.³ In planning areas experiencing high rates of growth in the dialysis population (6% or greater growth in each of the last five annual change periods), the method uses exponential regression to project future need. In planning areas experiencing less than 6% growth in any of the last five annual change periods, linear regression is used to project need.

Once the type of regression is determined as described above, the next step in the methodology is to determine the projected number of resident in-center stations needed in the planning area based on the planning area's previous five consecutive years NRN data, again concluding with the base year. [WAC 246-310-284(4)(b) and (c)]

WAC 246-310-284(5) identifies that for all planning areas except Adams, Columbia, Douglas, Ferry, Garfield, Jefferson, Kittitas, Klickitat, Lincoln, Okanogan, Pacific, Pend Oreille, San Juan,

² Northwest Renal Network was established in 1978 and is a private, not-for-profit corporation independent of any dialysis company, dialysis unit, or transplant center. It is funded by Centers for Medicare and Medicaid Services, Department of Health and Human Services. Northwest Renal Network collects and analyzes data on patients enrolled in the Medicare ESRD programs, serves as an information resource, and monitors the quality of care given to dialysis and transplant patients in the Pacific Northwest. [source: Northwest Renal Network website]

³ WAC 246-310-280 defines base year as "the most recent calendar year for which December 31 data is available as of the first day of the application submission period from the Northwest Renal Network's Modality Report or successor report." For this project, the base year is 2008.

Skamania, Stevens, and Wahkiakum counties, the number of projected patients is divided by 4.8 to determine the number of stations needed in the planning area. For the specific counties listed above, the number of projected patients is divided by 3.2 to determine needed stations. Additionally, the number of stations projected as needed in the target year is rounded up to the nearest whole number.

Finally, once station need has been calculated for the project years, the number of CN approved in-center stations are then subtracted from the total need, resulting in a net need for the planning area. [WAC 246-310-284(4)(d)]

DaVita’s Application of the Numeric Methodology

DaVita proposes to establish a 17-station center in East Wenatchee. Based on the calculation of the annual growth rate in the planning area as described above, linear regression was used to project need. Given that EWDC would be located in Douglas County, the number of projected patients was divided by 3.2 to determine the number of stations needed in the planning area. [source: Application, pp19-20]

CWH’s Application of the Numeric Methodology

CWH proposes to establish a 17-station dialysis center in East Wenatchee. Based on the calculation of the annual growth rate in the planning area as described above, linear regression was used to project need. Given that DCDCU would be located in Douglas County, the number of projected patients was divided by 3.2 to determine the number of stations needed in the planning area. [source: Application, pp14-17]

Department’s Application of the Numeric Methodology

Based on the calculation of the annual growth rate in the planning area as described above, the department also used linear regression to project need for Douglas County. The department divided the projected number of patients by 3.2 to determine the number of stations needed as required under WAC 246-310-284(5).

Based on the numeric methodology, Table 1 below shows a summary of the projected net need provided by each applicant and the department for Douglas County.

Table 1
Douglas County Numeric Methodology Summary of Projected Net Station Need

	3.2 in-center patients per station		
	2012 Projected # of stations	Minus Current # of stations	2012 Net Need
DaVita	17	0	17
CWH	17	0	17
DOH	17	0	17

When comparing the applicants’ and department’s results shown in Table 1, it shows that the projections of both applicants match the department’s figures. As a result, the net station need for Douglas County is 17.

WAC 246-310-284(5)

WAC 246-310-284(5) requires all CN approved stations in the planning area be operating at 3.2 in-center patients per station before new stations can be added. Since there is no dialysis center operating in Douglas County, this criteria does not apply.

WAC 246-310-284(6)

WAC 246-310-284(6) requires new in-center dialysis stations be operating at a required number of in-center patients per approved station by the end of the third full year of operation. For Douglas County, the requirement is 3.2 in-center patients per approved station. [WAC 246-310-284(6)(a)] Both DaVita and CWH propose dialysis stations to be located within Douglas County as a result, both applicants must demonstrate compliance with this criterion using the 3.2 in-center patient per station.

DaVita anticipates all 17 stations would become operational within eight months of approval—or by the end of December 2010. Under this timeline, year 2011 would be the facility’s first full calendar year of operation and 2013 would be year three. CWH anticipates all 17 stations would become operational by the end of April 2011. Under this timeline, year 2012 would be the facility’s first full calendar year of operation and 2014 would be year three. A summary of both applicants’ projected utilization for their respective third year of operation is shown in Table 2 below. [source: DaVita Application, Appendix 9; CWH Application, p18]

Table 2
Third Year Projected Facility Utilization

Facility Name	Year 3	# of Stations	# of Pts	Pts/Station
DaVita-East Wenatchee Dialysis Center	2013	17	55	3.23
CWH-Douglas County Dialysis Unit	2014	17	57	3.35

As shown in Table 2 above, this standard is met for both CWH and DaVita.

While comments were provided by each applicant in opposition to the other applicant’s project, none of the comments dispute the methodology’s mathematic conclusion of need for 17 dialysis stations within Douglas County [WAC 246-310-284(5)] or that each applicant project’s to be operating at the required number of in-center patients per approved station at the end of year three [WAC2 46-310-284(6)].

Based on the above information and standards, the department’s conclusion regarding this sub-criterion follows.

DaVita-East Wenatchee Dialysis Center

DaVita proposes to establish a 17-station dialysis center in East Wenatchee within Douglas County. Based on the above standards and criteria, the project is consistent with applicable criteria of the Certificate of Need Program and this sub-criterion is met for DaVita’s project.

CWH-Douglas County Dialysis Unit

CWH proposes to establish a 17-station dialysis center in East Wenatchee within Douglas County. Based on the above standards and criteria, the project is consistent with applicable criteria of the Certificate of Need Program and this sub-criterion is met for CWH’s project.

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

As previously stated, both applicants currently provide health care services to out-of-state residents or residents of Washington State. To determine whether all residents of the Douglas County service area would have access to an applicant's proposed services, the department requires applicants to provide a copy of its current or proposed admission policy. The admission policy provides the overall guiding principles of the facility as to the types of patients that are appropriate candidates to use the facility and any assurances regarding access to treatment.

DaVita, Inc.

To demonstrate compliance with this sub-criterion, DaVita provided a copy of its current Admission and Indigent Care policies that would also be used at the new Douglas County facility. The Admission Policy outlines the process/criteria that EWDC will use to admit patients for treatment, and ensures that patients will receive appropriate care at the dialysis center. The Admission Policy also states that any patient with end stage renal disease needing chronic hemodialysis will be accepted for treatment at the facility without regard to race, color, national origin, sex, age, religion, or disability. [source: Application, Appendix 14]

Central Washington Hospital

To demonstrate compliance with this sub-criterion, CWH provided a copy of its current Admission and Non-Discrimination policies that would also be used at the new Douglas County facility. The Admission Policy outlines the process/criteria that CWH uses to admit patients for treatment at the hospital or its dialysis center. It is intended to ensure that patients will receive appropriate care. The Non-Discrimination policy states that any patient needing treatment will be accepted to any CWH facility without regard to race, color, religion, creed, national origin, sex, disability, sexual orientation, or age. [source: Application, Exhibit 9]

To determine whether low-income residents would have access to the proposed services, the department uses the facility's Medicaid eligibility or contracting with Medicaid as the measure to make that determination. To determine whether the elderly would have access or continue to have access to the proposed services, the department uses Medicare certification as the measure to make that determination.

DaVita, Inc.

DaVita currently provides services to Medicare and Medicaid eligible patients at its existing dialysis centers. It intends to also provide services to Medicare and Medicaid patients at the proposed Douglas County facility. A review of the anticipated revenue indicates that the facility expects to continue to receive both Medicare and Medicaid reimbursements.

Central Washington Hospital

CWH currently provides services to Medicare and Medicaid eligible patients at its hospital and dialysis center. It intends to also provide services to Medicare and Medicaid patients at the proposed Douglas County facility. A review of the anticipated revenue indicates that the facility expects to continue to receive both Medicare and Medicaid reimbursements.

A facility's charity care policy should confirm that all residents of the service area including low-income, racial and ethnic minorities, handicapped and other underserved groups have, or would

have, access to healthcare services of the applicant. The policy should also include the process one must use to access charity care at the facility.

DaVita, Inc.

DaVita demonstrated its intent to provide charity care to Douglas County residents by submitting its current charity care policy that outlines the process one would use to access this service. DaVita also included a 'charity care' line item as a deduction from revenue within the pro forma income statements documents. [source: October 30, 2009, supplemental information, Exhibit 1]

Central Washington Hospital

CWH demonstrated its intent to provide charity care to Douglas County residents by submitting its current charity care policy that outlines the process one would use to access this service. CWH also included a 'charity care' line item as a deduction from revenue within the pro forma income statements documents. [source: October 30, 2009, supplemental information, Attachment 5]

Based on the above information and standards, the department's conclusion regarding this sub-criterion follows.

DaVita-East Wenatchee Dialysis Center

The department concludes that all residents of the service area would have adequate access to the health services at the proposed Douglas County facility. This sub-criterion is met.

CWH-Douglas County Dialysis Unit

The department concludes that all residents of the service area would have adequate access to the health services at the proposed Douglas County facility. This sub-criterion is met.

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

Based on the source information reviewed, the department concludes:

- DaVita, Inc.'s project has met the financial feasibility criteria in WAC 246-310-220; and
- Central Washington Hospital's project has met the financial feasibility criteria in WAC 246-310-220.

