

Form 5500 Department of the Treasury Internal Revenue Service Department of Labor Employee Benefits Security Administration Pension Benefit Guaranty Corporation	Annual Return/Report of Employee Benefit Plan This form is required to be filed for employee benefit plans under sections 104 and 4065 of the Employee Retirement Income Security Act of 1974 (ERISA) and sections 6047(e), and 6058(a) of the Internal Revenue Code (the Code). ▶ Complete all entries in accordance with the instructions to the Form 5500.	OMB Nos. 1210-0110 1210-0089 2009 This Form is Open to Public Inspection
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Part I	Annual Report Identification Information
For calendar plan year 2009 or fiscal plan year beginning 01/01/2009 and ending 12/31/2009	
A This return/report is for:	☐ a multiemployer plan; ☐ a multiple-employer plan; or ☒ a single-employer plan; ☐ a DFE (specify) ____
B This return/report is:	☐ the first return/report; ☐ the final return/report; ☒ an amended return/report; ☐ a short plan year return/report (less than 12 months).
C If the plan is a collectively-bargained plan, check here.	☐
D Check box if filing under:	☐ Form 5558; ☐ automatic extension; ☐ the DFVC program; ☐ special extension (enter description)

Part II	Basic Plan Information —enter all requested information
1a Name of plan ODYSSEY HEALTHCARE 401K SAVINGS PLAN	1b Three-digit plan number (PN) ▶ 001
	1c Effective date of plan 01/01/1997
2a Plan sponsor's name and address (employer, if for a single-employer plan) (Address should include room or suite no.) ODYSSEY HEALTHCARE MANAGEMENT, L.P. 717 N. HARWOOD SUITE 1500 DALLAS, TX 75201	2b Employer Identification Number (EIN) 75-2923658 2c Sponsor's telephone number 214-922-9711 2d Business code (see instructions) 621610

Caution: A penalty for the late or incomplete filing of this return/report will be assessed unless reasonable cause is established.

Under penalties of perjury and other penalties set forth in the instructions, I declare that I have examined this return/report, including accompanying schedules, statements and attachments, as well as the electronic version of this return/report, and to the best of my knowledge and belief, it is true, correct, and complete.

SIGN HERE	Filed with authorized/valid electronic signature.	07/27/2010	BEVERLY SCOGGINS
	Signature of plan administrator	Date	Enter name of individual signing as plan administrator
SIGN HERE			
	Signature of employer/plan sponsor	Date	Enter name of individual signing as employer or plan sponsor
SIGN HERE			
	Signature of DFE	Date	Enter name of individual signing as DFE

3a Plan administrator's name and address (if same as plan sponsor, enter "Same") ODYSSEY HEALTHCARE MANAGEMENT, L.P. 717 N. HARWOOD SUITE 1500 DALLAS, TX 75201	3b Administrator's EIN 75-2923658 3c Administrator's telephone number 214-922-9711
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4 If the name and/or EIN of the plan sponsor has changed since the last return/report filed for this plan, enter the name, EIN and the plan number from the last return/report: a Sponsor's name	4b EIN 4c PN
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5 Total number of participants at the beginning of the plan year	5	8183
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6 Number of participants as of the end of the plan year (welfare plans complete only lines 6a , 6b , 6c , and 6d).		
a Active participants.....	6a	6314
b Retired or separated participants receiving benefits.....	6b	0
c Other retired or separated participants entitled to future benefits.....	6c	622
d Subtotal. Add lines 6a , 6b , and 6c	6d	6936
e Deceased participants whose beneficiaries are receiving or are entitled to receive benefits.....	6e	3
f Total. Add lines 6d and 6e	6f	6939
g Number of participants with account balances as of the end of the plan year (only defined contribution plans complete this item).....	6g	2851
h Number of participants that terminated employment during the plan year with accrued benefits that were less than 100% vested.....	6h	176

7 Enter the total number of employers obligated to contribute to the plan (only multiemployer plans complete this item)	7	
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8a If the plan provides pension benefits, enter the applicable pension feature codes from the List of Plan Characteristic Codes in the instructions:
 2E 2F 2G 2J 2K 2T 3D 3H

b If the plan provides welfare benefits, enter the applicable welfare feature codes from the List of Plan Characteristic Codes in the instructions:

