**DATE:** June 11, 2014

**TO:** Mary C. Mayhew, Commissioner, DHHS

**THROUGH:** Kenneth Albert, R.N., Esq., Director, DLRS

**FROM:** Larry D. Carbonneau, Manager, Health Care Oversight, DLRS

 Richard S. Lawrence, Senior Health Care Financial Analyst, DLRS

**SUBJECT:** Addition of 14 NF/SNF Beds

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

**REGISTERED AFFECTED PARTIES:** No applicants

**I. BACKGROUND:**

RiverRidge Center is currently licensed for 48 SNF/NF beds and 16 Level IV Residential Care beds. The facility is located at 3 Brazier Lane in Kennebunk, Maine. The administrator is Rebecca Gagnon. The license was issued on February 20, 2014 and is valid from March 1, 2014 through February 28, 2015. RiverRidge has been operated by Genesis Healthcare Corporation through Kennebunk Operations, LLC since January 1, 2007.

RiverRidge Center offers a continuum of care including post-acute brain injury and stroke rehabilitation, as well as transitional, residential and outpatient rehabilitation services. The facility is accredited by the Commission on Accreditation of Rehabilitation Facilities (CARF) and provides comprehensive services that include physical, speech, occupational and recreational therapy, 24-hour skilled nursing care, case management, social services and community integration.

RiverRidge’s operating company is Kennebunk Operations, LLC, which is a subsidiary of Genesis HealthCare of Maine, Inc. (“Genesis ME”). On December 5, 2006, Genesis ME was granted a Certificate of Need (“CON”) to lease and operate, among other facilities, RiverRidge.

The 16 licensed residential care beds are funded under the MaineCare Benefits Manual, Chapter 101, Chapters II and III, Section 97 [Appendix F:](http://www.maine.gov/sos/cec/rules/10/144/ch101/c3s097f.doc) Principles of Reimbursement for Non-Case Mixed Medical and Remedial Facilities. Residential care residents under this program receive specialized neurobehavioral treatment and intensive rehabilitation.

**II. PROJECT DESCRIPTION:**

The Maine Department of Health and Human Services has submitted a 1915C Medicaid Waiver to the Centers for Medicare and Medicaid Services (CMS) that would require neurobehavioral residential support be provided only in “home and community based” settings and not attached to a nursing care/residential care center such as RiverRidge Center. RiverRidge proposes that the 16 residential care (RC) beds be converted to 14 skilled nursing/nursing (SNF/NF) beds upon successful completion of this CON review and implementation of a transition and discharge plan. The actual date that RiverRidge would commence this CON is related to when the Department receives the 1915C waiver. RiverRidge would execute a transition/discharge plan which would comply with all regulatory requirements for safe and appropriate discharge and transfer. RiverRidge’s 16 RC residents would be relocated to smaller community-based group homes under the auspices of the office of Adult & Disability Services (OADS).

**III. HIGHLIGHTS:**

Letter of Intent dated: December 13, 2013

Technical Assistance meeting held: Waived

CON application filed: February 19, 2014

CON certified as complete: February 19, 2014

Public Hearing held: March 19, 2014

Comment Period Ended: April 18, 2014

Preliminary Analysis released: May 1, 2014

Record Closed: May 22, 2014

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

Following release of the Preliminary Analysis, no public comments were received; there were some public comments at the public hearing. A public hearing regarding RiverRidge’s proposal to convert 16 Appendix F PNMI beds to 14 SNF/NF beds was conducted on March 19, 2014 at 1:00 p.m. As stated above, this proposal would involve relocating the 16 residents currently living in the Saco wing of RiverRidge to a community based setting. This relocation would occur upon approval of the State of Maine’s 1915C Medicaid Waiver application. Comments were received from a diverse group of individuals including a State Senator, consultants and former owners of RiverRidge and family members of current residents of RiverRidge. The wellbeing of the current residents is of paramount importance to all commenters. Commenters emphasized that many of the residents have been at RiverRidge for many years, consider the facility their home and do not want to relocate. Many therapeutic services are provided on-site that are tailored to meet the residents’ needs. There is a concern that these services will not be available in a smaller community based setting. Suggestions were made that the State of Maine and Genesis work closely with the Federal government and make the current facility compliant with home and community based requirements so that residents would not have to move. Concerns were also raised about the cost and sustainability of this new program. The community based program may not serve all the current residents of RiverRidge which could result in the residents having to receive nursing home care at a higher cost. A full transcript of the public hearing is available in the record.

**V. CONU ANALYSIS/APPLICANTS COMMENTS:**

1. **Fit, Willing and Able:**

RiverRidge Center is licensed for 48 SNF/NF beds and 16 Level IV RC beds. The license was issued on February 20, 2014 and is valid from March 1, 2014 through February 28, 2015.

