

**DATE:** November 10, 2016  
**TO:** Mary C. Mayhew, Commissioner, DHHS  
**THROUGH:** Sarah Taylor, DLC  
**FROM:** Larry D. Carbonneau, Manager, Health Care Oversight, DLC  
Richard S. Lawrence, Senior Health Care Financial Analyst, DLC  
**SUBJECT: Sedgewood Commons Bed Complement Increase**

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**ISSUE ACTIVATED BY:** The referenced proposal requires Certificate of Need (CON) approval as defined in "The Maine Certificate of Need Act of 2002," 22 M.R.S.A. §326 et seq., as amended.

**REGISTERED AFFECTED PARTIES:** None

## **I. BACKGROUND**

Sedgewood Commons, located at 22 Northbrook Drive in Falmouth, has 65 dually licensed nursing beds (NF/SNF) and 30 licensed residential care beds. The facility specializes in memory care services. Sedgewood Commons, the facility, is operated by Falmouth Operations, LLC, which is a subsidiary of Genesis HealthCare of Maine, Inc. (GHC). On December 5, 2006, Genesis ME was granted a Certificate of Need ("CON") to lease and operate Sedgewood Commons, among other facilities.

## **II. PROJECT DESCRIPTION**

This proposal requests increasing Sedgewood Common's licensed bed capacity from 65 NF/SNF beds to 91 NF/SNF beds. In furtherance of this process the 30 RC beds would be eliminated. Managers of Genesis ME and Sedgewood Commons are making a business decision to eliminate the residential care beds at Sedgewood Commons and utilize available resources to add additional nursing facility beds in order to focus on the core business of delivering nursing care level services. The existing residential care unit (Hawthorne House) at Sedgewood Commons was constructed to nursing facility standards and the conversion of the 30 RC beds to 26 NF beds in this unit requires no additional expenditure of capital to complete this proposed project. However, GHC has decided to use the opportunity of converting the unit to update some of the finishes on the unit at an estimate of \$220,000.

**III. HIGHLIGHTS**

Letter of Intent filed:	June 14, 2016
Technical assistance meeting held:	June 16, 2016
CON application filed:	July 20, 2016
CON certified as complete:	July 20, 2016
Public Information Meeting held:	Waived
Public Hearing held:	N/A
Comment Period ended:	August 26, 2016
Preliminary Analysis Released:	October 21, 2016

Increase to the Balance in MaineCare Funding Pool \$45,927.

**IV. PUBLIC COMMENTS RECEIVED IN RESPONSE TO THE PRELIMINARY ANALYSIS**

No public comments were received following the release of the preliminary analysis.

**V. CERTIFICATE OF NEED UNIT ANALYSIS****a) Fit, Willing and Able**

Sedgewood Commons is licensed for 65 SNF/NF beds and 30 Level IV Residential Care beds. The facility is located at 22 Northbrook Drive in Falmouth, Maine. The administrator is Joel Rogers. The license was issued on December 21, 2015 and is valid from January 1, 2016 through December 31, 2016.

A review of Sedgewood Commons' last completed survey data available at the Medicare.gov website revealed the following ratings:

<b>Sedgewood Commons</b>	
<b>Nursing Home Compare Ratings</b>	
<b>Category</b>	<b>Ratings</b>
Overall	Above Average
Health Inspections	Above Average
Staffing	Above Average
Quality Ratings	Average

Sedgewood Commons scored "Above Average" in three out of four categories rated by CMS with an overall rating of "Above Average". The last recertification survey was conducted by State Agency staff on 9/24/2015. The result of the survey was the identification of three health deficiencies. All three deficiencies were Level 2 (minimal harm or potential for actual harm) or below. The average number of health deficiencies identified during recertification surveys in Maine is 3.4 and the average number of identified health deficiencies in the United States is 7.

The Commissioner can rely on data available to the department regarding the quality of health care provided by the applicant as allowed by M.R.S. 22 §337 (3).

### **Deeming of Standard**

As provided for at 22 M.R.S. § 335 (7)(A), if the applicant is a provider of health care services that are substantially similar to those services being reviewed and is licensed in the State, the requirements of this paragraph are deemed to have been met if the services previously provided in the State by the applicant are consistent with applicable licensing and certification standards.

Sedgewood Commons operating company is Falmouth Operations, LLC which is a subsidiary of Genesis Health Care of Maine, Inc. which became licensed to operate Sedgewood Commons on January 1, 2007. The facility has been a provider of both SNF/NF beds and Level IV Residential Care beds for over nine years. The services provided by the applicant are consistent with applicable licensing and certification standards.

### **b) Economic Feasibility**

#### **Financial Feasibility and Staffing**

The applicant provided a pro-forma cost report that represents the change in the planned services. The applicant is proposing to convert the current 30 bed residential care bed unit to a 26 SNF/NF bed unit. Minimal capital costs are involved with this project because the residential care unit (Hawthorne House) was built to nursing facility standards. The applicant provided pro forma cost reports and financial projections to CONU. CONU reviewed the underlying assumptions regarding expenditures, MaineCare utilization, and pending inflation adjustments and found them reasonable. The change in bed complement to add SNF/NF beds as well as the analysis of need located in Section IV of this analysis supports the applicants' assertion that this project is financially feasible and will maintain the financial stability of this facility. Final reimbursement rates associated with this transaction will be computed by DHHS Rate Setting and DHHS Office of Audit.