9a Plan funding arrangement (check all that apply) (1) ☐ Insurance (2) ☐ Code section 412(e)(3) insurance contracts (3) ☒ Trust (4) ☐ General assets of the sponsor	9b Plan benefit arrangement (check all that apply) (1) ☐ Insurance (2) ☐ Code section 412(e)(3) insurance contracts (3) ☒ Trust (4) ☐ General assets of the sponsor
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10 Check all applicable boxes in 10a and 10b to indicate which schedules are attached, and, where indicated, enter the number attached. (See instructions)

a Pension Schedules

- (1) ☒ **R** (Retirement Plan Information)
 (2) ☐ **MB** (Multiemployer Defined Benefit Plan and Certain Money Purchase Plan Actuarial Information) - signed by the plan actuary
 (3) ☐ **SB** (Single-Employer Defined Benefit Plan Actuarial Information) - signed by the plan actuary

b General Schedules

- (1) ☒ **H** (Financial Information)
 (2) ☐ **I** (Financial Information – Small Plan)
 (3) ☐ **A** (Insurance Information)
 (4) ☒ **C** (Service Provider Information)
 (5) ☒ **D** (DFE/Participating Plan Information)
 (6) ☐ **G** (Financial Transaction Schedules)

<div>SCHEDULE C</div> <div>(Form 5500)</div> <div>Department of the Treasury Internal Revenue Service</div> <div>Department of Labor Employee Benefits Security Administration</div> <div>Pension Benefit Guaranty Corporation</div>	<div>Service Provider Information</div> <div>This schedule is required to be filed under section 104 of the Employee Retirement Income Security Act of 1974 (ERISA).</div> <div>▶ File as an attachment to Form 5500.</div>	OMB No. 1210-0110
		2009
		This Form is Open to Public Inspection.

For calendar plan year 2009 or fiscal plan year beginning 01/01/2009 and ending 12/31/2009

<div>A</div> <div>Name of plan</div> <div>ODYSSEY HEALTHCARE 401K SAVINGS PLAN</div>	<div>B</div> <div>Three-digit plan number (PN)</div> <div>▶</div> <div>001</div>
<div>C</div> <div>Plan sponsor's name as shown on line 2a of Form 5500</div> <div>ODYSSEY HEALTHCARE MANAGEMENT, L.P.</div>	<div>D</div> <div>Employer Identification Number (EIN)</div> <div>75-2923658</div>

Part I

Service Provider Information (see instructions)

You must complete this Part, in accordance with the instructions, to report the information required for **each person** who received, directly or indirectly, \$5,000 or more in total compensation (i.e., money or anything else of monetary value) in connection with services rendered to the plan or the person's position with the plan during the plan year. If a person received **only** eligible indirect compensation for which the plan received the required disclosures, you are required to answer line 1 but are not required to include that person when completing the remainder of this Part.

1

Information on Persons Receiving Only Eligible Indirect Compensation

a

Check "Yes" or "No" to indicate whether you are excluding a person from the remainder of this Part because they received only eligible indirect compensation for which the plan received the required disclosures (see instructions for definitions and conditions).....

☐ Yes

☒ No

b

If you answered line 1a "Yes," enter the name and EIN or address of each person providing the required disclosures for the service providers who received only eligible indirect compensation. Complete as many entries as needed (see instructions).

(b)

Enter name and EIN or address of person who provided you disclosures on eligible indirect compensation

(b)

Enter name and EIN or address of person who provided you disclosure on eligible indirect compensation

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Enter name and EIN or address of person who provided you disclosures on eligible indirect compensation

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2. Information on Other Service Providers Receiving Direct or Indirect Compensation. Except for those persons for whom you answered "yes" to line 1a above, complete as many entries as needed to list each person receiving, directly or indirectly, \$5,000 or more in total compensation (i.e., money or anything else of value) in connection with services rendered to the plan or their position with the plan during the plan year. (See instructions).