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

WAC 246-310 does not contain specific WAC 246-310-220(1) financial feasibility criteria as identified in WAC 246-310-200(2)(a)(i). There are also no known recognized standards as identified in WAC 246-310-200(2)(a)(ii) and (b) that directs what the operating revenues and expenses should be for a project of this type and size. Therefore, using its experience and expertise the department evaluates if the applicant's pro forma income statements reasonably project the proposed project is meeting its immediate and long-range capital and operating costs by the end of the third complete year of operation.

DaVita, Inc.

DaVita anticipates EWDC will become operational by December 2010. Based on this timeline calendar year (CY) 2011 would be the facility's first full year of operation. Using the financial information provided as part of the completed application, Table 3 on the following page illustrates the projected revenue, expenses, and net income for CY 2011 through 2013 for EWDC. [source: October 30, 2009, supplemental information, Attachment 1]

Table 3
DaVita's East Wenatchee Dialysis Center
Projected Revenue and Expenses Calendar Years 2011 - 2013⁴

	Full Year 1 2011	Full Year 2 2012	Full Year 3 2013
# of Stations	17	17	17
# of Treatments ^[1]	6,056	7,722	8,934
# of Patients ^[2]	38	48	55
Utilization Rate ^[2]	2.24	2.82	3.24
Net Patient Revenue ^[1]	\$ 1,453,520	\$ 2,647,401	\$ 3,202,997
Total Operating Expense ^[1,3]	\$ 1,605,172	\$ 2,176,979	\$ 2,471,708
Net Profit or (Loss) ^[1]	(\$ 151,652)	\$ 470,422	\$ 731,289

[1] includes both in-center and home dialysis patients; [2] in-center patients only; [3] includes bad debt, charity care and allocated costs

As shown in Table 3 above, at the projected volumes identified in the application, DaVita anticipates that the 17-station EWDC would be operating at a loss in full year one and a profit in years two and three.

DaVita selected a site for its Douglas County facility located at 295 Third Street Northeast in East Wenatchee. The executed lease agreement provided in the application outlines the terms and the annual rent for the space for 10 years following commencement of the lease. The annual lease costs are substantiated in the pro forma financial documents used to prepare the summary in Table 3. [source: Application, Appendix 15]

Additionally, DaVita provided a copy of the draft Medical Director Agreement between itself and Wenatchee Valley Medical Center. The medical director service costs are also substantiated pro forma documents. [source: Application, Appendix 3]

Central Washington Hospital

For its Douglas County project, CWH anticipates it will become operational in April 2011. Based on this timeline CY 2012 would be DCU's first full calendar year of operation. Using the financial information provided as part of the completed application, Table 4 on the following page illustrates the projected revenue, expenses, and net income for partial year 2011 and full CYs 2012-2014. [source: Application, p10 and October 30, 2009, supplemental information, Attachment 5]

⁴ Whole numbers may not add due to rounding.

Table 4
CWH's Douglas County Dialysis Unit
Projected Revenue and Expenses Calendar Years 2011 - 2014⁵

	Partial Year 2011	Full Year 1 2012	Full Year 2 2013	Full Year 3 2014
# of Stations	17	17	17	17
# of Treatments ^[1]	6,172	9,678	10,458	11,082
# of Patients ^[2]	41	48	53	57
Utilization Rate ^[2]	2.41	2.82	3.12	3.35
Net Patient Revenue ^[1]	\$ 1,438,164	\$ 2,250,033	\$ 2,457,794	\$ 2,624,002
Total Operating Expense ^[1,3]	\$ 1,494,649	\$ 2,112,816	\$ 2,262,820	\$ 2,380,863
Net Profit or (Loss) ^[1]	(\$ 56,485)	\$ 137,217	\$ 194,974	\$ 243,139

[1] includes both in-center and home dialysis patients; [2] in-center patients only; [3] includes bad debt, charity care and allocated costs

As shown in Table 4 above, at the projected volumes identified in the application, CWH anticipates that the 17-station DCDU would be operating at a loss in partial year 2011 and a profit in CY 2012 through 2014.

CWH also selected a site for its Douglas County facility located at 795 Grant Road in East Wenatchee. CWH provided a copy of the executed land lease and building lease for the new dialysis center. The land lease identifies a 50-year term and allows construction of a dialysis center on the site. The building lease identifies a 20-year term and outlines the terms and annual lease for the dialysis unit once constructed. Both annual lease costs are substantiated in the pro forma financial documents used to prepare the summary in Table 4. [source: October 30, 2009, supplemental information, Attachments 3 and 4]

Additionally, CWH provided a copy of the draft Medical Director Agreement between itself and Wenatchee Valley Medical Center specific to its proposed Douglas County facility. The medical director service costs are also substantiated in the pro forma documents. [source: October 30, 2009, supplemental information, p 1 & Attachment 1]

Both applicants provided comments on the other application related to this sub-criterion. The comments are summarized below.

DaVita's Comments [source: January 15, 2010, public comments, pp4-10]

- CWH's medical director costs cannot be confirmed;
- CWH understated its general/administrative expenses (allocated costs) and salary/benefits expenses;
- CWH overstated its revenues.

CWH's Comments [source: January 15, 2010, public comments, pp, 4-10]

- DaVita's projected number of patients are flawed;
- DaVita does not include contractual allowances as part of its deductions from revenue.

⁵ Whole numbers may not add due to rounding.

Both applicants also provided rebuttal comments related to the comments summarized above. This section of the evaluation addresses the comments above, by topic, and incorporates rebuttal statements made by each applicant as appropriate. [source: DaVita and CWH rebuttal comments both received February 16, 2010]

Department's Review

Projected number of patients

CWH states that DaVita's projected number of patients shown in Table 3 is overstated. DaVita projects it will serve 38 in-center patients in its first calendar year of operation, 48 in-center patients in year two, and 55 in-center patients in year three. By comparison, for its first three calendar years of operation shown in Table 4, CWH's projects it will serve 48 in-center patients in year one (2012); 53 in year two, and 57 in year three at its new Douglas County facility.

Table 5 below is a comparison of the first three calendar years of operation for DaVita and CWH for both in-center and home dialysis patients. [source: DaVita, October 30, 2009, supplemental information, Attachment 1; CWH, October 30, 2009, supplemental information, Attachment 5]

**Table 5
Comparison of DaVita and CWH Projected Patients**

DaVita	Full Year 1-2011	Full Year 2-2012	Full Year 3-2013
# of Patients	51	59	63
CWH	Full Year 1-2012	Full Year 2-2013	Full Year 3-2014
# of Patients	54	59	63

As shown in Table 5 above, a comparison shows DaVita and CWH project the same number of patients for two of the first three full calendar years of operation.

CWH states DaVita's projections are unrealistic primarily for two reasons: 1) CWH has a long history of serving Douglas County; and 2) the close proximity of CWH's Wenatchee facility located in Chelan County and the geography of Douglas County. CWH states the vast majority of the Douglas County patients live in East Wenatchee, which borders on Wenatchee, and 90% of the Douglas County patients receive their dialysis treatment from CWH's facility in Wenatchee. The remaining 10% live further away in Bridgeport and would likely dialyze in Omak, which is 36 miles away compared to an East Wenatchee facility almost 75 miles away. CWH states it is unlikely that the dialysis patients would sever their relationship with CWH to obtain dialysis services at DaVita's new facility.

The department reviewed the distance of the proposed dialysis centers from each other and CWH's existing facility in Chelan County. [source: internet maps & driving directions] CWH's Douglas County facility would be located approximately 10 minutes and 3.18 miles from its Chelan County facility; DaVita's Douglas County facility would be located approximately 9 minutes and 3.25 miles from CWH's Chelan County facility. The two Douglas County facilities would be located approximately 3 minutes and less than one mile from each other. Essentially, each new dialysis center would be the same distance from the nearest operating dialysis center located in Chelan County.

CWH asserts that DaVita's projections are overstated because the patients already have an established relationship with CWH at the Chelan facility and it is unlikely that they would sever their relationship with CWH to dialysis at DaVita's Douglas County facility. However, based on

its own projected number of patients, CWH assumes these same patients wouldn't mind transferring to CWH's Douglas County facility.

CWH calculates that DaVita must have at least 40 patients at its new facility to cover its expenses. CWH's pro forma information summarized in Table 4 indicates that CWH's minimum number of patients before covering expenses is some number slightly greater than 40, since 41 patients in partial year 1 does not allow for a break-even.

In summary, both CWH and DaVita project to serve Douglas County with 17 new stations. Both applicants project to serve a similar number of patients—in-center and home dialysis—for its first three years of operation. Both applicants provided reasonable rationale for the number of patients it projects to serve. While CWH already serves a number of Douglas County patients at its Chelan County facility, DaVita reasonably assumes that some of those patients would choose to relocate to a Douglas County facility. CWH, in its projections, also makes the assumption that a number of its Douglas County patients would choose to dialyze in Douglas County. The department concludes that both CWH and DaVita's projected number of patients and dialyses are reasonable.

Overstated Revenues

DaVita asserts that CWH overstated its revenues. In its application, CWH provided the following statements. [source: Application, p28]

"The [CWH] project will have an impact on the patients with commercial insurance and other payers in that our charges per treatment are low compared to other facilities resulting in lower costs of deductibles and co-insurance for those patients."

