

**MISSISSIPPI STATE DEPARTMENT OF HEALTH
DIVISION OF HEALTH PLANNING AND RESOURCE DEVELOPMENT
SEPTEMBER 2012**

**CON REVIEW: ESRD-CO-0612-014
FRESENIUS MEDICAL CARE – NORTH AMERICA, INC. D/B/A
BIO MEDICAL APPLICATION, INC. D/B/A RCG OF WEST POINT
COST OVERRUN TO CON NUMBER R-0842
(ESTABLISHMENT OF A SATELLITE ESRD FACILITY)
APPROVED CAPITAL EXPENDITURE: \$808,367
ADDITIONAL CAPITAL EXPENDITURE: \$647,128
REVISED CAPITAL EXPENDITURE: \$1,455,495
LOCATION: WEST POINT, CLAY COUNTY, MISSISSIPPI**

STAFF ANALYSIS

I. PROJECT SUMMARY

A. Applicant Information

Fresenius Medical Care – North America Inc. (applicant's legal name); Bio Medical Applications of Mississippi, Incorporated (BMA of MS, Inc.) d/b/a RCG-West Point is a business corporation. The applicant indicates that BMA of MS, Inc. is governed by 2 directors and 14 officers. The applicant further states that Fresenius Medical Care Holdings, Inc., d/b/a Fresenius Medical Care of North America, the applicant's parent organization ("Fresenius") is a seven-member Board of Directors and has eight officers.

The original application contains a copy of a Certificate from the Secretary of State dated August 29, 2008, verifying that the corporation was issued a Charter/Certificate of Authority on August 2, 1990. The document indicates that the business is incorporated in the State of Delaware; however, it is authorized by the Secretary of State to do business in Mississippi.

B. Project Background

Fresenius Medical Care – North America Inc., d/b/a RCG-West Point received Certificate of Need (CON) No. R-0842 with an effective date of December 22, 2011 and an expiration date of December 22, 2012 for the establishment of an ESRD facility. The applicant proposed to establish a ten (10 station), satellite End Stage Renal Disease ("ESRD") facility in Clay County.

The original project for CON No. R-0842 involves the applicant's intention to lease 5,809 square feet of shelled space and renovate the space to house the ten-station ESRD facility. The applicant states that the proposed project includes: interior studs; dry wall; floor, wall and ceiling finishes; interior doors; specialty items; casework; complete plumbing; HVAC and electrical systems.

The applicant states that the proposed ten-station ESRD facility will be relocated from RCG-Tupelo, LLC d/b/a RCG-Aberdeen (RCG-Aberdeen), an affiliated ESRD facility. RCG-Aberdeen is located at 308 Hwy 8 West, Aberdeen, Mississippi. The applicant asserts that the proposed satellite ESRD facility will be located within twenty miles of RCG-Aberdeen.

The applicant asserts in the original application that currently, there are no ESRD facilities located in Clay County. The applicant affirms that existing ESRD patients from West Point are traveling to Aberdeen, Columbus, and Starkville, Mississippi to receive dialysis care. The applicant states that there are three ESRD facilities located near the proposed site: RCG of Starkville - approximately 18.09 miles, RCG of Columbus - approximately 18.72 miles, and RCG of Aberdeen which is located approximately 18.91 miles from the proposed site. The original application contained letters of support from the ESRD facilities stated above.

The estimated capital expenditure was \$808,367 which was to be funded from the applicant's cash reserves. The original application expects to employ 10.9 full-time equivalent employees at a total personnel cost of \$463,494 during the first year of operation. The project's site was approved and granted by the Division of Health Facilities Licensure and Certification.

According to the applicant, H. Scott Ross, the developer has not yet begun construction. The developer is waiting for Fresenius Medical Care – North America Inc., d/b/a RCG West Point to receive approval from the Department for the cost overrun project.

C. Project Description

Fresenius Medical Care – North America Inc. d/b/a RCG West Point now requests a cost overrun to its CON No. R-0842. RCG West Point asserts that the proposed cost overrun is necessary to complete the original project. According to the applicant, the proposed cost overrun is needed because RCG West Point intends to increase the square footage of the facility by renovating an additional 916 square feet, which was not a part of the original project. The square footage will increase from 5,809 square feet to 6,725 square feet an increase of 916 square feet. The applicant asserts that no additional stations are proposed in the cost overrun. However, RCG of West Point anticipates if the need occurs for additional stations in the future, renovating the additional space (916 square feet) as it is constructed will allow RCG of West Point to have enough square footage for an expansion without causing a disruption in patient care. In addition, the increase in square footage for the proposed cost overrun regarding the ESRD facility, RCG West Point proposes to purchase dialysis machines in the proposed cost overrun (not a part of the original application) instead of leasing the machines as intended in the original project.

The application includes a copy of the revised cost estimate from the architect, Bryan Brown and it lists the estimated cost of the project. The applicant also asserts that Fresenius Medical Care – North America Inc. d/b/a RCG West Point accepted the estimated cost of the project from Bryan Brown instead of relying on the original project estimate from Grantier.

According to the applicant, the total capital expenditure approved in the original CON is \$808,367 and the additional cost for the proposed cost overrun is \$647,128, resulting in a revised capital expenditure of approximately \$1,455,495. The applicant asserts that no amount of the authorized original capital expenditure has been spent and that zero percent of the project is complete.