(a) Enter name and EIN or address (see instructions)

HARTFORD RETIREMENT SERVICES, LLC

26-1589907

(b) Service Code(s)	(c) Relationship to employer, employee organization, or person known to be a party-in-interest	(d) Enter direct compensation paid by the plan. If none, enter -0-.	(e) Did service provider receive indirect compensation? (sources other than plan or plan sponsor)	(f) Did indirect compensation include eligible indirect compensation, for which the plan received the required disclosures?	(g) Enter total indirect compensation received by service provider excluding eligible indirect compensation for which you answered "Yes" to element (f). If none, enter -0-.	(h) Did the service provider give you a formula instead of an amount or estimated amount?
24	RECORDKEEPER	69963	Yes ☐ No ☒	Yes ☐ No ☐		Yes ☐ No ☐

(a) Enter name and EIN or address (see instructions)

(b) Service Code(s)	(c) Relationship to employer, employee organization, or person known to be a party-in-interest	(d) Enter direct compensation paid by the plan. If none, enter -0-.	(e) Did service provider receive indirect compensation? (sources other than plan or plan sponsor)	(f) Did indirect compensation include eligible indirect compensation, for which the plan received the required disclosures?	(g) Enter total indirect compensation received by service provider excluding eligible indirect compensation for which you answered "Yes" to element (f). If none, enter -0-.	(h) Did the service provider give you a formula instead of an amount or estimated amount?
			Yes ☐ No ☐	Yes ☐ No ☐		Yes ☐ No ☐

(a) Enter name and EIN or address (see instructions)

(b) Service Code(s)	(c) Relationship to employer, employee organization, or person known to be a party-in-interest	(d) Enter direct compensation paid by the plan. If none, enter -0-.	(e) Did service provider receive indirect compensation? (sources other than plan or plan sponsor)	(f) Did indirect compensation include eligible indirect compensation, for which the plan received the required disclosures?	(g) Enter total indirect compensation received by service provider excluding eligible indirect compensation for which you answered "Yes" to element (f). If none, enter -0-.	(h) Did the service provider give you a formula instead of an amount or estimated amount?
			Yes ☐ No ☐	Yes ☐ No ☐		Yes ☐ No ☐

(a) Enter name and EIN or address (see instructions)

(b) Service Code(s)	(c) Relationship to employer, employee organization, or person known to be a party-in-interest	(d) Enter direct compensation paid by the plan. If none, enter -0-.	(e) Did service provider receive indirect compensation? (sources other than plan or plan sponsor)	(f) Did indirect compensation include eligible indirect compensation, for which the plan received the required disclosures?	(g) Enter total indirect compensation received by service provider excluding eligible indirect compensation for which you answered "Yes" to element (f). If none, enter -0-.	(h) Did the service provider give you a formula instead of an amount or estimated amount?
			Yes ☐ No ☐	Yes ☐ No ☐		Yes ☐ No ☐

(a) Enter name and EIN or address (see instructions)

(b) Service Code(s)	(c) Relationship to employer, employee organization, or person known to be a party-in-interest	(d) Enter direct compensation paid by the plan. If none, enter -0-.	(e) Did service provider receive indirect compensation? (sources other than plan or plan sponsor)	(f) Did indirect compensation include eligible indirect compensation, for which the plan received the required disclosures?	(g) Enter total indirect compensation received by service provider excluding eligible indirect compensation for which you answered "Yes" to element (f). If none, enter -0-.	(h) Did the service provider give you a formula instead of an amount or estimated amount?
			Yes ☐ No ☐	Yes ☐ No ☐		Yes ☐ No ☐

(a) Enter name and EIN or address (see instructions)

(b) Service Code(s)	(c) Relationship to employer, employee organization, or person known to be a party-in-interest	(d) Enter direct compensation paid by the plan. If none, enter -0-.	(e) Did service provider receive indirect compensation? (sources other than plan or plan sponsor)	(f) Did indirect compensation include eligible indirect compensation, for which the plan received the required disclosures?	(g) Enter total indirect compensation received by service provider excluding eligible indirect compensation for which you answered "Yes" to element (f). If none, enter -0-.	(h) Did the service provider give you a formula instead of an amount or estimated amount?
			Yes ☐ No ☐	Yes ☐ No ☐		Yes ☐ No ☐

Part I Service Provider Information (continued)

3 If you reported on line 2 receipt of indirect compensation, other than eligible indirect compensation, by a service provider, and the service provider is a fiduciary or provides contract administrator, consulting, custodial, investment advisory, investment management, broker, or recordkeeping services, answer the following questions for (a) each source from whom the service provider received \$1,000 or more in indirect compensation and (b) each source for whom the service provider gave you a formula used to determine the indirect compensation instead of an amount or estimated amount of the indirect compensation. Complete as many entries as needed to report the required information for each source.