In response to the department's request for documentation to substantiate that CWH's charges per treatment are lower than other facilities, CWH provided the following statement. [source: October 30, 2009, supplemental information, pp4-5]

"As noted in CWH's May 16, 2008 public comment, DaVita's application assumed a commercial payer rate of \$672.69 or more than double CWH's rate of \$310."

It is clear from its statement on page 28 that CWH's comments stem from the extensive reviews and subsequent appeals of previous applications submitted by CWH and DaVita in November 2007.⁶ For clarification, none of the data, documents, or statements specific to the two applications submitted in 2007 will be considered in the department's review of these applications submitted in 2009.

Dividing the annual in-center revenue by the annual in-center treatments, DaVita calculated CWH's revenue per treatment to be \$350 per treatment. The department was able to substantiate DaVita's calculations. A review of DaVita's rebuttal comments reveals that DaVita applied an average revenue per treatment of \$393. [source: DaVita rebuttal documents, pp3-6]

Based on the above comparison, CWH's revenue per treatment calculates to lower than DaVita's revenue per treatment. This calculation alone does not support that CWH overstated its revenues to cover its costs. No other information is provided by DaVita to support its claim.

⁶ On November 30, 2007, both CWH and DaVita submitted applications to establish a 22-station dialysis center in Douglas County. In its July 31, 2008, evaluation, the department approved DaVita's project and denied CWH's project. The department's decision was appealed, and as of the writing of this evaluation, continues to be under appeal.

Expenses

DaVita asserts that CWH's medical director costs cannot be confirmed and CWH understated its general/administrative expenses (allocated costs) and salary/benefits expenses. In turn, CWH states that DaVita's omission of contractual allowances as part of its deductions from revenue is incorrect.

The department relies on the information provided by the applicant and the reasonableness of any assumptions and calculations used by the applicant in preparing its financial projections. In the case of these two projects, both provided pro forma revenue and expense statements, and where applicable, provided clarification on any calculations and assumptions used in the projections.

CWH identified its annual medical director costs at \$114,400 for years one through three—2012 through 2014. CWH also provided a copy of the draft medical director agreement between itself and Wenatchee Valley Medical Center specific to the proposed Douglas County facility. The draft agreement identifies the costs for medical director services "*not to exceed 40 hours per month and not more than a total of \$114,400 on an annual basis during the term.*" The term of the medical director agreement is three years or through December 31, 2014, whichever is later. The draft agreement also includes language allowing termination of the agreement without cause with 90 days prior written notice. DaVita asserts that the medical director agreement can only be considered valid for up to 90 days.

CWH provided a draft medical director agreement in conformance with the Certificate of Need requirements. Further, the draft medical director agreement identifies roles and responsibilities of both CWH and Wenatchee Valley Medical Center. All costs associated with medical director services are identified in the draft agreement and substantiated within the pro forma revenue and expense statements provided in the application. If this project is approved, the department would include a term requiring CWH to provide a copy of the executed medical director agreement consistent with the draft agreement. The attachment of a medical director term is not only an acknowledgement by the department of the intent of the applicant to meet the requirements to be issued a Certificate of Need, it also allows for unforeseen circumstances if, for whatever reason, the medical director identified in the draft agreement is unable to provide medical director services once the facility is operational. In the event that a proposed medical director identified by any applicant is unable to enter into an executed agreement prior to the facility becoming operational, the department would require a certificate holder to identify a new medical director. The certificate holder would have to submit a copy of the medical director agreement with terms consistent with the terms identified in the draft agreement. The department would review the terms and the medical director's quality of care history. DaVita's assertion that the termination language in the draft medical director agreement invalidates the agreement beyond 90 days is unreasonable.

DaVita also asserts that CWH understated its general/administrative expenses (allocated costs) for the dialysis unit. To reach this assertion, DaVita compares CWH's application submitted in 2007 to this application submitted in 2009. DaVita calculates CWH's allocated costs by dividing the line item entitled G&A Allocation by the number of treatments projected in each of the respective years. DaVita determined CWH's cost allocations in the 2007 application were \$14.47/treatment in year one, which decreased to \$13.80 by the end of year four. Using the same formula for CWH's 2009 application, DaVita calculated allocated costs at \$13.09/treatment in year one which increases to \$13.31 in year four. Using CWH's audited financial reports submitted with the 2009

application⁷, DaVita divided CWH's general/administrative expenses by its total expenses to determine a percentage of general/administrative expenses of 24%. DaVita concludes that CWH understated its general/administrative for this application.

In response to DaVita's statements, CWH provided a detailed discussion, the formula, and calculations it used to determination allocated costs for this application proposing a 17-station facility. In summary, CWH does not calculate allocated costs evenly for in-center treatments and home treatments. The total number of treatments used by DaVita in its calculations includes home treatments. Based on CWH's formula and calculations, allocated costs are approximately \$15/in-center treatments and \$6.50/home treatments.

Given that CWH is a hospital based dialysis provider and DaVita is not, the department would expect differences in the assumptions used by each to determine the line item of allocated costs, which would result in a difference in the percentages of allocated costs to total expenses. CWH's allocated cost assumptions appears to be reasonable for a dialysis unit associated with a hospital; DaVita's allocated cost assumptions also appears to be reasonable for a large dialysis provider that operates centers across the nation.

DaVita states that CWH underestimated its salary/benefits expense line item. DaVita again compares CWH's application to the application filed in 2007 by CWH. DaVita's comparison concludes that CWH reduced its employee benefits and taxes expense from 25% to 24.5% of total salaries and reduced its paid leave and disability expenses from 11.5% to 11.1% of total salaries.

In response, CWH asserts that DaVita miscalculated by double-counting numbers in both the 2007 and 2009 calculations. CWH corrects DaVita's math to show its paid leave/disability line item was 13% of total productive salary in its 2007 application, which was reduced to 12.5% in this 2009 application. It is clear from the calculations provided by both DaVita and CWH, that neither calculation is necessarily incorrect. DaVita's calculations determined the amount of and percentage of total salaries that were attributed to employee benefits/taxes and paid leave and disability. This is a different calculation than performed by CWH. In its calculations, CWH determined the amount and percentage of paid leave and disability that should be included with total productive salaries, to reach the total salaries line item. The two different calculations result in two different amounts and percentages.

CWH provided an explanation for its 5 percent reduction in total productive salary from its 2007 application to its 2009 application. The explanation, while reasonable, is not necessary. DaVita does not assert that CWH's percentages or amounts are unreasonable or incorrect; rather DaVita asserts that because they are different/less than the amounts submitted by CWH in 2007, that they are wrong. When comparing the amounts / percentages used by both CWH and DaVita, both appear to be reasonable.

CWH states that DaVita does not include a deduction from revenue line item for contractual allowances from commercial payers. In its comments, CWH provides the following description of the term "contractual allowance."

"Contractual allowances represent the difference between what a provider charges for its services and what a payor such as Medicare, Medicaid, or Blue Cross actually pays for the services. Payors reimburse at different amounts, but a provider's charges are typically

⁷ CWH's audited statement provided in Appendix 1 of the application.

uniform. For example, a facility may charge \$200 for a service. Medicare may pay \$120 (representing an \$80 contractual allowance); Medicaid may pay \$90 (representing a \$110 contractual allowance); and a commercial insurance payor [such as Blue Cross] may pay \$190 (representing a \$10 contractual allowance)."

DaVita responds to CWH's comments with a reminder that since CWH is a hospital and its new Douglas County dialysis center would be hospital owned and operated, CWH is required to adhere to certain accounting requirements, including identifying contractual allowances, that DaVita is not. DaVita states that it properly reports its revenue with deductions for charity care only, similar to the applications submitted by competing dialysis providers in the state.⁸

CWH provided a comprehensive explanation of 'contractual allowances.' CWH included a deduction from revenue line item for contractual allowances for its dialysis center. CWH's pro forma financial statement is consistent with a financial statement provided by a hospital.⁹ DaVita's presentation of its pro forma financial statements is consistent with freestanding dialysis center applicants.

To determine CWH's projected net revenue, one must deduct contractual allowances, along with charity care and bad debt. To determine DaVita's projected net revenue, one must deduct charity care and bad debt.

The parent corporations for CWH and DaVita are not similar, and the accounting principles are not the same. In this regard, it is unfair to expect consistencies between these two applicants. A review of both applicants' financial projections reveals each presented a reasonable depiction of the 17-station dialysis center's financial health for three years following completion of the project.

Based on the above information, the department's conclusion regarding this sub-criterion follows.

DaVita-East Wenatchee Dialysis Center

Based on the above information, the department concludes that DaVita's projected revenues and expenses are reasonable and can be substantiated. This sub-criterion is met.

CWH-Douglas County Dialysis Unit

Based on the above information, the department concludes that CWH's projected revenues and expenses are reasonable and can be substantiated. This sub-criterion is met.

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

WAC 246-310 does not contain specific WAC 246-310-220(2) financial feasibility criteria as identified in WAC 246-310-200(2)(a)(i). There are also no known recognized standards as identified in WAC 246-310-200(2)(a)(ii) and (b) that directs what an unreasonable impact on costs and charges would be for a project of this type and size. Therefore, using its experience and

⁸ DaVita identifies the similar providers of Fresenius Medical Care, Northwest Kidney Center, Olympic Peninsula [Kidney] Centers, and Puget Sound Kidney Center.