RCG of West Point asserts that the manufacturer of the dialysis machines is Fresenius and the purchase price of the equipment/dialysis machines is \$274,075. The applicant states that the purchase and installation date of the equipment/dialysis machines will be near completion of the proposed project.

Staff contends that this cost overrun project does not change the scope of the original project.

The Mississippi Department of Health, Division of Health Facilities Licensure and Certification approved the original site for the proposed project.

The applicant anticipates that the project's developer will begin the project within three to six (3-6) months of approval from the Department and completed within six-nine (6-9) months from the start of the project.

II. TYPE OF REVIEW REQUIRED

The original project was reviewed under the applicable statutory requirements of Section 41-7-191, subparagraph (1) (a), 41-7-193, and 41-7-195, Mississippi Code of 1972, as amended.

The State Health Officer reviews all projects for amendment and cost overruns in accordance with duly adopted rules, procedures, plans, criteria, and standards of the Mississippi State Department of Health.

In accordance with Section 41-7-197(2) of the Mississippi Code or 1972 Annotated, as amended, any affected person may request a public hearing on this project within 20 days of publication of this staff analysis. The opportunity to request a hearing expires on October 17, 2012.

III. CONFORMANCE WITH THE STATE HEALTH PLAN AND OTHER ADOPTED CRITERIA AND STANDARDS

A. State Health Plan

The original projects were in substantial compliance with the *FY 2012 State Health Plan*, in effect at the time the original applications were submitted. This cost overrun project continues to be in substantial compliance with the *FY 2012 State Health Plan*.

B. General Review Criteria

The original projects were in substantial compliance with the *Certificate of Need Review Manual, 2011 revision*, in effect at the time of submission. This application continues to be in compliance with applicable General Review Criteria and Standards contained in the *Certificate of Need Review Manual, 2011 revision*.

IV. FINANCIAL FEASIBILITY

A. Capital Expenditure Summary

	<u>Approved Capital Expenditure</u>	<u>Revised Capital Expenditure</u>	<u>Increase (Decrease)</u>
New Construction	0	0	0
Renovation/Construction	\$522,810	\$793,819	\$271,009
Capital Improvements	0	0	0
Land	0	0	0
Site Work	0	0	0
Fixed Equipment	112,620	131,500	18,880
Non-Fixed Equipment	78,831	372,201	293,370
Fees (Architectural, Consultant, etc.)	41,825	71,446	29,621
Contingency Reserve	52,281	86,529	34,248
Capitalized Interest	0	0	0
Total	<u>\$808,367</u>	<u>\$1,455,495</u>	<u>\$647,128</u>

As previously mentioned, the capital expenditure approved in the original CON was \$808,367 (establishment of a ten-station satellite ESRD facility in Clay County). The applicant asserts that the additional cost for the cost overrun proposal is \$647,128, resulting in a revised capital expenditure of approximately \$1,455,495. The increase in cost requested in the proposed cost overrun is associated with the applicant's need to purchase dialysis machines instead of leasing them and renovating space to add square footage to the ESRD facility. As stated previously, the purchase and increase in space were not a part of the original application.

This cost overrun project does not change the scope of the original projects.

B. Method of Financing

The applicant asserts that the project will be financed from cash reserves.

C. Effect on Operating Cost

The applicant provided the following revised projected operating statement for the first full year of operation after completion of the proposed project.

**RCG of West Point
 Revised Projected Operating Statement
 For the First Full Year of Operation
 After Completion of this Project**

Revenue	Amount
*I/C Treatment Revenue	\$1,873,876
Bad Debt	(63,894)
Total Revenue	\$1,809,982
Expenses	
Personnel	\$448,709
Medical Supplies	122,148
Ancillary Cost	139,374
EPO Cost	170,381
Other Medical Supplies	21,611
House Keeping	43,848
Administrative	89,262
Depreciation/Amortization	158,141
Property/Insurance	3,363
Rent	67,250
Other Expenses	108,599
Total Expenses	\$1,372,686
Net Income (Loss)	\$ 437,296
Patients and Treatments	
*I/C Patients	45
*I/C Treatments	6,264

Note: *I/C represents "In Center."

According to the applicant, there are no changes to the cost and charges as a result of the proposed cost overrun project.

D. Cost to Medicare/Medicaid

According to the applicant, the original project states that ESRD treatment is a Medicare entitlement. As such, the Medicare program will absorb a majority of the costs associated with this project. The cost to the Medicaid program will be negligible.

The applicant asserts that no change is expected as a result of the increase in square footage and cost to purchase the dialysis machine as a result of this cost overrun.

V. RECOMMENDATION OF OTHER AFFECTED AGENCIES

The Division of Medicaid was provided a copy of this application for review and comment; however, the Department received no response, as of the date of this staff analysis.

VI. CONCLUSIONS AND RECOMMENDATION

This project continues to be in substantial compliance with the overall objectives of the *FY 2012 State Health Plan; Certificate of Need Review Manual, Revised 2011*; and all adopted rules, procedures, and plans of the Mississippi State Department of Health in effect at the time of approval.

The Division of Health Planning and Resource Development recommends approval of the application submitted by Fresenius Medical Care – North America Inc. d/b/a RCG-West Point for a cost overrun to CON No. R-0842 (establishment of a ten-station satellite ESRD facility in Clay County).