(a) Enter service provider name as it appears on line 2	(b) Service Codes (see instructions)	(c) Enter amount of indirect compensation

(d) Enter name and EIN (address) of source of indirect compensation	(e) Describe the indirect compensation, including any formula used to determine the service provider's eligibility for or the amount of the indirect compensation.

(a) Enter service provider name as it appears on line 2	(b) Service Codes (see instructions)	(c) Enter amount of indirect compensation

(d) Enter name and EIN (address) of source of indirect compensation	(e) Describe the indirect compensation, including any formula used to determine the service provider's eligibility for or the amount of the indirect compensation.

(a) Enter service provider name as it appears on line 2	(b) Service Codes (see instructions)	(c) Enter amount of indirect compensation

(d) Enter name and EIN (address) of source of indirect compensation	(e) Describe the indirect compensation, including any formula used to determine the service provider's eligibility for or the amount of the indirect compensation.

Part II Service Providers Who Fail or Refuse to Provide Information

4 Provide, to the extent possible, the following information for each service provider who failed or refused to provide the information necessary to complete this Schedule.

(a) Enter name and EIN or address of service provider (see instructions)	(b) Nature of Service Code(s)	(c) Describe the information that the service provider failed or refused to provide
(a) Enter name and EIN or address of service provider (see instructions)	(b) Nature of Service Code(s)	(c) Describe the information that the service provider failed or refused to provide
(a) Enter name and EIN or address of service provider (see instructions)	(b) Nature of Service Code(s)	(c) Describe the information that the service provider failed or refused to provide
(a) Enter name and EIN or address of service provider (see instructions)	(b) Nature of Service Code(s)	(c) Describe the information that the service provider failed or refused to provide
(a) Enter name and EIN or address of service provider (see instructions)	(b) Nature of Service Code(s)	(c) Describe the information that the service provider failed or refused to provide
(a) Enter name and EIN or address of service provider (see instructions)	(b) Nature of Service Code(s)	(c) Describe the information that the service provider failed or refused to provide

Part III Termination Information on Accountants and Enrolled Actuaries (see instructions)
(complete as many entries as needed)

a Name:	b EIN:
c Position:	
d Address:	e Telephone:

Explanation:

a Name:	b EIN:
c Position:	
d Address:	e Telephone:

Explanation:

a Name:	b EIN:
c Position:	
d Address:	e Telephone:

Explanation:

a Name:	b EIN;
c Position:	
d Address:	e Telephone:

Explanation:

a Name:	b EIN;
c Position:	
d Address:	e Telephone:

Explanation:

a Name of MTIA, CCT, PSA, or 103-12 IE:**b** Name of sponsor of entity listed in (a):**c** EIN-PN**d** Entity
code**e** Dollar value of interest in MTIA, CCT, PSA, or
103-12 IE at end of year (see instructions)**a** Name of MTIA, CCT, PSA, or 103-12 IE:**b** Name of sponsor of entity listed in (a):**c** EIN-PN**d** Entity
code**e** Dollar value of interest in MTIA, CCT, PSA, or
103-12 IE at end of year (see instructions)**a** Name of MTIA, CCT, PSA, or 103-12 IE:**b** Name of sponsor of entity listed in (a):**c** EIN-PN**d** Entity
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103-12 IE at end of year (see instructions)**a** Name of MTIA, CCT, PSA, or 103-12 IE:**b** Name of sponsor of entity listed in (a):**c** EIN-PN**d** Entity
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103-12 IE at end of year (see instructions)**a** Name of MTIA, CCT, PSA, or 103-12 IE:**b** Name of sponsor of entity listed in (a):**c** EIN-PN**d** Entity
code**e** Dollar value of interest in MTIA, CCT, PSA, or
103-12 IE at end of year (see instructions)

Part II Information on Participating Plans (to be completed by DFEs)

