

**MISSISSIPPI STATE DEPARTMENT OF HEALTH
DIVISION OF HEALTH PLANNING AND RESOURCE DEVELOPMENT
APRIL 2008**

**CON REVIEW FSF-A-0108-001
BILOXI RADIATION ONCOLOGY CENTER, LLC
AMENDMENT TO CON #R-0613
(RELOCATION OF OUTPATIENT RADIATION THERAPY SERVICES)
APPROVED CAPITAL EXPENDITURE: \$1,190,347
ADDITIONAL CAPITAL EXPENDITURE: \$ 813,862
REVISED CAPITAL EXPENDITURE: \$ 2,004,209
LOCATION: BILOXI, HARRISON COUNTY, MISSISSIPPI**

STAFF ANALYSIS

I. PROJECT SUMMARY

A. Applicant Information

Biloxi Radiation Oncology Center ("Biloxi Radiation") is owned by Biloxi Radiation Oncology Center, LLC, a Mississippi limited liability company. The liability company consists of one member, Laurence Lines, M.D.

B. Project Background

Biloxi Radiation Oncology Center was granted Certificate of Need authority under CON No. R-0613 for relocation of outpatient radiation therapy services on June 26, 2003. The project involves the relocation of outpatient radiation therapy services from Biloxi Regional Medical Center to a location near the Cedar Lake Road exit on Interstate 10 in Harrison County. A Hearing During the Course of Review was requested by Memorial Hospital at Gulfport. After considering all the evidence presented at the hearing, the Hearing Officer recommended approval of the Certificate of Need application. The State Health Officer subsequently approved the application and no appeal was taken. The applicant was granted a Certification of a Good Faith Effort to initiate the referenced project (CON No.R-0613) on January 14, 2005. Pursuant to an Attorney General's Opinion issued October 12, 2007, the applicant was approved for a six-month extension on CON No.R-0613. This extension period will terminate June 26, 2008.

The project originally proposed to encompass approximately 5,150 square feet of new construction at a cost of \$813,347.

C. Project Description

Biloxi Radiation Oncology Center, LLC requests an amendment and cost overrun on CON No. R-0613. The amendment will authorize the applicant to redesign the building in an effort to keep costs down. The resulting building is comprised of 4,550 square feet instead of the originally planned 5,150 square feet of space. In addition, approval of this amendment will authorize an additional \$813,862 in capital expenditures necessary for the construction of the building at the Cedar Lake site. The increase in the construction cost is the result of the length of time between the filing of the CON application and the commencement of construction. Also, the cost of site work has increased substantially based on the necessity of the use of pilings as part of the site development. The applicant states that the lapse in time between the filing of the Certificate of Need application and the commencement of the construction has been caused primarily by: (i) a Hearing During the Course of Review with respect to the relocation of the project and (ii) the delay caused by Hurricane Katrina. The applicant asserts that since Hurricane Katrina devastated the Gulf Coast, construction costs have increased significantly in the area.

According to the applicant, members of Biloxi Radiation Oncology formed Cedar Lake Oncology Center, LLC, a Mississippi limited liability company, to hold the real estate associated with this project. Cedar Lake Oncology Center, LLC will be the owner of the building housing the outpatient center, and Biloxi Radiation Oncology Center, as lessee, will make monthly lease payments to Cedar Lake Oncology. The application contains a copy of the intent to lease between Biloxi Radiation Oncology Center, LLC and Cedar Lake Oncology Center, LLC concerning the proposed project.

The applicant asserts that to date, approximately \$225,000 has been expended toward the construction of the building at the Cedar Lake site. The applicant asserts that 13 percent of construction is complete.

A summary of increases and decreases in capital expenditure items is presented in the Financial Feasibility Section of this staff analysis.

According to the applicant, the construction on the building at the Cedar Lake site has begun and is expected to be completed in the summer of 2008.

II. TYPE OF REVIEW REQUIRED

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

In accordance with Section 41-7-197(2) of the Mississippi Code of 1972 Annotated, as amended, any affected person may request a public hearing on the project within 20 days of publication of this staff analysis. The opportunity to request a hearing expires on May 5, 2008.