⁹ Department research shows the only other dialysis applicant that includes contractual allowances is Franciscan Health Systems. While not a hospital, its dialysis centers are typically operated under one of its hospitals in King or Pierce counties.

expertise the department compared the proposed project's costs with those previously considered by the department.

DaVita, Inc.

The capital expenditure associated with the establishment of DaVita's Douglas County facility is \$2,003,222 of which 62% is related to leasehold improvements; 32% for both fixed and moveable equipment; and the remaining 6% is related to architect, engineering, and application fees. The capital cost breakdown is shown below. [source: October 30, 2009, supplemental information, p1]

Item	Cost	% of Total
Leasehold Improvements	\$ 1,250,000	62%
Fixed & Moveable Equipment (includes tax)	\$ 648,891	32%
Architect & Engineering & CN Fees	\$ 104,331	5%
Total Estimated Capital Costs	\$ 2,003,222	100%

To further demonstrate compliance with this sub-criterion, DaVita provided the following statements:

"...Funding from previously allocated operations funds is the least costly approach. Debt financing for this project will not be required since there is sufficient cash on hand. Furthermore, the method of financing would have no impact on the amount charged for each unit of service." [source: Application, p24]

The department recognizes that the majority of reimbursements for dialysis services is through Medicare ESRD entitlements. To further demonstrate compliance with this sub-criterion, DaVita also provided the sources of patient revenue shown in Table 6 below. [source: Application, p10]

Table 6
DaVita's East Wenatchee Dialysis Center
Sources and Percentages of Revenue

Source of Revenue	Percentage of Revenue
Medicare	78%
State (Medicaid)	9%
Insurance/HMO	13%
Total	100%

As shown above, the Medicare and State (Medicaid) entitlements are projected to equal 87% of the revenue at EWDC. The department concludes that the majority of revenue (87%) is dependent upon entitlement sources that are not cost based reimbursement and are not expected to have an unreasonable impact on charges for services. The remaining 13% will be derived through other or private insurance reimbursements. Further, the cost per dialysis for the proposed project was compared to those of recent kidney dialysis proposals, the average cost per dialysis is reasonable.

Central Washington Hospital

The capital expenditure associated with the establishment of CWH's Douglas County facility is \$1,451,612 of which 57% is related to leasehold improvements; 37% for both fixed and moveable equipment; and the remaining 6% is related to architect, engineering, and application fees. The capital cost breakdown is shown on the following page. [source: Application, p27]

Item	Cost	% of Total
Leasehold Improvements	\$ 829,200	57%
Fixed & Moveable Equipment (includes tax)	\$ 531,584	37%
Architect & Engineering & CN Fees	\$ 90,828	6%
Total Estimated Capital Costs	\$ 1,451,612	100%

To further demonstrate compliance with this sub-criterion, CWH provided the following statements:

"...this project has no impact on either charges or payment for Medicare and Medicaid patients, as reimbursement for kidney dialysis services is based on a prospective composite per diem rate." [source: Application, p28]

The department recognizes that the majority of reimbursements for dialysis services is through Medicare ESRD entitlements. To further demonstrate compliance with this sub-criterion, CWH also provided the sources of patient revenue shown in Table 7 below. [source: Application, p8]

Table 7
CWH's Douglas County Dialysis Center
Sources and Percentages of Revenue

Source of Revenue	Percentage of Revenue
Medicare	87%
State (Medicaid)	6%
Insurance/HMO	7%
Total	100%

As shown above, the Medicare and State (Medicaid) entitlements are projected to equal 93% of the revenue at DCDU. CWH states that it based its projected revenue sources on the existing revenue sources of its Chelan County dialysis center. The department concludes that the majority of revenue (93%) is dependent upon entitlement sources that are not cost based reimbursement and are not expected to have an unreasonable impact on charges for services. The remaining 7% will be derived through other or private insurance reimbursements. Further, the cost per dialysis for the proposed project was compared to those of recent kidney dialysis proposals, the average cost per dialysis is reasonable.

Both applicants provided comments on the other application related to this sub-criterion. DaVita asserts that CWH's capital costs are understated. CWH asserts that DaVita's 13% projected commercial rate is overstated.

Both applicants also provided rebuttal comments related to the comments summarized above. This section of the evaluation addresses the comments above and incorporates rebuttal statements made by each applicant as appropriate. [source: DaVita and CWH rebuttal comments both received February 16, 2010]

Capital Costs

DaVita asserts that CWH claims to own the location for its proposed facility, and in order to spread the costs over 20 years, CWH established a complex ground lease/lease-back arrangement, resulting in an understatement of capital costs.

In response to DaVita's statement, CWH clarifies that it entered into two agreements. One agreement is a 50-year land lease—with two five year options—with a development company known as Mortenson Development, Inc. The parcel of property is already owned by CWH. In this lease, CWH is the landlord and Mortenson Development, Inc is the tenant. The land lease requires Mortenson Development, Inc. to construct a building on the land which would be CWH's proposed dialysis center. Under this executed lease agreement, the tenant pays the landlord an annual amount of one dollar (\$1). This lease agreement outlines the roles and responsibilities of each entity, as well as a legal description of the property. [source: October 30, 2009, supplemental information, Attachment 3]

The second agreement is a 20-year lease agreement for the building, once constructed. This executed agreement is also between CWH and Mortenson Development, Inc, where Mortenson Development, Inc is the landlord and CWH is the tenant. Under this signed agreement scheduled to commence on November 1, 2010, CWH leases the fully constructed dialysis center from Mortenson Development, Inc. [source: October 30, 2009, supplemental information, Attachment 4]

Given that CWH has entered into the two agreements above, CWH's estimated capital expenditure does not include purchase of the property or building, rather, CWH identifies its annual lease costs within its pro forma revenue and expense statements. DaVita asserts that CWH's lease approach described above is used to intentionally underestimate the project's capital costs. The establishment of lease agreements for healthcare projects are common in Certificate of Need applications. Entering into a lease agreement does not, in and of itself, substantiate DaVita's assertion of deliberate underestimation of capital costs.

Commercial Rate Overstatement

CWH identifies its commercial rates—shown in Table 7—at 7% and asserts that DaVita's 13% projected commercial rate shown in Table 5 is overstated. In response to CWH's statement, DaVita provided an explanation of the process/formula it uses to determine revenues at its proposed facilities. The process/formula does not include an estimation of the number of "commercial insurance patients" or "commercial insurance revenue" in an area using payer-mix numbers. Rather, DaVita states that it identifies a comparable DaVita facility and then calculates the "average revenue per treatment" for that facility. DaVita uses that average revenue per treatment to project revenue of the proposed facility. DaVita asserts that using a single value—average revenue per treatment—is much better than trying to calculate revenue projections using complex payer mix formula. Since payer mixes vary from location to location, DaVita states that it would be 'pure guesswork' to project payer mix for a proposed new location. DaVita states that for this East Wenatchee application, \$393 is the average revenue per treatment used in the pro forma revenue and expense statements. [source: DaVita rebuttal documents, pp3-6]

In summary, DaVita does not use the payer mix percentages it identifies in Table 5 of this evaluation (page 10 of DaVita's application) to project the revenue for its facility; rather, DaVita identifies a like-type DaVita dialysis center and uses the average revenue per treatment of that center. CWH's payer mix percentage approach was to mirror the percentages at its existing Chelan County facility. As a result, DaVita's approach to calculate revenues by payer mix is similar to the approach by CWH. DaVita determined an average revenue per treatment for its Douglas County facility to be \$393. CWH used an average of \$350. Neither applicant used the payer mix identified in its respective Tables 5 or 6 of this evaluation. The average revenue per treatment for each applicant is comparable to the other applicant.

Based on the above information, the department's conclusion regarding this sub-criterion follows.

DaVita-East Wenatchee Dialysis Center

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

CWH-Douglas County Dialysis Unit

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

(3) *The project can be appropriately financed.*

WAC 246-310 does not contain specific source of financing criteria as identified in WAC 246-310-200(2)(a)(i). There are also no known recognized standards as identified in WAC 246-310-200(2)(a)(ii) and (b) that directs how a project of this type and size should be financed. Therefore, using its experience and expertise the department compared the proposed project's source of financing to those previously considered by the department.

DaVita, Inc.

As previously stated, the capital expenditure associated with the establishment of DaVita's 17-station facility in East Wenatchee is \$2,003,222. DaVita states that the project will be funded from DaVita's capital expenditure budget. This statement is supported with a letter confirming the commitment of corporate funding. A review of DaVita's consolidated financial statements shows the funds necessary to finance the project are available. [source: Application, p24 and Appendices 6 & 10]

Central Washington Hospital

As previously stated, the capital expenditure associated with the establishment of CWH's 17-station facility in East Wenatchee is \$1,451,412. CWH states that the project will be funded through the hospital's board designated reserves. A review of CWH's financial statements shows the funds necessary to finance the project are available. [source: Application, p28 and Appendix 1]

Based on the above information, the department's conclusion regarding this sub-criterion follows.

DaVita-East Wenatchee Dialysis Center

Based on the information provided, the department concludes that approval of this project would not adversely affect the financial stability of DaVita as a whole. This sub-criterion is met.

CWH-Douglas County Dialysis Unit

Based on the information provided, the department concludes that approval of this project would not adversely affect the financial stability of CWH as a whole. This sub-criterion is met.