(Complete as many entries as needed to report all participating plans)

a Plan name**b** Name of
plan sponsor**c** EIN-PN**a** Plan name**b** Name of
plan sponsor**c** EIN-PN**a** Plan name**b** Name of
plan sponsor**c** EIN-PN**a** Plan name**b** Name of
plan sponsor**c** EIN-PN**a** Plan name**b** Name of
plan sponsor**c** EIN-PN**a** Plan name**b** Name of
plan sponsor**c** EIN-PN**a** Plan name**b** Name of
plan sponsor**c** EIN-PN**a** Plan name**b** Name of
plan sponsor**c** EIN-PN**a** Plan name**b** Name of
plan sponsor**c** EIN-PN**a** Plan name**b** Name of
plan sponsor**c** EIN-PN**a** Plan name**b** Name of
plan sponsor**c** EIN-PN**a** Plan name**b** Name of
plan sponsor**c** EIN-PN

SCHEDULE H (Form 5500) <small>Department of the Treasury Internal Revenue Service</small> <small>Department of Labor Employee Benefits Security Administration</small> <small>Pension Benefit Guaranty Corporation</small>	Financial Information This schedule is required to be filed under section 104 of the Employee Retirement Income Security Act of 1974 (ERISA), and section 6058(a) of the Internal Revenue Code (the Code). ► File as an attachment to Form 5500.	OMB No. 1210-0110 2009 This Form is Open to Public Inspection
For calendar plan year 2009 or fiscal plan year beginning 01/01/2009 and ending 12/31/2009		
A Name of plan ODYSSEY HEALTHCARE 401K SAVINGS PLAN	B Three-digit plan number (PN) ►	001
C Plan sponsor's name as shown on line 2a of Form 5500 ODYSSEY HEALTHCARE MANAGEMENT, L.P.	D Employer Identification Number (EIN) 75-2923658	

Part I	Asset and Liability Statement		(a) Beginning of Year	(b) End of Year
1 Current value of plan assets and liabilities at the beginning and end of the plan year. Combine the value of plan assets held in more than one trust. Report the value of the plan's interest in a commingled fund containing the assets of more than one plan on a line-by-line basis unless the value is reportable on lines 1c(9) through 1c(14). Do not enter the value of that portion of an insurance contract which guarantees, during this plan year, to pay a specific dollar benefit at a future date. Round off amounts to the nearest dollar. MTIAs, CCTs, PSAs, and 103-12 IEs do not complete lines 1b(1), 1b(2), 1c(8), 1g, 1h, and 1i. CCTs, PSAs, and 103-12 IEs also do not complete lines 1d and 1e. See instructions.				
	Assets			
a	Total noninterest-bearing cash	1a		
b	Receivables (less allowance for doubtful accounts):			
	(1) Employer contributions	1b(1)	20147	0
	(2) Participant contributions	1b(2)	75417	0
	(3) Other	1b(3)		
c	General investments:			
	(1) Interest-bearing cash (include money market accounts & certificates of deposit)	1c(1)		
	(2) U.S. Government securities	1c(2)		
	(3) Corporate debt instruments (other than employer securities):			
	(A) Preferred	1c(3)(A)		
	(B) All other	1c(3)(B)		
	(4) Corporate stocks (other than employer securities):			
	(A) Preferred	1c(4)(A)		
	(B) Common	1c(4)(B)		
	(5) Partnership/joint venture interests	1c(5)		
	(6) Real estate (other than employer real property)	1c(6)		
	(7) Loans (other than to participants)	1c(7)		
	(8) Participant loans	1c(8)	1050577	1193657
	(9) Value of interest in common/collective trusts	1c(9)	5452065	5242763
	(10) Value of interest in pooled separate accounts	1c(10)		
	(11) Value of interest in master trust investment accounts	1c(11)		
	(12) Value of interest in 103-12 investment entities	1c(12)		
	(13) Value of interest in registered investment companies (e.g., mutual funds)	1c(13)	22086622	33294505
	(14) Value of funds held in insurance company general account (unallocated contracts)	1c(14)		
	(15) Other	1c(15)		

1d Employer-related investments:

		(a) Beginning of Year	(b) End of Year
(1) Employer securities	1d(1)		
(2) Employer real property	1d(2)		
e Buildings and other property used in plan operation	1e		
f Total assets (add all amounts in lines 1a through 1e)	1f	28684828	39730925

Liabilities

g Benefit claims payable	1g		
h Operating payables	1h		
i Acquisition indebtedness	1i		
j Other liabilities	1j		
k Total liabilities (add all amounts in lines 1g through 1j)	1k	0	0

Net Assets

l Net assets (subtract line 1k from line 1f)	1l	28684828	39730925
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Part II Income and Expense Statement

2 Plan income, expenses, and changes in net assets for the year. Include all income and expenses of the plan, including any trust(s) or separately maintained fund(s) and any payments/receipts to/from insurance carriers. Round off amounts to the nearest dollar. MTIAs, CCTs, PSAs, and 103-12 IEs do not complete lines 2a, 2b(1)(E), 2e, 2f, and 2g.

