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LOBBYING REPORT

Lobbying Disclosure Act of 1995 (Section 5) - All Filers Are Required To Complete This Page

1. Registrant Name Baker Healthcare Consulting, Inc.			
2. Address <input type="checkbox"/> Check if different than previously reported One American Square, Suite 2000, Box 82058			
3. Principal Place of Business (if different from line 2) City: Indianapolis State/Zip (or Country) Indiana 46282			
4. Contact Name	Telephone	E-mail (optional)	5. Senate ID #
Dale E. Baker	317-631-3613	bakerhealthcare@yahoo.com	5164
7. Client Name <input type="checkbox"/> Self University of St. Francis			6. House ID # 33560

TYPE OF REPORT 8. Year 2003 Midyear (January 1-June 30) OR Year End (July 1-December 31)

9. Check if this filing amends a previously filed version of this report

10. Check if this is a Termination Report ⇒ Termination Date 12-31-03

11. No Lobbying

INCOME OR EXPENSES - Complete Either Line 12 OR Line 13

12. Lobbying Firms

INCOME relating to lobbying activities for this reporting period was:

Less than \$10,000

\$10,000 or more ⇒ \$ _____
Income (nearest \$20,000)

Provide a good faith estimate, rounded to the nearest \$20,000, of all lobbying related income from the client (including all payments to the registrant by any other entity for lobbying activities on behalf of the client).

13. Organizations

EXPENSES relating to lobbying activities for this reporting period were:

Less than \$10,000

\$10,000 or more ⇒ \$ _____
Expenses (nearest \$20,000)

14. REPORTING METHOD. Check box to indicate accounting method. See instructions for description of method.

Method A. Reporting amounts using LDA definition

Method B. Reporting amounts under section 6033 Internal Revenue Code

Method C. Reporting amounts under section 162(e) Internal Revenue Code

Signature 

Printed Name and Title Dale E. Baker, President

LD-2 (REV. 6/98)

PAI

Registrant Name Baker Healthcare Consulting Client Name University of St. Francis

LOBBYING ACTIVITY. Select as many codes as necessary to reflect the general issue areas in which the registrant engaged in lobbying on behalf of the client during the reporting period. Using a separate page for each code, information as requested. Attach additional page(s) as needed.

15. General issue area code MMM (one per page)

16. Specific lobbying issues
See Attached

17. House(s) of Congress and Federal agencies contacted Check if None
Senate
House of Representatives

18. Name of each individual who acted as a lobbyist in this issue area

Name	Covered Official Position (if applicable)
Dale E. Baker	

19. Interest of each foreign entity in the specific issues listed on line 16 above Check if None

01 ER 1

Signature W. E. Baker Date 1-11-04

Printed Name and Title Dale E. Baker, President

Form LD-2 (Rev.6/98)

Page

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PROVENA ST. JOSEPH MEDICAL CENTER (PROVIDER NO. 14-0007)**UNIVERSITY OF ST. FRANCIS**

Joliet, Illinois

NURSING EDUCATION ISSUE**BACKGROUND**

Nursing education costs have long been a contentious issue for the Centers for Medicare & Medicaid Services (CMS). These costs, along with other allied health education and graduate medical education costs have been the subject of numerous regulations, changes in the law, Provider Reimbursement Review Board cases and subsequent lawsuits. CMS has always tried to draw a balance to pay for only the costs that hospitals have historically incurred in training the above types of needed medical professionals. Obviously, if CMS defined these rules too loosely, arrangements would shift from public financing of these costs (generally through educational institutions) to hospital programs in order to obtain the Medicare funding. On the other hand, Congress, and the courts have continuously instructed CMS to pay for these educational costs if the hospital had historically borne these costs to insure an adequate supply of medical professionals to the communities, which rely on the hospitals (or a collaborative arrangement with a university) for these needed educational programs.

HISTORICAL MEDICARE POLICY

The Omnibus Budget Reconciliation Act of 1989 (OBRA 89) and 1990 (OBRA 90) gave CMS specific instructions to continue to pay the costs of nursing education and other similar allied health educational programs. In 1992, CMS issued a proposed rule that provided very specific standards so that the costs of a collaborative nursing program (a program that is jointly administered by a hospital and a related educational institution) could continue to be reimbursed on a pass through cost basis for both classroom and clinical costs. The preliminary rule established certain tests for the continued payment of these costs as follows:

1. The hospital incurs at least 50% of the net costs (after deducting tuition).
2. There are four common board members.
3. All instruction is provided at the hospital.
4. The preceding criteria have been met continuously as of June 15, 1989 and continuously thereafter.