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

Based on the source information reviewed, the department concludes:

- DaVita, Inc.'s project has met the structure and process of care criteria in WAC 246-310-230; and
- Central Washington Hospital's project has met the structure and process of care criteria in WAC 246-310-230.

(1) A sufficient supply of qualified staff for the project, including both health personnel and management personnel, are available or can be recruited.

WAC 246-310 does not contain specific WAC 246-310-230(1) criteria as identified in WAC 246-310-200(2)(a)(i). There are also no known recognized standards as identified in WAC 246-310-200(2)(a)(ii) and (b) that directs what specific staffing patterns or numbers of FTEs that should be employed for projects of this type or size. Therefore, using its experience and expertise the department concludes that the planning would allow for the required coverage.

DaVita, Inc.

To staff its proposed 17-station facility, DaVita intends to recruit 8.9 FTEs in full year one and increase the FTEs to 11.5 by the end of full calendar year three (2013). A breakdown of the proposed FTEs is shown in Table 8 below. [source: Application p23 and Appendix 3]

**Table 8
DaVita-East Wenatchee Dialysis Center 2011 – 2013 Projected FTEs**

Staff/FTEs	2011 Full CY 1	2012 Increase	2013 Increase	Total FTEs
Medical Director	Professional Services Contract			
Administrator	1.00	0.00	0.00	1.00
RN	1.70	0.70	0.20	2.60
Patient Care Techs	4.10	0.70	0.30	5.10
Biomedical Techs	0.50	0.00	0.00	0.50
Re-Use Techs	0.50	0.20	0.10	0.80
Administrative Assistant	0.30	0.10	0.10	0.50
MSW	0.40	0.10	0.00	0.50
Dietitian	0.40	0.10	0.00	0.50
Total FTE's	8.90	1.90	0.70	11.50

As shown in Table 8 above, after the initial recruitment of FTEs, DaVita expects a minimal increase in FTEs for the 17-station facility. Since the facility would be operating two patient shifts as described in WAC 246-310-286, rather than the standard three patient shifts, the number of FTEs identified above is reasonable for the 17-station facility.

DaVita states it expects no difficulty in recruiting staff for EWDC because of its competitive wage and benefit package offered to employees. Further, DaVita posts staff openings nationally both internal and external to DaVita. In addition, DaVita states that several employees have already expressed interest in working at its proposed Douglas County facility. [source: Application, p26] Based on this information, the department concludes adequate staffing for EWDC is available or can be recruited.

Central Washington Hospital

To staff its proposed 17-station facility, CWH intends to recruit 8.10 FTEs in partial year 2011, which would increase to a total of 10.55 FTEs by the end of full calendar year three (2014). A breakdown of CWH's FTEs is shown in Table 9 below. [source: Application p31]

Table 9
CWH-Douglas County Dialysis Unit 2011 – 2014 Projected FTEs

Staff/FTEs	2011 Partial Year 1	2012 Increase	2013 Increase	2014 Increase	Total FTEs
Medical Director	Professional Services Contract				
Clinical Manager	1.00	0.00	0.00	0.00	1.00
RN	1.60	0.30	0.20	0.10	2.20
Patient Care Techs	4.00	0.65	0.45	0.30	5.40
Biomedical Techs	0.20	0.00	0.00	0.00	0.20
Home Training Techs	0.20	0.00	0.00	0.00	0.20
Secretary	0.50	0.00	0.25	0.00	0.75
MSW	0.30	0.10	0.00	0.10	0.50
Dietitian	0.30	0.00	0.00	0.00	0.30
Total FTE's	8.10	1.05	0.90	0.50	10.55

As shown in Table 9 above, after the initial recruitment of FTEs, CWH expects a minimal increase in FTEs for the 17-station facility. Since the facility would be operating two patient shifts as described in WAC 246-310-286, rather than the standard three patient shifts, the number of FTEs identified above is reasonable for the 17-station facility.

CWH states it expects no difficulty in recruiting staff for DCDU because it expects to share staff with its Wenatchee facility in the adjacent Chelan County. Since the two facilities would be approximately 10 minutes or 3.8 miles from each other, the staff sharing is feasible. CWH anticipates only two staff would not be shared—the clinical manager and secretary. For the remaining staff, at least one or more FTEs would be shared with its Chelan County facility.

CWH states it offers a competitive wage and benefit package to employees and does not anticipate any difficulty recruiting staff. [source: Application p32; October 30, 2009, supplemental information, pp7-8] Based on this information, the department concludes adequate staffing for DCDU is available or can be recruited.

CWH provided comments on DaVita's application related to this sub-criterion. DaVita provided rebuttal comments in response to CWH's comments. This section of the evaluation addresses the comments provided by CWH and incorporates rebuttal statements made by DaVita as appropriate. [source: CWH public comments received January 15, 2010; and DaVita rebuttal comments received February 16, 2010]

Staffing the Dialysis Center

CWH states that DaVita projects it will need to recruit 8.50 FTEs in full calendar year one, which increases to 11.90 by the end of full year three and all FTEs would be new FTEs.¹⁰ CWH states that it plans to have 9 FTEs in partial year one, and the majority of these staff would be shared with

¹⁰ CWH incorrectly identifies DaVita's projected FTEs in both year one and year three.

its Chelan County facility, so the recruitment of new FTEs would be very small. A comparison of FTEs for CWH and DaVita is shown in Table 10 below.

Table 10
Comparison of DaVita and CWH Projected FTEs

DaVita	Full Year 1-2011	Full Year 2-2012	Full Year 3-2013
Total FTEs	8.90	10.80	11.50
CWH	Full Year 1-2012	Full Year 2-2013	Full Year 3-2014
Total FTEs	9.15	10.05	10.55

As shown in Table 10 above, the difference in year 1 is 0.25 of an FTE; year 2 is 0.75 of an FTE; and year 3 is 0.95 FTE, resulting in a three year difference of less than one full FTE. The staffing differences are not significant.

CWH's comments also suggest that sharing staff is superior to recruiting new staff. The department does not consider either option superior to the other.

CWH suggests that DaVita may have difficulty recruiting staff for its Douglas County facility because the wage and benefit package at CWH is higher for some staff—specifically, nurses and patient care techs. [source: Application, p32] The department will not offer any opinion regarding a comparison of wage and benefit packages offered by the two applicants.

CWH also suggests that DaVita has already tried to recruit staff from its Chelan County facility. [source: October 30, 2009, supplemental information, pp7-8] DaVita asserts that it would be impossible to recruit staff from CWH if, in fact, CWH's benefit package is superior. The department recognizes that staff may choose to change employers for a variety of reasons. Wages may, or may not, be a factor in the choice. Larger wage/benefit package does not necessarily equate to easier recruitment and/or retention of staff.

Based on the above information, the department's conclusion regarding this sub-criterion follows.

DaVita-East Wenatchee Dialysis Center

Based on the information reviewed, the department concludes adequate staffing for the 17 station facility is available or can be recruited. This sub criterion is met.

CWH-Douglas County Dialysis Unit

Based on the information reviewed, the department concludes adequate staffing for the 17-station facility is available or can be recruited. This sub criterion is met.

- (2) The proposed service(s) will have an appropriate relationship, including organizational relationship, to ancillary and support services, and ancillary and support services will be sufficient to support any health services included in the proposed project.

WAC 246-310 does not contain specific WAC 246-310-230(3) criteria as identified in WAC 246-310-200(2)(a)(i). There are no known recognized standards as identified in WAC 246-310-200(2)(a)(ii) and (b) that a facility must meet when it is to be Medicare certified and Medicaid eligible. Therefore, using its experience and expertise the department assessed the applicant's history in meeting these standards at other facilities owned or operated by the applicant.

DaVita, Inc.

Documentation provided in the application confirms that DaVita maintains, or will maintain, appropriate relationships with ancillary and support services for its 23 operating and/or CN approved dialysis centers. For its proposed Douglas County facility, ancillary and support services, such as social services, nutrition services, pharmacy, patient and staff education, financial counseling, human resources, material management, administration, and technical services would be provided on site. Additional services would be coordinated through DaVita's corporate offices in El Segundo, California and support offices in Tacoma, Washington; Denver, Colorado; Nashville, Tennessee; Berwyn, Pennsylvania; and Deland, Florida. [source: Application, p26]

DaVita acknowledges that since this would be a new facility in Douglas County, transfer agreements would have to be established. To further demonstrate compliance with this sub-criterion, DaVita provided examples of draft transfer agreements. [source: Application, p26 and Appendix 12]

Central Washington Hospital

Documentation provided in the application confirms that CWH maintains appropriate relationships with ancillary and support services for its existing Chelan County dialysis center. For its proposed Douglas County facility, ancillary and support services, such as social services and nutrition services would be provided on site. Additional ancillary services such as pharmacy, laboratory, and radiology, would be coordinated through CWH's hospital located in Chelan County. [source: Application, p32]

While CWH acknowledges this would be a new facility in Douglas County, the new facility would be operated under CWH and a patient transfer agreement with itself is superfluous.

Neither applicant provided comments on this sub-criterion. Based on the above information, the department's conclusion regarding this sub-criterion follows.

DaVita-East Wenatchee Dialysis Center

Based on this information, the department concludes DaVita currently has appropriate relationships with ancillary and support services. If this project is approved, the department would include a term requiring DaVita to provide a copy of the executed transfer agreement with a local hospital. Provided DaVita agrees to the term, this sub-criterion is met.