Income**a Contributions:**

		(a) Amount	(b) Total
(1) Received or receivable in cash from: (A) Employers	2a(1)(A)	1474161	
(B) Participants	2a(1)(B)	6820361	
(C) Others (including rollovers)	2a(1)(C)	777742	
(2) Noncash contributions	2a(2)		
(3) Total contributions. Add lines 2a(1)(A) , (B) , (C) , and line 2a(2)	2a(3)		9072264

b Earnings on investments:**(1) Interest:**

(A) Interest-bearing cash (including money market accounts and certificates of deposit)	2b(1)(A)		
(B) U.S. Government securities	2b(1)(B)		
(C) Corporate debt instruments	2b(1)(C)		
(D) Loans (other than to participants)	2b(1)(D)		
(E) Participant loans	2b(1)(E)	72602	
(F) Other	2b(1)(F)		
(G) Total interest. Add lines 2b(1)(A) through (F)	2b(1)(G)		72602

(2) Dividends: (A) Preferred stock	2b(2)(A)		
(B) Common stock	2b(2)(B)		
(C) Registered investment company shares (e.g. mutual funds)	2b(2)(C)	591695	
(D) Total dividends. Add lines 2b(2)(A) , (B) , and (C)	2b(2)(D)		591695

(3) Rents	2b(3)		
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(4) Net gain (loss) on sale of assets: (A) Aggregate proceeds	2b(4)(A)		
(B) Aggregate carrying amount (see instructions)	2b(4)(B)		
(C) Subtract line 2b(4)(B) from line 2b(4)(A) and enter result	2b(4)(C)		0

		(a) Amount	(b) Total
2b (5) Unrealized appreciation (depreciation) of assets: (A) Real estate.....	2b(5)(A)		
(B) Other	2b(5)(B)		
(C) Total unrealized appreciation of assets. Add lines 2b(5)(A) and (B)	2b(5)(C)		0
(6) Net investment gain (loss) from common/collective trusts	2b(6)		45805
(7) Net investment gain (loss) from pooled separate accounts	2b(7)		
(8) Net investment gain (loss) from master trust investment accounts	2b(8)		
(9) Net investment gain (loss) from 103-12 investment entities	2b(9)		
(10) Net investment gain (loss) from registered investment companies (e.g., mutual funds).....	2b(10)		6491867
c Other income.....	2c		
d Total income. Add all income amounts in column (b) and enter total.....	2d		16274233

Expenses

e Benefit payment and payments to provide benefits:			
(1) Directly to participants or beneficiaries, including direct rollovers	2e(1)	5106634	
(2) To insurance carriers for the provision of benefits	2e(2)		
(3) Other	2e(3)		
(4) Total benefit payments. Add lines 2e(1) through (3)	2e(4)		5106634
f Corrective distributions (see instructions)	2f		35448
g Certain deemed distributions of participant loans (see instructions).....	2g		16091
h Interest expense.....	2h		
i Administrative expenses: (1) Professional fees	2i(1)	69963	
(2) Contract administrator fees	2i(2)		
(3) Investment advisory and management fees	2i(3)		
(4) Other	2i(4)		
(5) Total administrative expenses. Add lines 2i(1) through (4)	2i(5)		69963
j Total expenses. Add all expense amounts in column (b) and enter total.....	2j		5228136

Net Income and Reconciliation

k Net income (loss). Subtract line 2j from line 2d	2k		11046097
l Transfers of assets:			
(1) To this plan.....	2l(1)		
(2) From this plan	2l(2)		

Part III Accountant's Opinion

3 Complete lines 3a through 3c if the opinion of an independent qualified public accountant is attached to this Form 5500. Complete line 3d if an opinion is not attached.

