MARK-UP

HSC REGULATION 500M. Assisted Living Methodology (10/03)

A. **ASSISTED LIVING FACILITY** means any building or buildings, section or distinct part of a building, boarding home, home for the aged, or other residential facility, whether operated for profit or not, which undertakes through its ownership or management to provide assisted living services for a period exceeding twenty-four (24) hours to more than three (3) adult residents of the facility who are not relatives of the owner or administrator. Assisted living facility includes those facilities which provide assisted living services either directly or through contractual arrangements or which facilitate contracting in the name of residents.

SECTION II- SERVICE AREA is the county.

SECTION III- NEED

A. **POPULATION BASED NEED**
This methodology projects the need for Assisted Living beds at 15 beds per 1000 persons who are 65 years old and older. Need will be projected five years forward using the most recent census data available from the UALR Institute for Economic Advancement.

B. UTILIZATION BASED NEED

A. Assisted Living Facilities may acquire 10% of their licensed beds or 10 beds, which ever is greater, if the applicant:
   1. has an average occupancy of at least 90% or greater in the 2 most recent survey inspections available from the Department of Human Services Office of Long Term Care.
   2. has no approved but unlicensed beds at the time of the application.
   3. has no current Class A or Class B deficiencies from the DHS Office of Long Term Care.

SECTION IV- SIZE

While there is no required minimum size, the recommended minimum size for achieving basic operational efficiency is 40 beds. Smaller projects may be more feasible for counties or communities that do not have the population base to support a 40-bed facility. However, smaller facilities have higher costs and applicants proposing a facility smaller than 40 beds will be subject to a higher level of justification under the Market Study and the Financial Feasibility Section of the application. *A maximum of 80 beds will be awarded to any one applicant* ***per county****, per cycle under the population based methodology.**

SECTION V - CONVERSIONS
Nursing Homes that wish to convert beds to Assisted Living beds may convert a minimum of 10 beds and a maximum of 80 beds.

SECTION VI - PRIORITY

A. *When the Agency has competing applications in the same county*, priority for new construction or expansion will be given to an applicant who demonstrates that:

*Existing Assisted Living Facilities are not meeting the needs of the low-income elderly in the service area and this proposal will address housing for low-income elderly. The plan to serve low-income elderly must be included with the application, in the budget and project description. **

~~1. The proposed application will serve low-income elderly residents. *~~
~~2. Existing assisted living beds do not meet the needs of the low-income elderly in the service area and~~
3. ~~Is able to provide documentation of pending application with Arkansas Finance Development Authority for tax credit, or *with HUD, Rural Development Authority or other low interest loans, grants, or tax credits.*~~

~~B. Applicants who document receipt of tax credit from the Arkansas Finance Development Authority will receive priority for Assisted Living Permits of Approval regardless of population based need. (See footnotes)~~

SECTION VII – EXCEPTION

A. Regardless of population need, an exception will be made if the county has no facilities with beds for low-income population. The applicant must demonstrate the need for affordable assisted living in the application's narrative market study. In addition, the pro forma budget submitted with the application must reflect budget and plans for at least 50% of the proposed facilities' beds to serve the low-income population in that county. Applicants applying under this exception will require a more stringent and detailed market study and pro-forma budget.

** According to the National Housing Survey of Adults Age 60+: opinions, Attitudes, Perceptions and Behaviors, The greatest demand for seniors housing is from people with lower incomes.*

** The Coming Home Program's definition of affordable assisted living is a facility that serves a minimum of 25% of Medicaid residents. Non-medicaid low income is defined as 80% of the median household income in the service area. Housing cost should not be more than 80% of the resident's income.*

SECTION VIII - UNFAVORABLE REVIEW

A. Existing facilities (*this applies to applicants who manage, own or have an interest in a Nursing Home or Assisted Living or Residential Care facility, whether or not that facility is directly involved in the current application)* will have an unfavorable review if the following quality of care standards are not met:

1. No Nursing Home will be awarded a permit of approval *for Assisted Living* if the existing facility has had an H level or higher deficiency according to the Office of Long Term Care in any inspection within the last 12 months preceding the date the application is placed under review or from the date the application is placed under review until the final decision of the Health Services Commission.

2. No Assisted Living or Residential Care Facility will be awarded a permit of approval if the existing facility has had more than two (2) Class A or Class B violations pursuant to ACA § 20-10-205 in any inspection within the last 12 months preceding the date the application is placed under review or from the date the application is placed under review until the final decision of the Health Services Commission.

IX - REVIEW CRITERIA

A. The Agency and the Commission will utilize the following criteria in the review process.

1. Whether the proposed project is needed or projected as necessary to meet the needs of the population. Criteria includes:

   a. Review of a detailed market feasibility study.

2. Whether the project can be adequately staffed and operated when completed. Criteria includes:

   a. Projected sources of staffing.

3. Whether the proposed project is economically feasible.

4. Whether the project will foster cost containment.

Footnotes:

The Arkansas Legislature adopted Act 1230 in 2001 that established Assisted Living in Arkansas. The Act "encourages the development of innovative and affordable facilities particularly for persons with low to moderate incomes." Because federal laws and rules prohibit Medicaid from paying room and board costs other than in a nursing home, developing affordable Assisted Living is challenging. The main vehicle for developing affordable Assisted Living is the Low Income Tax Credit program. The Arkansas Finance Development Authority (AFDA) recognizes Assisted Living as a priority for

Arkansas and has created a "set-a-side" from its Tax Credits specifically for affordable Assisted Living. However, Tax Credits alone are usually not adequate to build an affordable Assisted Living facility. Other financing mechanisms must be "layered" or combined with the Tax Credits. Chief among these are the HOME program and grants from the Federal Home Loan Bank. Unfortunately, the Federal Home Loan Program, the AFDA Tax Credit Program, and the Health Permit Agency all have different time tables for accepting and awarding applications. This makes the creation of affordable Assisted Living almost impossible. To eliminate barriers to affordable Assisted Living and to encourage innovative and affordable models as called for in Act 1230, the Arkansas Health Services Permit Agency (HSPA) will give priority to an applicant that receives Tax Credits from AFDA. AFDA Tax Credits are awarded on a competitive basis. Applicants must submit a marketing study documenting the need for affordable Assisted Living. Therefore, HSPA will accept approval of Tax Credits as establishing a need for affordable Assisted Living.