CWH-Douglas County Dialysis Unit

Based on this information, the department concludes CWH currently has appropriate relationships with ancillary and support services, and would continue to have appropriate relationships if this project is approved. This sub-criterion is met.

- (3) *There is reasonable assurance that the project will be in conformance with applicable state licensing requirements and, if the applicant is or plans to be certified under the Medicaid or Medicare program, with the applicable conditions of participation related to those programs.*

WAC 246-310 does not contain specific WAC 246-310-230(3) criteria as identified in WAC 246-310-200(2)(a)(i). There are no known recognized standards as identified in WAC 246-310-200(2)(a)(ii) and (b) that a facility must meet when it is to be Medicare certified and Medicaid eligible. Therefore, using its experience and expertise the department assessed the applicant's history in meeting these standards at other facilities owned or operated by the applicant.

DaVita, Inc.

As stated earlier, DaVita, Inc. is a provider of dialysis services in over 1,400 outpatient centers located in 43 states (including Washington State), the District of Columbia, and San Juan Puerto Rico. [source: DaVita website at www.davita.com] Currently within Washington State, DaVita owns and operates 23 kidney dialysis treatment centers in 11 separate counties. As part of its review, the department must conclude that the proposed services would be provided in a manner that ensures safe and adequate care to the public.¹¹ To accomplish this task, in March 2008 the department requested quality of care compliance history from the state licensing and/or surveying entities responsible for the each of the states, District of Columbia, and San Juan Puerto Rico where DaVita, Inc. or any subsidiaries have health care facilities. Of the 45 entities, the department received responses from 24 states or 60% of the 43 states.¹² The compliance history of the remaining 19 states and the District of Columbia is unknown.¹³

Ten of the 27 states responding to the survey indicated that minor non-compliance deficiencies had been cited at DaVita facilities in the past three years. Of those states, with the exception of one facility in Iowa, none of the deficiencies were reported to have resulted in fines or enforcement action. All other facilities were reported to have no deficiencies and are currently in compliance with applicable regulations. The Iowa facility chose voluntarily termination in August 2007 due to its inability to remain in compliance with Medicare Conditions for Coverage, rather than undergo the termination process with Medicare. This facility is currently operating as a private ESRD facility.

The department concludes that considering the more than 1,400 facilities owned/managed by DaVita, one out-of-state facility listed above demonstrated substantial non-compliance issues; therefore, the department concludes the out-of-state compliance surveys are acceptable.

For Washington State, since January 2008, the Department of Health's Investigations and Inspections Office has completed more than 30 compliance surveys for the operational facilities that DaVita either owns or manages.¹⁴ Of the compliance surveys completed, all revealed minor non-compliance issues related to the care and management at the DaVita facilities. These non-compliance issues were typical of a dialysis facility and DaVita submitted and implemented acceptable plans of correction. [source: facility survey data provided by the Investigations and Inspections Office]

For medical director services, DaVita provided a copy of its executed contract with Wenatchee Valley Medical Center. Under the contract, Andy Prasad, MD is designated as medical director for EWDC. A review of the compliance history for Dr. Prasad revealed no recorded sanctions. [source: Application, Appendix 3]

¹¹ WAC 246-310-230(5).

¹² States that provided responses are: Arizona, California, Colorado, Delaware, Florida, Idaho, Iowa, Kansas, Kentucky, Maryland, Michigan, Minnesota, Mississippi, Missouri, Nebraska, Nevada, New Hampshire, North Dakota, Oklahoma, Oregon, Pennsylvania, Texas, Utah, Virginia, Washington, and Wisconsin. San Juan Puerto Rico also provided a response.

¹³ States that did not provide responses are: Alabama, Arkansas, Connecticut, Georgia, Illinois, Indiana, Louisiana, Maine, New Mexico, New Jersey, New York, North Carolina, Ohio, South Carolina, South Dakota, Tennessee, and West Virginia. The District of Columbia also did not respond to the survey.

¹⁴ As of the writing of this evaluation, four of DaVita's facilities are not yet operational. Those facilities are Everett Dialysis Center, Kennewick Dialysis Center, Parkland Dialysis Center, and Whidbey Dialysis Center. Olympic View Dialysis Center is operational, but is owned by Group Health and managed by DaVita.

Central Washington Hospital

CWH has been operating in Washington State since the early 1900s. As part of its review, the department must conclude that the proposed services by CWH would be provided in a manner that ensures safe and adequate care to the public.¹⁵ To accomplish this task, the department reviewed CWH's quality of care compliance history for all healthcare facilities either owned, operated, or managed by CWH.

For Washington State, CWH owns and operates the hospital, a variety of healthcare clinics, and a dialysis center in Chelan County. [source: Application, p3]

Within the most recent five years (2005), the Department of Health's Investigations and Inspections Office has completed compliance surveys for the hospital and its dialysis center. All compliance surveys revealed minor non-compliance issues related to the care and management at CWH or its dialysis center. These non-compliance issues were typical of the type of healthcare facility and CWH submitted and implemented acceptable plans of correction. [source: facility survey data provided by the Investigations and Inspections Office]

For medical director services, CWH provided a copy of a draft contract with Wenatchee Valley Medical Center. Under the draft contract, a specific physician was not identified to provide medical director services at DCDU. Section 2.1 of the draft contract provides the following language. [source: Application, Exhibit 2]

"Appointment. The clinic shall propose to the hospital a physician to act as medical director for the hospital's dialysis services. The medical director shall be licensed, board certified to practice medicine in the state of Washington, who is admitted as a member of the hospital's medical staff in accordance with the hospital's credentialing procedures. The Board of Directors of the hospital shall be responsible for appointing the medical director and medical director shall serve at the board's convenience. Temporary substitutes for the medical director shall be subject to the hospital's medical staff by-laws, rules, and regulations therein in effect. The clinic shall be responsible for ensuring that the medical director complies with all terms of this agreement."

CWH provided comments on DaVita's application related to this sub-criterion. DaVita provided rebuttal comments in response to CWH's comments. This section of the evaluation addresses the comments provided by CWH and incorporates rebuttal statements made by DaVita as appropriate. [source: CWH public comments received January 15, 2010; and DaVita rebuttal comments received February 16, 2010]

Quality of Care

CWH asserts that DaVita failed to disclose had significant quality of care issues at one of its Texas facilities, which resulted in closure of the facility in 2008.

In response, DaVita states that it provided full, detailed disclosure of the incident in its 2008 applications. In its rebuttal documents, DaVita again provided a full disclosure of the incident and corrected inaccuracies stated by CWH in its comments. Since the Texas facility incident was fully disclosed in 2008, the department has already concluded in past decisions that DaVita provided full disclosure and the incident and subsequent investigation did not result in a fail of this sub-

¹⁵ WAC 246-310-230(5)

criterion.¹⁶ The information provided by CWH above does not change the department's conclusion related to the Texas facility.

Based on the above information, the department's conclusion regarding this sub-criterion follows.

DaVita-East Wenatchee Dialysis Center

Given the compliance history of DaVita and that of the current medical director, the department concludes that there is reasonable assurance that the Douglas County facility would operate in compliance with state and federal regulations. This sub-criterion is met.

CWH-Douglas County Dialysis Unit

Given the compliance history of CWH and its healthcare facilities, there is reasonable assurance that the Douglas County facility would operate in compliance with state and federal regulations. The draft medical director agreement provided in the application also confirms this conclusion. If this project is approved, the department would include a term requiring CWH to provide a copy of the executed medical director contract that identifies the medical director and any temporary substitute medical directors as referenced in the agreement. The costs and terms identified in the executed agreement must be consistent with the costs and terms identified in the draft agreement. If CWH agrees to this term, this sub-criterion is met.

- (4) *The proposed project will promote continuity in the provision of health care, not result in an unwarranted fragmentation of services, and have an appropriate relationship to the service area's existing health care system.*

WAC 246-310 does not contain specific WAC 246-310-230(4) criteria as identified in WAC 246-310-200(2)(a)(i). There are also no known recognized standards as identified in WAC 246-310-200(2)(a)(ii) and (b) that directs how to measure unwarranted fragmentation of services or what types of relationships with a services area's existing health care system should be for a project of this type and size. Therefore, using its experience and expertise the department assessed the materials in the application.

DaVita, Inc.

In response to this criterion, DaVita provided a summary of its quality and continuity of care indicators used in its quality improvement program. The quality of care program incorporates all areas of the dialysis program, and monitors and evaluates all activities related to clinical outcomes, operations management, and process flow. Further, continuing education for both employees and patients are integral factors in the quality of care program. DaVita also provided examples of its quality index data and its physician, community, and patient services education offered through its quality of care program. [source: Application, p26, Appendices 17 & 18]

The department also considered DaVita's history of providing care to residents in Washington State. The department concludes that the applicant has been providing dialysis services to the residents of Washington State for several years and has been appropriately participating in relationships with community facilities to provide a variety of medical services. Nothing in the

¹⁶ Documentation provided by DaVita demonstrates that once DaVita recognized unusual quality of care issues at this Texas facility, it immediately began an internal investigation. Once DaVita uncovered the cause of the quality of care issue, it appropriately notified the local police department, State Board of Nursing, state health officials from the Centers for Medicare and Medicaid Services (CMS), and federal officials from the Center for Disease Control in Atlanta, Georgia. It also voluntarily closed the facility for one year to ensure all quality of care issues were resolved before reopening. The facility did not undergo license revocation or Medicare decertification. [source: DaVita rebuttal, p11]

materials reviewed by staff suggests that approval of this project would change these relationships.
[source: CN historical files]

Additionally, the department considers the results of the kidney disease treatment center numeric methodology and standards outlined in WAC 246-310-284. Application of the numeric methodology shows a need for an additional 17 dialysis stations in Douglas County. This project proposes to establish a 17 station facility in East Wenatchee. Within the application, DaVita demonstrated it met the standards to receive approval to establish a 17-station dialysis center.