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

A. State Health Plan

The original project was proposed during the *FY 2002 State Health Plan*, in effect at the time of submission, which did not contain criteria and standards that relate to the relocation of outpatient radiation therapy services; however, the project was in substantial compliance with the criteria and standards for construction, renovation ... of health care facilities. This amendment/cost overrun continues to be in substantial compliance with the *Plan*.

B. General Review Criteria

This amendment/cost overrun continues to be in compliance with applicable criteria and standards contained in the *Certificate of Need Review Manual* in effect at the time of original approval.

IV. FINANCIAL FEASIBILITY

A. Capital Expenditure Summary

<u>Item</u>	<u>Originally Approved</u>	<u>Revised Amount</u>	<u>Increase/ (Decrease)</u>
New Construction	\$ 831,347	\$1,373,493	\$ 542,146
Fixed Equipment		30,000	30,000
Non-Fixed Equipment*	275,000	163,000	(112,000)
Site Preparation		158,200	158,200
Fees	60,000	60,000	0
Contingency Reserve		137,350	137,350
Capitalized Interest	24,000	82,166	58,166
Total	\$ 1,190,347	\$2,004,209	\$813,862

The amendment/cost overrun involves a decrease in square feet from 5,150 square feet to 4,550 square feet of space. As a result of this amendment/cost overrun, the cost per square foot is \$404.66. The applicant states that the construction necessary for the building is more expensive than other physicians' office space because of the therapy being delivered to the patients.

*The applicant states that in an effort to contain costs, Biloxi Radiation Oncology Center will, to the extent it is able, utilize existing furnishings and office equipment. The applicant believes that such effort will result in a decrease in non-fixed equipment cost for the project.

B. Method of Financing

The applicant submits that the building will be owned and constructed by Cedar Lake Oncology, an affiliate of Biloxi Radiation Oncology Center. Biloxi Radiation

Oncology Center will lease the building for \$16,500 per month to house the outpatient radiation therapy services at the Cedar Lake site. The non-fixed equipment and the furnishings for the Cedar Lake building will be purchased from the company's revenue stream.

C. Effect on Operating Cost

The applicant projects the following expenses, revenues, and net income during the first year of operation for the proposed amendment/cost overrun:

Biloxi Radiation Oncology Center, LLC
 First-Year Projected Operating Statement

	Year 1
Revenue	
Gross Patient Revenue	\$ 1,632,000
Deductions from Revenue	\$ (39,000)
Net patient Revenue	\$ 1,593,000
Operating Expenses	
Salaries	\$ 300,000
P/R Taxes	25,500
Depreciation	50,000
Health Insurance	45,000
Operating Expense	120,000
Billing Service	109,800
Professional Fees	102,000
Lease Expense at Cedar Lake	198,000
Lease Expense at Biloxi Reg.	30,000
Interest Expense	15,000
Office Expense	12,000
Officer Compensation & Expense	60,000
Management Fee	60,000
Repairs & Maintenance	36,000
Total Operating Expense	\$ 1,163,300
Net Operating Income	\$ 429,700

D. Cost to Medicare/Medicaid

According to the applicant, this amendment/cost overrun will have no effect on Medicaid, Medicare patients or other payors.

V. RECOMMENDATION OF OTHER AFFECTED AGENCIES

The Division of Medicaid was provided a copy of the original application for comment. At that time, Medicaid stated that the increased operating expenses that will occur as a result of this project will have no impact on payors. Medicaid and Medicare reimbursement with respect to radiation therapy services based on the type of radiation therapy procedure performed, and the charge for private pay patients will not increase as a result of the original project.

The Division of Medicaid states that effective October 1, 2005, it changed the methodology by which the Division reimburses inpatient hospital services so that cost incurred subsequent to that date no longer affects per diem rates; and that any portion of the cost which may relate to outpatient service will be paid as outlined in the *Medicaid State Plan*. The Division takes no position on the proposed project

VI. CONCLUSIONS AND RECOMMENDATION

The original project was found to be in substantial compliance with the overall objectives stated in the Plan in effect at the time of submission; the Certificate of Need Review Manual, revised 2000; and all adopted rules, procedures, and plans of the Mississippi State Department of Health and continues to be in compliance with the same.

The Division of Health Planning and Resource Development recommends approval of the application submitted on behalf of Biloxi Radiation Oncology Center, LLC, for an amendment/cost overrun to CON #R-0613 (Relocation of Outpatient Radiation Therapy Services).