a The attached opinion of an independent qualified public accountant for this plan is (see instructions):

(1) ☐ Unqualified (2) ☐ Qualified (3) ☒ Disclaimer (4) ☐ Adverse

b Did the accountant perform a limited scope audit pursuant to 29 CFR 2520.103-8 and/or 103-12(d)? ☒ Yes ☐ No

c Enter the name and EIN of the accountant (or accounting firm) below:

(1) Name: ERNST & YOUNG LLP

(2) EIN: 34-6565596

d The opinion of an independent qualified public accountant is **not attached** because:

(1) ☐ This form is filed for a CCT, PSA, or MTIA. (2) ☐ It will be attached to the next Form 5500 pursuant to 29 CFR 2520.104-50.

Part IV Compliance Questions

- 4** CCTs and PSAs do not complete Part IV. MTIAs, 103-12 IEs, and GIAs do not complete 4a, 4e, 4f, 4g, 4h, 4k, 4m, 4n, or 5. 103-12 IEs also do not complete 4j and 4l. MTIAs also do not complete 4l.

During the plan year:

	Yes	No	Amount
a Was there a failure to transmit to the plan any participant contributions within the time period described in 29 CFR 2510.3-102? Continue to answer "Yes" for any prior year failures until fully corrected. (See instructions and DOL's Voluntary Fiduciary Correction Program.).....		X	
b Were any loans by the plan or fixed income obligations due the plan in default as of the close of the plan year or classified during the year as uncollectible? Disregard participant loans secured by participant's account balance. (Attach Schedule G (Form 5500) Part I if "Yes" is checked.).....		X	
c Were any leases to which the plan was a party in default or classified during the year as uncollectible? (Attach Schedule G (Form 5500) Part II if "Yes" is checked.)		X	
d Were there any nonexempt transactions with any party-in-interest? (Do not include transactions reported on line 4a. Attach Schedule G (Form 5500) Part III if "Yes" is checked.).....		X	
e Was this plan covered by a fidelity bond?.....	X		500000
f Did the plan have a loss, whether or not reimbursed by the plan's fidelity bond, that was caused by fraud or dishonesty?		X	
g Did the plan hold any assets whose current value was neither readily determinable on an established market nor set by an independent third party appraiser?		X	
h Did the plan receive any noncash contributions whose value was neither readily determinable on an established market nor set by an independent third party appraiser?		X	
i Did the plan have assets held for investment? (Attach schedule(s) of assets if "Yes" is checked, and see instructions for format requirements.).....	X		
j Were any plan transactions or series of transactions in excess of 5% of the current value of plan assets? (Attach schedule of transactions if "Yes" is checked, and see instructions for format requirements.).....		X	
k Were all the plan assets either distributed to participants or beneficiaries, transferred to another plan, or brought under the control of the PBGC?.....		X	
l Has the plan failed to provide any benefit when due under the plan?		X	
m If this is an individual account plan, was there a blackout period? (See instructions and 29 CFR 2520.101-3.).....		X	
n If 4m was answered "Yes," check the "Yes" box if you either provided the required notice or one of the exceptions to providing the notice applied under 29 CFR 2520.101-3.		X	

- 5a** Has a resolution to terminate the plan been adopted during the plan year or any prior plan year?
If yes, enter the amount of any plan assets that reverted to the employer this year ☐ Yes ☒ No Amount:

- 5b** If, during this plan year, any assets or liabilities were transferred from this plan to another plan(s), identify the plan(s) to which assets or liabilities were transferred. (See instructions.)

5b(1) Name of plan(s)

5b(2) EIN(s)

5b(3) PN(s)

5b(1) Name of plan(s)	5b(2) EIN(s)	5b(3) PN(s)

SCHEDULE R (Form 5500) Department of the Treasury Internal Revenue Service Department of Labor Employee Benefits Security Administration Pension Benefit Guaranty Corporation	Retirement Plan Information This schedule is required to be filed under section 104 and 4065 of the Employee Retirement Income Security Act of 1974 (ERISA) and section 6058(a) of the Internal Revenue Code (the Code). ▶ File as an attachment to Form 5500.	OMB No. 1210-0110
		2009
		This Form is Open to Public Inspection.