A review of RiverRidge Center’s last completed survey data available from Medicare.gov website revealed the following ratings:

|  |
| --- |
| **RiverRidge Center** |
| **Nursing Home Compare Ratings** |
| **Category** | **Ratings** |
| Overall | Below Average |
| Health Inspections | Much Below Average |
| Staffing | Much Above Average |
| Quality Ratings | Above Average |

RiverRidge scored “Above Average” or better in two out of four categories rated by CMS with an overall rating of “Below Average”. The last recertification survey was conducted on March 28, 2013. The result of the survey was the identification of 3 health deficiencies. All 3 deficiencies were Level 2 (minimal harm/potential for actual harm) or below. The average number of health deficiencies identified during a recertification survey in Maine is 4.3 and the average number of health deficiencies in the United States is 6.8.

Inspectors determined that the nursing home failed to:

**1)** Ensure housekeeping and maintenance services were provided to ensure suction/aspirator equipment was maintained in a sanitary manner, and doors were free from chips in 21 of 29 Resident Rooms.

**2)** Ensure that an ice machine was plumbed in accordance with code requirements to prevent contamination on 1 of 4 days of survey.

**3)** Ensure that outdated medications were removed from 1 of 2 medication storage rooms and 2 of 6 medication carts.

All deficiencies were corrected by April 26, 2013.

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

1. **Economic Feasibility**:

The applicant provided a pro-forma cost report that represents the change in the provided service level. The applicant is proposing to convert the current 16 acquired brain injury RC beds to fourteen SNF/NF beds. This conversion is taking place because the Department has submitted a 1915C Medicaid Waiver to the Centers for Medicare and Medicaid Services (CMS). If approved this waiver would require that neurobehavioral residential support be provided in a home and community based setting. This would mean that all of the current residents would need to be discharged and relocated to a different facility. The pro-forma cost report demonstrated that the applicant is aware that there will be different staffing levels required to perform the services required by the occupants of the additional SNF/NF beds. The change over to SNF/NF care, as well as the analysis of need supports the applicants’ assertion that this project is financially feasible and will maintain the financial stability of this facility.

1. **Public Need:**

The applicant proposes adding 14 SNF/NF beds. Certificate of Need Unit (CONU) utilized the Muskie School of Public Service’s Older Adults and Adults with Physical Disabilities: Population and Service Use Trends in Maine 2012 Edition to determine if there is a need for additional nursing home beds in York County Maine. Attached is a table showing the nursing facilities in York County and their occupancy rates.

|  |  |  |  |
| --- | --- | --- | --- |
| **Facility Names** | **Beds** | **%Occupancy** | **Occupied Beds** |
| Durgin Pines | 81 | 85.19% | 69 |
| Evergreen Manor | 42 | 97.62% | 41 |
| Greenwood Center | 86 | 90.70% | 78 |
| Kennebunk Center for Health & Rehab | 78 | 91.03% | 71 |
| RiverRidge Center | 48 | 95.83% | 46 |
| Seal Rock Health Care | 105 | 96.19% | 101 |
| Southridge Rehab & Living | 65 | 95.38% | 62 |
| St. Andre’s Health Care | 96 | 83.33% | 80 |
| The Newton Center | 74 | 94.59% | 70 |
| Varney Crossing | 64 | 96.88% | 62 |
| **Total** | **739** |  | **680** |

Utilizing the most recent occupancy data from the Muskie Institute the average occupancy rate in York County is 92.67% which exceeds the statewide occupancy rate of 91.8%. **(It should be** **noted that both St. Andre’s and Durgin Pines achieved occupancy levels of over 90% in previous** **months)**. The average payer mix is 62.01% MaineCare, 13.73% Medicare and 24.26% other.

York County has 739 nursing beds; this is an average of 24 beds per 1000 persons age 65 and above. This is below the State average of 33 beds per 1,000 persons aged 65 and above. The York County 65 and above population is expected to increase by 63% between 2012 and 2022 and the 85 and above population is expected to increase by 9.5% during the same time period. Only Florida and West Virginia ranked higher than Maine in the percent of population aged 65 or above. As the population ages there will be an increased demand for nursing home level of care.

This project will substantially address specific health problems as measured by health needs in the area to be served by the project. The applicant states that the new 14 SNF/NF beds will have the ability to admit traditional geriatric rehabilitation patients as well as patients RiverRidge serves currently.

There is a demonstrated need for additional SNF/NF services in the area. The RiverRidge facility was specifically designed to provide rehabilitation services for people with brain injuries. The need for high level neurorehabilitation services for patients with acquired brain injuries (ABI) and traumatic brain injuries (TBI) is critical in Maine. The applicant submitted excerpts from the Muskie School of Public Services titled Brain Injury in Maine, A Needs Assessment and the 2013 Annual Report of the Acquired Brain Injury Advisory Council of Maine demonstrating the extent of brain injuries and the need for treatment nationwide and in the State of Maine. The applicant would have to seek approval for the provision of ABI services in these additional beds from OADS in compliance with provisions of Section 67 of the MaineCare Benefits Manual.