Central Washington Hospital

In response to this criterion, CWH identified the providers that it has already established long term relationships within the neighboring counties of Chelan and Douglas. Further, CWH identified a number of providers in Okanogan and Grant counties where it has established relationships.
[source: Application, p33]

The department also considered CWH's history of providing care to residents in Washington State. The department concludes that the applicant has been providing acute care and dialysis services to the residents of Washington State for several years and has been appropriately participating in relationships with community facilities to provide a variety of medical services. Nothing in the materials reviewed by staff suggests that approval of this project would change these relationships.
[source: CN historical files]

Additionally, the department considers the results of the kidney disease treatment center numeric methodology and standards outlined in WAC 246-310-284. Application of the numeric methodology shows a need for an additional 17 dialysis stations in Douglas County. This project proposes to establish a 17 station facility in East Wenatchee. Within the application, CWH demonstrated it met the standards to receive approval to establish a 17-station dialysis center.

CWH provided comments on DaVita's application related to this sub-criterion. DaVita provided rebuttal comments in response to CWH's comments. This section of the evaluation addresses the comments provided by CWH and incorporates rebuttal statements made by DaVita as appropriate.
[source: CWH public comments received January 15, 2010; and DaVita rebuttal comments received February 16, 2010]

Clinical Outcomes

CWH states that DaVita's clinical outcomes are not "better than average" as DaVita asserts, and some of its Washington State facilities have a higher percentage than the state average (24%) for patient anemia. To demonstrate this assertion, CWH provided a table showing Center for Medicare and Medicaid (CMS) data for its own patient mortality outcomes ("better than expected") and percentages of uncontrolled patient anemia (16%) compared with five of DaVita's 16 operational dialysis centers in Washington State.¹⁷

In response, DaVita states CWH "carefully selected" data and facilities for comparison to ensure CWH would score higher on the quality measures. DaVita also provided a table showing a comparison with CWH in quality measures. In DaVita's table, CWH's percentages and quality scores were lower when compared to four different DaVita dialysis facilities.¹⁸

¹⁷ The five DaVita facilities are located in Ellensburg, Union Gap, Vancouver, West Seattle, and Yakima.

¹⁸ The four DaVita facilities are located in Federal Way, Bellevue, Vancouver, and Tacoma.

It is clear from the data presented by both applicants that quality of care measures are appropriately and carefully considered by CMS. For Washington State, the department's Investigations and Inspections Office surveys all dialysis centers to ensure appropriate outcomes and quality care at each facility. After reviewing the data provided by CWH and DaVita, and a review of the CMS data obtained from the CMS compare website, the department concludes both applicants are quality providers in Washington State, and in the case of DaVita, outside of Washington State.

Based on the above information, the department's conclusion regarding this sub-criterion follows.

DaVita-East Wenatchee Dialysis Center

Approval of this project would promote continuity in the provision of health care for the planning area, and would not result in an unwarranted fragmentation of services. Further, DaVita demonstrated it has, and will continue to have, appropriate relationships to the service area's existing health care system within the planning area. This sub-criterion is met.

CWH-Douglas County Dialysis Unit

Approval of this project would promote continuity in the provision of health care for the planning area, and would not result in an unwarranted fragmentation of services. Further, CWH demonstrated it has, and will continue to have, appropriate relationships to the service area's existing health care system within the planning area. This sub-criterion is met.

- (5) There is reasonable assurance that the services to be provided through the proposed project will be provided in a manner that ensures safe and adequate care to the public to be served and in accord with applicable federal and state laws, rules, and regulations.

DaVita-East Wenatchee Dialysis Center

This sub-criterion is addressed in sub-section (3) above and is considered met.

CWH-Douglas County Dialysis Unit

This sub-criterion is addressed in sub-section (3) above and is considered met.

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

Based on the source information reviewed, the department concludes:

- DaVita, Inc.'s project has not met the cost containment criteria in WAC 246-310-240 (1) and (2) and WAC 246-310-288; and
- Central Washington Hospital's project has met the cost containment criteria in WAC 246-310-240 (1) and (2) and WAC 246-310-288.

- (1) Superior alternatives, in terms of cost, efficiency, or effectiveness, are not available or practicable.
To determine if a proposed project is the best alternative, the department takes a multi-step approach. Step one determines if the application has met the other criteria of WAC 246-310-210 thru 230. If it has failed to meet one or more of these criteria then the project is determined not to be the best alternative, and would fail this sub-criterion.

If the project met WAC 246-310-210 through 230 criteria, the department would move to step two in the process and assess the other options the applicant or applicants considered prior to submitting the application under review. If the department determines the proposed project is

better or equal to other options the applicant considered before submitting their application, the determination is either made that this criterion is met (regular or expedited reviews), or in the case of projects under concurrent review, move on to step three.

Step three of this assessment is to apply any service or facility specific (tie-breaker) criteria contained in WAC 246-310. The tie-breaker criteria are objective measures used to compare competing projects and make the determination between two or more approvable projects which is the best alternative. If WAC 246-310 does not contain any service or facility criteria as directed by WAC 246-310-200(2)(a)(i), then the department would look to WAC 246-310-240(2)(a)(ii) and (b) for criteria to make the assessment of the competing proposals. If there are no known recognized standards as identified in WAC 246-310-200(2)(a)(ii) and (b), then using its experience and expertise, the department would assess the competing projects and determine which project should be approved.

Step One

DaVita-East Wenatchee Dialysis Center

For this project, DaVita's project met the review criteria under WAC 246-310-210, 220, and 230. Therefore, the department moves to step two below.

CWH-Douglas County Dialysis Unit

For this project, CWH's project met the review criteria under WAC 246-310-210, 220, and 230. Therefore, the department moves to step two below.

Step Two

DaVita-East Wenatchee Dialysis Center

Within the application, DaVita identified two options before submitting this application. A summary of each option and DaVita's rationale for rejection is below. [source: Application, pp28-29]

Option 1-Do Nothing

DaVita states it rejected this option because historically, patients residing in this county have been served by dialysis facilities in the adjacent counties of Chelan or Okanogan. Establishing a new facility in Douglas County is consistent with the department's policy for locating dialysis centers within counties with no current dialysis provider.

Option 2-Establish an 11-station facility in East Wenatchee within Douglas County

DaVita asserts this area (county) has a recent history of exponential growth and it is likely that chronic hemodialysis patient growth will return to previous patterns as shown in 2007. As such an 11-station facility would be quickly overwhelmed with patient volume. Further, an 11-station facility assumes three patient-shifts or 4.8 patients per station, rather than the two-patient shifts and 3.2 patients per station as allowed under the ESRD rules for Douglas County.

CWH-Douglas County Dialysis Unit

CWH did not provide any alternatives to this project as submitted. Rather, CWH states that since its 2007 application is still under an adjudicative appeal, submission of this application was necessary to preserve its options. [source: Application, p35]

Step Three

WAC 246-310-288 identifies specific tie-breaker criteria that must be applied if two or more applications meet all applicable review criteria and there is not enough station need projected for all applications to be approved. Under this tie-break criteria, the department will approve the application accumulating the largest number of points. If sufficient additional stations remain after approval of the first application, the department will approve the application accumulating the next largest number of points, not to exceed the total number of stations projected for a planning area. If the applications remain tied after applying all the tie-breakers, the department will award stations as equally as possible among those applications, without exceeding the total number of stations projected for a planning area.

Below is an evaluation of the tie-breaker criteria under WAC 246-310-288(1) and (2).

WAC 246-310-288(1)

- (1) *The department will award one point per tie-breaker to any applicant that meets a tie-breaker criteria in this subsection.*
 - (a) *Training services (1 point):*
 - (i) *The applicant is an existing provider in the planning area and either offers training services at the facility proposed to be expanded or offers training services in any of its existing facilities within a thirty-five mile radius of the existing facility; or*
 - (ii) *The applicant is an existing provider in the planning area that offers training services in any of its existing facilities within thirty-five miles of the proposed new facility and either intends to offer training services at the new facility or through those existing facilities; or*
 - (iii) *The applicant, not currently located in the planning area, proposes to establish a new facility with training services and demonstrates a historical and current provision of training services at its other facilities; and*
 - (iv) *Northwest Renal Network's most recent year-end facility survey must document the provision of these training services by the applicant.*
 - (b) *Private room(s) for isolating patients needing dialysis (1 point).*
 - (c) *Permanent bed stations at the facility (1 point).*
 - (d) *Evening shift (1 point): The applicant currently offers, or as part of its application proposes to offer at the facility a dialysis shift that begins after 5:00 p.m.*
 - (e) *Meeting the projected need (1 point): Each application that proposes the number of stations that most closely approximates the projected need.*

DaVita-East Wenatchee Dialysis Center

A total of five points is possible. Table 10 on the following page shows the distribution of tie-breaker points under this sub-criterion for DaVita.