Provena St. Joseph Hospital and the University of St. Francis, both located in Joliet, Illinois carefully studied this proposed regulation and crafted agreements that would meet the Medicare standards and insure continued pass through of costs applicable to the nursing programs. Through the year ended June 30, 2001, Medicare has consistently treated these costs (both clinical and classroom) as pass through costs for Medicare program purposes, resulting in approximately \$500,000 per year of added Medicare payment.

On January 12, 2001, over ten years after the passage of OBRA 89 and 1990, in the waning of the last administration, CMS, in a rush to complete unfinished business, published a final rule which will be applicable to Provena St. Joseph Medical Center's fiscal year which began July 1, 2001 and ends June 30, 2002. The new rule requires the hospital to maintain direct curriculum control of the program and control the administration of the education program on a day to day basis in order to obtain Medicare pass through treatment for classroom costs in a collaborative program. Based on the final regulations, the hospital's legal counsel has indicated that the hospital is no longer eligible for the Medicare pass through treatments for the classroom portion of these payments.

DISCUSSION

We have discussed the final regulations with Rebecca Hirshorn, of CMS (area code 410-783411). Rebecca is listed as the contact person for further information on these rules listed in the January 12, 2001 Federal Register, which is attached. Per Rebecca, the final regulations, which will have the impact of denying pass through payments to Provena St. Joseph, had a very negative impact on the approximately 700 hospitals throughout the country who received Medicare pass through treatment for allied education costs. Based on our discussions with Rebecca, only a handful of hospitals would lose payment under these rules.

IMPLICATIONS

With the letter from legal counsel stating that these classroom costs are no longer eligible to pass through payment by the Medicare program, the hospital has little choice but to either disallow these costs on the Medicare cost report scheduled to be filed in November 2002, or include them simply to preserve appeal rights to the Provider Reimbursement Review Board after giving appropriate disclosure thus avoiding any indication of an inappropriate filing with the Medicare program. It is clear that under the new regulation these classroom costs are no longer eligible for pass through treatment.

REQUESTED SOLUTION

We believe that the January 12, 2001 CMS Federal Register establishes a standard that is tighter than what Congress intended in restricting payment to cases where the hospitals have historically borne these costs. There are important programmatic advantages to nursing schools and hospitals to have the active involvement of a university involved in day-to-day curriculum and administration of the four-year degreed baccalaureate program. The interpretation by CMS of the disallowance of

to deny the classroom costs in this collaborative arrangement results in the disallowance of which we believe Congress intended Medicare to continue to pay. We believe that the

disallowance of Provena St. Joseph's classroom costs are an "unintended side effect" of an otherwise workable regulation. We believe that Congress clearly intended to continue Medicare payment to pay for these costs of collaborative arrangement between a hospital and university that are related parties under Medicare payment principles. There are three possible solutions to Provena St. Joseph's issues as follows:

1. **APPEAL TO COURTS.** File (with full disclosure) to include these costs in Medicare cost report, obtain an audit adjustment from the fiscal intermediary, appeal this issue to the Provider Reimbursement Review Board (which is bound by these regulations) and subsequently to the courts. This solution would take years to implement and would be a very expensive solution to the hospital and university. It is not a practical alternative.
2. **REGULATION CHANGE.** CMS might clarify the existing regulations by grandfathering any hospitals that met the conditions outlined in the 1992 Federal Register (57 CFR 43659) or (2) by retroactively changing the standards to meet the four criteria included in the 1992 proposed regulations. For either of these solutions CMS would need to be consulted to determine whether they would consider such a retroactive interpretation to be applied to Provena St. Joseph for fiscal year beginning July 1, 2001, or whether they would agree to any regulatory change.
3. **STATUTORY CHANGE.** Two statutory solutions are possible (1) either grandfather hospitals paid under the 1992 provisions, or (2) "rifle shot" solution that would simply deem the Provena St. Joseph/University of St. Francis collaborative arrangement a hospital based program that would allow Medicare to continue paying clinical and classroom costs as the program has historically (