The project will have a positive impact on the health status indicators of the population to be served. The applicant described the many services provided by RiverRidge (see Table 2 below). The addition of the new skilled services will decrease healing time and allow patients to return home faster. Providing needed services will have a positive impact on health status indicators.

**Table 2 Summary of Proposed Services**

|  |  |  |
| --- | --- | --- |
| Mousam River Unit | 24 Beds | Neurorehabilitation services, skilled nursing, rehabilitation services, recreational therapy, neuropsychological services |
| Kennebunk River Unit | 24 Beds | Geriatric long term care services and long term care brain injury services. |
| Saco River Unit | 14 Beds | Rehabilitation services for stroke patients,ABI patients, and spinal cord injury patients as well as traditional geriatric services. |

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, ABI and TBI services.

There are timing issues associated with the approval of the 1915C Medicaid Waiver and the implementation of a transition and discharge plan for residents who will need to be relocated to a home and community based setting. The following condition is necessary to ensure that current residents of the 16 bed RC unit at RiverRidge have no disruption in neurorehabiliation services.

**Condition:** This certificate of need approval will not be valid until each resident needing to relocate from the 16 bed RC unit at RiverRidge has a placement in a home and community based setting and the 1915C Medicaid Waiver has received CMS approval.

1. **Orderly and Economic Development:**

The decision to increase RiverRidge’s SNF/NF bed capacity by 14 beds and close the 16 bed RC ABI unit was made in response to proposed regulatory changes from the Department of Health and Human Services (1915C Waiver application) and a need for additional SNF/NF services in the York County area. The change in service will improve patients’ access to choice and limit restrictions of service caused by the lack of available beds in the area.

The increased allowable operating costs of $1,315,230 will be offset by a source of MaineCare revenue, which will make the project MaineCare neutral. This project will result in no increased costs to the Maine health care system. Since total health care expenditures are zero due 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, therefore additional State funding is not required.

The applicant states that the 14 new NF/SNF beds will be used to expand RiverRidge’s skilled rehabilitation program. The focus will be on providing rehabilitative care. This aids in transitioning patients back to their own homes. This is in contrast to a more institutional model of care whereby seniors remain in a long term care facility for what can be lengthy and costly stays.

The proposed services are the most effective and accessible delivery model for rehabilitative care available at this time.

1. **Outcomes and Community Impact:**

The addition of 14 SNF/NF beds, focusing on rehabilitative services, in the York County area will have a positive effect on the quality of care delivered. Seniors needing SNF/NF care will have a greater likelihood of finding the services offered in the area in which they reside. Rehabilitative services increase the likelihood that patients completing appropriate sub-acute rehabilitation 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.

The increase of 14 SNF/NF beds in the York County area equates to a 1.9% increase. Given the demographics of York County there will be a greater need for SNF/NF beds in the near future. The level of occupancy of other providers in the region indicates an average occupancy exceeding 90%. In addition, RiverRidge’s specialized focus on sub-acute rehabilitation services for the elderly and brain injured patient serves a specialized niche in the area. This increase in beds will not negatively affect the quality of care delivered by existing service providers.

**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.

**g) Consistency with MaineCare Funding Pool and 333-A and 334-A:**

The resources available for the project are listed in Table 1: Sources and Uses of MaineCare Funding. The applicant identified two sources of revenue for offsetting the project’s annual expenses.

**Table 1: Sources and Uses of MaineCare Funding:**

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| **Source** | **Facility** | **# of Beds** | **$ Value** | **Allocated Beds** | **$ Value** |
|  | RiverRidge Center RC | 16 | $993,203 | 16 | $993,203 |
|  | Windward Gardens | 5 | $353,685 | 5 | $353,685 |
|  | **Total** | **21** | **$1,346,888** | **21** | **$1,346,888** |
|  |  |  |  |  |  |
| **Use** | RiverRidge SNF/NF | 14 | $1,315,230 | 14 | $1,315,230 |
| **Excess Resources** |  | 7 | $31,658 |  | $31,658 |

The chart indicates that the revenue stream from 21 beds would offset the potential costs of the 14 new SNF/NF beds. The value of the revenue stream is $1,346,888. The expected costs to the MaineCare program are calculated to be $1,315,230. The excess, $31,568, in resources from the transaction would be placed in the MaineCare Nursing Facility Funding Pool.

No funding is utilized from the MaineCare funding pool.

**VI. CONCLUSION:**

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

**VII. RECOMMENDATION:**

CONU recommends that this application be **Approved with the following condition.**

**Condition:** This certificate of need approval will not be valid until each resident needing to relocate from the 16 bed RC unit at RiverRidge has a placement in a home and community based setting and the 1915C Medicaid Waiver has received CMS approval.