

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

**CON REVIEW: NH-CO-1012-017
GREENBRIAR NURSING CENTER
COST OVERRUN TO CON NUMBER R-0810
(RELOCATION OF 46 LTC BEDS FROM AZALEA
GARDENS TO GREENBRIAR NURSING CENTER)
APPROVED CAPITAL EXPENDITURE: \$2,804,248
ADDITIONAL CAPITAL EXPENDITURE: \$500,090
REVISED CAPITAL EXPENDITURE: \$3,304,338
LOCATION: D'IBERVILLE, HARRISON COUNTY, MISSISSIPPI**

STAFF ANALYSIS

I. PROJECT SUMMARY

A. Applicant Information

Greenbriar Nursing Center ("Greenbriar") located at 4347 West Gay Road, D'Iberville, Harrison County, Mississippi, and Azalea Gardens Nursing Center ("Azalea") located at 530 Hall Street in Wiggins, Stone County, Mississippi are both for-profit single member, Limited Liability Companies. They are presently owned and operated by Ms. Avonna Z. Cain, the wife of deceased, Mr. Connor Cain (the original owner).

Greenbriar Nursing Center is licensed for 60 long term care beds and Azalea Gardens Nursing Center is licensed for 149 long term care beds. Both facilities are certified for Medicaid and Medicare participation.

The Department received additional documents on November 7, 2012 evidencing that Ms. Avonna Cain is the current owner and operator of Greenbriar Nursing Center.

B. Project Background

Greenbriar Nursing Center received Certificate of Need (CON) No. R-0810 with an effective date of May 27, 2010 and an extended expiration date of November 27, 2012 for the relocation of 46 LTC beds from Azalea Gardens to Greenbriar Nursing Center. Prior to the extended expiration date of November 27, 2012, Greenbriar Nursing Center applied for an extension of the CON and was granted approval. Therefore, the CON is currently in active status.

The original project proposed to relocate 46, existing, long term care beds from Azalea Gardens in Stone County to Greenbriar in Harrison County, Mississippi. Greenbriar and Azalea are both located in Long Term Care Planning District (LTCPD) IV. The 2010 State Health Plan estimates that by 2020 Harrison County will have an unmet bed need of 639 beds and Stone County will have a surplus of 91 beds.

The estimated capital expenditure was \$2,804,248 and funding for the original project was through a loan of \$2,641,498 with Hancock Bank at a 7% interest rate and the remaining amount of \$162,750 was funded through equity contribution. The original project required 41.0 additional full-time equivalent personnel upon completion of the project. The project's site was approved and granted by the Division of Health Facilities Licensure and Certification.

The applicant asserts that in the original application, Greenbriar proposed to relocate 46 LTC beds, in an effort to reduce but not eliminate, the surplus of beds in Stone County, thus decreasing the bed shortage in Harrison County. The original project intends to house the 46 LTC beds in a newly constructed 16,310 square foot addition. The new addition will be a seamless attachment and integrated in the existing 60 bed structure, located in D'Iberville, Harrison County, Mississippi. The rooms to be added will be a combination of four (4) private and twenty-one (21) semi-private rooms. The foundation will be an on-grade concrete slab. The mechanical system will be central heat pumps located in the attic space, zoned similarly to the system in the existing facility. The electrical service will originate from the existing facility main distribution panel to sub panels in the new addition. Site work will be minimal. Additional parking and removal of some existing parking and fencing will be part of this project.

The original application also involves a small fraction of renovation. The renovation component will be minimal and limited to enclosing an existing porch to increase the capacity of the existing dining room. The applicant asserts that the cost of the renovation estimated by the architect is approximately \$29,100.

According to the applicant, approximately 70% of the work has been completed to date. The authorized capital expenditure is \$2,804,248 and the amount of \$2,215,913 has been made to date; however, this amount does not include \$116,627 withheld as a retainage and this amount has not been paid. The applicant provided evidence in the proposed cost overrun application to support certification for payment evidencing the percentage and amount of capital expenditure paid to date for the project.

C. Project Description

Greenbriar Nursing Center now requests a cost overrun to its CON No. R-0810. Greenbriar Nursing Center asserts that the proposed cost overrun is necessary to complete the original project. According to the applicant, the proposed cost overrun is due to the following two reasons:

1. Greenbriar Nursing Center asserts that the original owner of Greenbriar Nursing Center, Mr. Connor Cain, passed away on July 3, 2010 shortly after CON #R-0810 was granted on May 27, 2010. Due to Mr. Cain's death and matters involving the settlement of his estate, there was a gap in time before Ms. Cain was able to resume the original project. As a result, the final agreement between Ms. Cain and the contractor was not executed until October 10, 2011.