Table 10
WAC 246-310-288(1)
DaVita Tie-Breaker Review

WAC 246-310-288(1)	Point	Source
(a) Training services	1	Application, p9
(b) Private room(s) for isolating patients	1	Application, Appendix 16
(c) Permanent bed stations at the facility	1	Application, pp8-9
(d) Evening shift	1	Application, p9
(e) Meeting the projected need	1	Application, p20
DaVita-Total Points	5	

CWH-Douglas County Dialysis Unit

A total of five points is possible. Table 11 below shows the distribution of tie-breaker points under this sub-criterion for CWH.

Table 11
WAC 246-310-288(1)
CWH Tie-Breaker Review

WAC 246-310-288(1)	Point	Source
(a) Training services	1	October 30, 2009, supplemental information, Attachment 2 & 12/31/08 NWRN data
(b) Private room(s) for isolating patients	1	October 30, 2009, supplemental information, Attachment 2
(c) Permanent bed stations at the facility	1	October 30, 2009, supplemental information, Attachment 2
(d) Evening shift	1	Application, p24
(e) Meeting the projected need	1	Application, p17
CWH-Total Points	5	

Under WAC 246-310-288(1) where each applicant could receive a maximum of 5 points, both DaVita and CWH received the maximum number of points.

WAC 246-310-288(2)

- (2) *Only one applicant may be awarded a point for each of the following four tie-breaker criteria:*
- (a) *Economies of scale (1 point): Compared to the other applications, an applicant demonstrates its proposal has the lowest capital expenditure per new station.*
 - (b) *Historical provider (1 point)*
 - (i) *The applicant was the first to establish a facility within a planning area; and*
 - (ii) *The application to expand the existing facility is being submitted within five years of the opening of its facility; or*
 - (iii) *The application is to build an additional new facility within five years of the opening of its first facility.*
 - (c) *Patient geographical access (1 point): The application proposing to establish a new facility within a planning area that will result in services being offered closer to people in need of*

them. The department will award the point for the facility located farthest away from existing facilities within the planning area provided:

(i) The facility is at least three miles away from the next closest existing facility in planning areas that qualify for 4.8 patients per station; or

(ii) The facility is at least eight miles from the next closest existing facility in planning areas that qualify for 3.2 patients per station.

(d) Provider choice (1 point):

(i) The applicant does not currently have a facility located within the planning area;

(ii) The department will consider a planning area as having one provider when a single provider has multiple facilities in the same planning area;

(iii) If there are already two unrelated providers located in the same planning area, no point will be awarded.

DaVita-East Wenatchee Dialysis Center

Only one applicant may receive a point for each of the four tie-breaker criteria under this section. Table 12 below shows the distribution of tie-breaker points under this sub-criterion for DaVita.

Table 12
WAC 246-310-288(2)
DaVita Tie-Breaker Review

WAC 246-310-288(2)	Point	Source
(a) Economies of Scale	0	October 30, 2009, supplemental information p1 [\$116,581.82]
(b) Historical Provider	0	
(c) Patient Geographical Access	0	
(d) Provider Choice	0	
DaVita-Total Points	0	

CWH-Douglas County Dialysis Unit

Only one applicant may receive a point for each of the four tie-breaker criteria under this section. Table 13 below shows the distribution of tie-breaker points under this sub-criterion for CWH.

Table 13
WAC 246-310-288(2)
CWH Tie-Breaker Review

WAC 246-310-288(2)	Point	Source
(a) Economies of Scale	1	Application, p27 [\$84,134.18]
(b) Historical Provider	0	
(c) Patient Geographical Access	0	
(d) Provider Choice	0	
CWH-Total Points	1	

Table 14 below shows the total accumulation of tie-breaker points for both DaVita and CWH.

Table 14
WAC 246-310-288 – Tie-Breaker Summary Table

	Tie-Breaker Point Distribution	
	DaVita	CWH
1(a) – Training services	1	1
1(b) – Private Room	1	1
1(c) – Permanent Bed Station	1	1
1(d) – Evening Shift	1	1
1(e) – Meets Need	1	1
2(a) – Economies of Scale	0	1
2(b) – Historical Provider	0	0
2(c) – Geographical Access	0	0
2(d) – Provider Choice	0	0
Cumulative Total	5	6

At the completion of the tie-breaker point allocations, DaVita accumulated a total of five (5) points and CWH accumulated a total of six (6) points. Due to the results outlined in this section, the department concludes that CWH’s project is the application accumulating the largest number of points and is the first application to be considered in the allocation of stations to meet the projected need.

Since the CWH project accounts for all 17 of the stations projected for the planning area, there are no stations remaining to award to DaVita as the application earning the next highest point total.

Based on the above information, the department’s conclusion regarding this sub-criterion follows.

DaVita-East Wenatchee Dialysis Center

Based on the results of the tie-breaker criteria above, DaVita’s project does not meet this sub-criterion. This project is denied.

CWH-Douglas County Dialysis Unit

Based on the results of the tie-breaker criteria above, CWH’s project meets this sub-criterion. This project is approved.

(2) In the case of a project involving construction:

(a) The costs, scope, and methods of construction and energy conservation are reasonable:

DaVita-East Wenatchee Dialysis Center

As stated in the project description portion of this evaluation, this project involves construction. This sub-criterion is evaluated within the financial feasibility criterion under WAC 246-310-220(2). Based on that evaluation, the department concludes that this sub-criterion is met.

CWH-Douglas County Dialysis Unit

As stated in the project description portion of this evaluation, this project involves construction. This sub-criterion is evaluated within the financial feasibility criterion under WAC 246-310-220(2). Based on that evaluation, the department concludes that this sub-criterion is met.

(b) The project will not have an unreasonable impact on the costs and charges to the public of providing health services by other persons.

DaVita-East Wenatchee Dialysis Center

This sub-criterion is also evaluated within the financial feasibility criterion under WAC 246-310-220(2). Based on that evaluation, the department concludes that this sub-criterion is met.

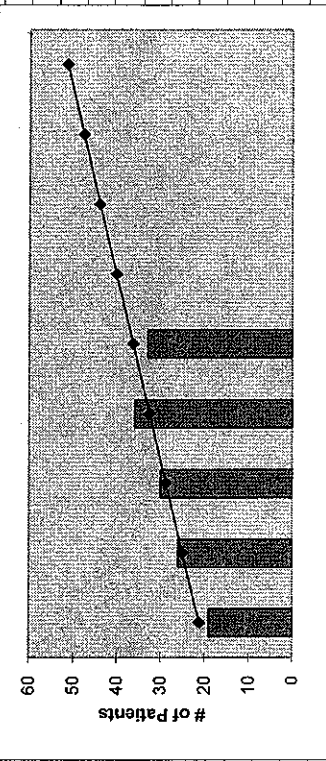
CWH-Douglas County Dialysis Unit

This sub-criterion is also evaluated within the financial feasibility criterion under WAC 246-310-220(2). Based on that evaluation, the department concludes that this sub-criterion is met.

Douglas County							
ESRD Need Projection Methodology							
	Planning Area	6 Year Utilization Data - Resident Incenter Patients					
		2003	2004	2005	2006	2007	2008
	Douglas County	15	19	26	30	36	33
	TOTALS	15	19	26	30	36	33
246-310-284(4)(a)	Rate of Change		26.67%	36.84%	15.38%	20.00%	-8.33%
	6% Growth or Greater?		TRUE	TRUE	TRUE	TRUE	FALSE
	Regression Method:	Linear					
246-310-284(4)(c)				Year 1 2009	Year 2 2010	Year 3 2011	Year 4 2012
Projected Resident Incenter Patients	from 246-310-284(4)(b)			40.200	44.000	47.800	51.600
Station Need for Patients	Divide Resident Incenter Patients by 3.2			12.5625	13.7500	14.9375	16.1250
	Rounded to next whole number			13	14	15	17
246-310-284(4)(d)	subtract (4)(c) from approved stations						
Existing CN Approved Stations				0	0	0	0
Results of (4)(c)above				13	14	15	17
Net Station Need				-13	-14	-15	-17
Negative number indicates need for stations							
246-310-284(5)							
Name of Center	# of Stations	# of Patients	Utilization (Patients per Station)				
	0	0	#DIV/0!				
Total	0	0					
Source: Northwest Renal Network data 2003-2008							
Most recent year-end data: 2008 year-end data as of 01/26/2009							
Most recent quarterly data as of the 1st day of application submission period: 4th quar N/A							

Douglas County
ESRD Need Projection Methodology

x	y	Linear
2004	19	21
2005	26	25
2006	30	29
2007	36	33
2008	33	36
2009		40.200
2010		44.000
2011		47.800
2012		51.600



SUMMARY OUTPUT

Regression Statistics	
Multiple R	0.908893259
R Square	0.826086957
Adjusted R Square	0.768115942
Standard Error	3.183289703
Observations	5

ANOVA					
	df	SS	MS	F	Significance F
Regression	1	144.4	144.4	14.25	0.032556206
Residual	3	30.4	10.13333333		
		174.8			

Coefficients		Standard Error	t Stat	P-value	Lower 95%	Upper 95%
Intercept	-7594	2019.329552	-3.76065412	0.032875318	-14020.40787	-1167.592129
X Variable 1	3.8	1.006644591	3.774917218	0.032556206	0.59640764	7.00359236

RESIDUAL OUTPUT

Observation	Predicted Y	Residuals
1	21.2	-2.2
2	25	1
3	28.8	1.2
4	32.6	3.4
5	36.4	-3.4

N/A