#### **MaineCare Neutrality**

This project is subject to MaineCare neutrality. MaineCare neutrality is computed by comparing the utilization of MaineCare resources between the current 65 SNF/NF beds and 30 bed RCF bed capacity and the proposed 91 bed NF/SNF bed capacity. The current calculated MaineCare utilization for NF/SNF and RCF is \$6,300,482. The proposed calculated MaineCare utilization is \$6,887,977. This increase in MaineCare utilization is \$587,495 which is based on 95% occupancy. The revenue stream from 30 Sedgewood RCF beds combined with the acquired bed rights from Winthrop Manor offsets the marginal increased costs of the 26 new SNF/NF beds.

## Changing Laws and Regulations

Certificate of Need Unit staff is not aware of any imminent or proposed changes in laws and regulations that would impact the project, except for federal health care reform as part of the Affordable Care Act (ACA). The impact of health reform as part of the ACA has not been determined.

## Deeming of Standard

As provided for at 22 M.R.S. § 335 (7)(B), if the applicant is a provider of health care services that are substantially similar to those services being reviewed and is licensed in the State, the applicant is deemed to have fulfilled the requirements of this standard if the services provided in the State by the applicant during the most recent 3-year period are of similar size and scope and are consistent with the applicable licensing and certification standards.

The applicant has operated a mixed-level of care facility with a total of 95 beds (65 SNF/NF and 30 RCF). If this application were to be approved the applicant would be operating a 91 bed SNF/NF nursing home. The operations are of a similar size and scope. Schedule L of the applicant's pro forma cost report demonstrates the need for additional nursing staff to handle the increase in the SNF/NF census.

### c) Public Need

In order to determine public need, CONU analyzed demographic and service use trends in Sedgewood Commons' service area (Cumberland County, Maine). CONU utilized the Older Adults with Physical Disabilities: Population and Service Use Trends in Maine, 2012 Edition, prepared by the Muskie School of Public Service and the U.S. Census Bureau's website located at <http://quickfacts.census.gov>.

Cumberland County Maine is the most populous county in Maine with an estimated population of 289,977 as of July 1, 2015 with approximately 17% of the population age 65 or older. This population is the primary consumer of nursing and residential care services. Maine's 65 and above age group continues to grow at a rate faster than New England and the USA as a whole. The forecasted growth in Cumberland County's older population between 2012 and 2022 is an increase of 15,497 people (66%) between the ages of 65-74, an increase of 6,039 people (46%) between the ages of 75-84 and an increase of 907 people (13%) over 85. With the projected increase in the 65+ population it is likely that additional SNF/NF beds will be required over the next ten years. Adding additional SNF/NF beds would substantially address specific health problems associated with an aging population which is increasingly requiring more intensive care.

The applicant will offer the services affected by the project to all residents of the area proposed to be served and therefore will ensure accessibility of the service.

The project will provide demonstrable improvements in the outcome measures for patients that require skilled services and residents with Alzheimer's disease and other dementias.

**d) Orderly and Economic Development**

The increase in SNF/NF beds will improve patient's access to needed services in Cumberland County. The increase in capacity will improve patients' access to choice and limit restrictions of service caused by the lack of available SNF/NF beds in the area.

The increased allowable operating costs of \$587,495 will be offset by a source of MaineCare revenue which will make the project MaineCare neutral (See Economic Feasibility section of this preliminary analysis). This project will result in no increased costs to the Maine health care system. Since total health care expenditures are zero thanks to the MaineCare neutrality provisions, this project will not impact the availability of State funding for other providers in the area.

This project will not increase total healthcare costs and therefore additional State funding is not required.

The 26 new SNF/NF beds will be used primarily to expand Sedgewood's NF level memory care program. Sedgewood will be able to focus on its core nursing care business which will lead to operating efficiencies.

As stated previously the space currently used to provide residential care services at Sedgewood was originally constructed to meet nursing home standards. This means minimal capital expenditures are required to convert the space to SNF/NF level of services. It is unlikely that a more effective, more accessible or less costly alternative for providing needed SNF/NF services is available.

**e) Outcomes and Community Impact**

The addition of 26 SNF/NF beds, focusing on memory care and rehabilitative services, in the Cumberland County area will have a positive effect on the quality of care delivered and will not have a negative effect on the quality of care delivered by existing service providers. Seniors needing SNF/NF care will have a greater likelihood of finding the services offered in the area they reside. Increased Memory Care services will aid patients suffering from the progression of Alzheimer's or other memory loss issues. Rehabilitative services increase the likelihood that patients completing appropriate sub-acute rehab will end up returning home and/or to community-based services rather than placed in a costly long-term care setting. This reintroduction of a patient into the at-large community is consistent with the goals of the department and national trends of extending home-based services.

**f) Service Utilization**

The Maine Quality Forum has not adopted any principles of evidence-based medicine directly applicable to the application; therefore this application meets the standard for this determination.

No funding is utilized from the MaineCare funding pool. Realized savings from the delicensing event (Winthrop Manor) of \$45,927 will be applied to the MaineCare funding pool.

This application is for an increase of 26 SNF/NF beds in the Cumberland County service area, which is less than a 2% increase in available SNF/NF beds. This will not drastically change the services offered in the area. This transaction will not result in inappropriate increases in utilization.

## **VI. CONCLUSION**

For all the reasons set forth in the Preliminary Analysis and in the record, CONU concludes that the review standards have been satisfied. CONU recommends the approval of the CON.

## **VII. RECOMMENDATION**

CONU recommends that this application be **Approved**.