2. According to the applicant, following the start of construction on the original project, more unforeseen circumstances arose requiring the project's architect, contractor and owner to execute six change orders as part of this project. The applicant asserts that these change orders address specifications for the existing facility that did not match the actual "tie-ins" set forth on the initial building plans for the project. Most of the discrepancies dealt with the location of existing electrical and sewer lines. In addition, Greenbriar Nursing Center anticipated that only minimal site-work would be necessary; however, site preparation costs greatly exceeded expectations because the site contained unsuitable fill for the building pad. The applicant states that portions of these change orders were also in response to requirements imposed by the city of D'Iberville. The cost overrun application contains copies of all six (6) change orders (not a part of the original application) identifying the increase costs following execution of the contract for the project.

The propose cost overrun application contains documents from the applicant's architect (Ferguson & Associates Architects) and contractor (Unicorp, LLC) concerning the project's referenced change orders.

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 to be complete on or before February 15, 2012. See application.

II. TYPE OF REVIEW REQUIRED

The original project was reviewed under the applicable statutory requirements of Sections 41-7-173, 41-7-191, (1) (b) and (c), and 41-7-193, Mississippi Code of 1972, Annotated, as amended and duly adopted rules, procedures, plans, criteria and standards of the Mississippi State Department of Health.

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 December 27, 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 2010 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 2010 State Health Plan*.

B. General Review Criteria

The original projects were in substantial compliance with the *Certificate of Need Review Manual, 2009 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, 2009 revision*.

IV. FINANCIAL FEASIBILITY

A. Capital Expenditure Summary

	<u>Approved Capital Expenditure</u>	<u>Revised Capital Expenditure</u>	<u>Increase (Decrease)</u>
New Construction	\$2,248,680	\$2,668,355	\$419,675
Renovation/Construction	29,100	40,789	11,689
Capital Improvements	0	0	0
Land	0	0	0
Site Work	50,000	118,726	68,726
Fixed Equipment	122,500	0	0
Non-Fixed Equipment	69,000	0	0
Fees (Architectural, Consultant, etc.)	161,218	0	0
Contingency Reserve	30,000	0	0
Capitalized Interest	93,750	0	0
Total	<u>\$2,804,248</u>	<u>\$3,304,338</u>	<u>\$500,090</u>

As previously mentioned, the capital expenditure approved in the original CON was \$2,804,248 (relocation of 46 LTC beds from Azalea Gardens Nursing Center to Greenbriar Nursing Center). The applicant asserts that the additional cost for the cost overrun proposal is \$500,090, resulting in a revised capital expenditure of approximately \$3,304,338. As previously mentioned, the increase in cost requested in the proposed cost overrun is due to the fact that the original owner of Greenbriar, Mr. Connor Cain, passed away on July 3, 2010 shortly after the CON was granted on May 27, 2010, which caused the start date of the project to be delayed. Because of the project's delay at the start of construction, more unforeseen circumstances arose requiring six (6) change orders on the initial building plans for the project that 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 original application was financed through a \$2,641,498 loan with Hancock Bank at a 7% interest rate and the remaining amount of financing is through an equity contribution of \$162,750.

The applicant asserts that financing for the proposed cost overrun project will be financed from a commercial loan with BancorpSouth Bank, Biloxi. The application contains a loan agreement between Greenbriar Nursing Center and BancorpSouth Bank regarding the terms of the loan for the project.

The applicant asserts that financing for this project is being provided by BancorpSouth. Greenbriar Nursing Center combined its loan from the original construction of Greenbriar Nursing Center with its loan for the existing project in order to obtain a more favorable interest rate. The total available loan amount for both projects is \$6,114,825.40. The interest rate on the loan is 4.95%. The term of the loan is fifteen (15) years. The application contains a copy of an updated loan amortization schedule for this project. According to the applicant, the additional capital expenditure requested for this cost overrun project will be taken from any remaining amount available through the loan agreement.

Effect on Operating Cost

Greenbriar Nursing Center asserts that the only effect on operating cost will be an increase of depreciation cost from \$489,488 (original) to \$492,266, an increase by \$2,788 for the first full year of operation after completion of the proposed project.

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

D. Cost to Medicare/Medicaid

According to the applicant, the proposed cost overrun project will not affect Greenbriar's ability to serve or the cost of service to Medicaid or Medicare patients, or any private pay patients.

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 2010 State Health Plan; Certificate of Need Review Manual, Revision 2009*; 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 Greenbriar Nursing Center for a cost overrun to CON No. R-0810 (relocation of 46 LTC beds from Azalea Gardens Nursing Center to Greenbriar Nursing Center).