For calendar plan year 2009 or fiscal plan year beginning 01/01/2009 and ending 12/31/2009

A Name of plan <u>ODYSSEY HEALTHCARE 401K SAVINGS PLAN</u>	B Three-digit plan number (PN) ▶ <u>001</u>
C Plan sponsor's name as shown on line 2a of Form 5500 <u>ODYSSEY HEALTHCARE MANAGEMENT, L.P.</u>	D Employer Identification Number (EIN) <u>75-2923658</u>

Part I	Distributions
---------------	----------------------

All references to distributions relate only to payments of benefits during the plan year.

1 Total value of distributions paid in property other than in cash or the forms of property specified in the instructions.....	1
2 Enter the EIN(s) of payor(s) who paid benefits on behalf of the plan to participants or beneficiaries during the year (if more than two, enter EINs of the two payors who paid the greatest dollar amounts of benefits): EIN(s): <u>06-0974148</u>	
Profit-sharing plans, ESOPs, and stock bonus plans, skip line 3.	
3 Number of participants (living or deceased) whose benefits were distributed in a single sum, during the plan year.....	3

Part II	Funding Information (If the plan is not subject to the minimum funding requirements of section 412 of the Internal Revenue Code or ERISA section 302, skip this Part)
----------------	--

4 Is the plan administrator making an election under Code section 412(d)(2) or ERISA section 302(d)(2)?.....	☐ Yes	☐ No	☐ N/A
If the plan is a defined benefit plan, go to line 8.			
5 If a waiver of the minimum funding standard for a prior year is being amortized in this plan year, see instructions and enter the date of the ruling letter granting the waiver. Date: Month _____ Day _____ Year _____ If you completed line 5, complete lines 3, 9, and 10 of Schedule MB and do not complete the remainder of this schedule.			
6 a Enter the minimum required contribution for this plan year	6a		
b Enter the amount contributed by the employer to the plan for this plan year	6b		
c Subtract the amount in line 6b from the amount in line 6a. Enter the result (enter a minus sign to the left of a negative amount).....	6c		
If you completed line 6c, skip lines 8 and 9.			
7 Will the minimum funding amount reported on line 6c be met by the funding deadline?	☐ Yes	☐ No	☐ N/A
8 If a change in actuarial cost method was made for this plan year pursuant to a revenue procedure providing automatic approval for the change or a class ruling letter, does the plan sponsor or plan administrator agree with the change?.....	☐ Yes	☐ No	☐ N/A

Part III	Amendments
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9 If this is a defined benefit pension plan, were any amendments adopted during this plan year that increased or decreased the value of benefits? If yes, check the appropriate box(es). If no, check the "No" box.....	☐ Increase	☐ Decrease	☐ Both	☐ No
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Part IV	ESOPs (see instructions). If this is not a plan described under Section 409(a) or 4975(e)(7) of the Internal Revenue Code, skip this Part.
----------------	---

10 Were unallocated employer securities or proceeds from the sale of unallocated securities used to repay any exempt loan?.....	☐ Yes	☐ No
11 a Does the ESOP hold any preferred stock?	☐ Yes	☐ No
b If the ESOP has an outstanding exempt loan with the employer as lender, is such loan part of a "back-to-back" loan? (See instructions for definition of "back-to-back" loan.)	☐ Yes	☐ No
12 Does the ESOP hold any stock that is not readily tradable on an established securities market?	☐ Yes	☐ No

For Paperwork Reduction Act Notice and OMB Control Numbers, see the instructions for Form 5500.

Schedule R (Form 5500) 2009
v.092308.1

Part V Additional Information for Multiemployer Defined Benefit Pension Plans

13 Enter the following information for each employer that contributed more than 5% of total contributions to the plan during the plan year (measured in dollars). See instructions. *Complete as many entries as needed to report all applicable employers.*

a Name of contributing employer

b EIN

c Dollar amount contributed by employer

d Date collective bargaining agreement expires (If employer contributes under more than one collective bargaining agreement, check box ☐ and see instructions regarding required attachment. Otherwise, enter the applicable date.) Month _____ Day _____ Year _____

e Contribution rate information (If more than one rate applies, check this box ☐ and see instructions regarding required attachment. Otherwise, complete items 13e(1) and 13e(2).)

(1) Contribution rate (in dollars and cents) _____

(2) Base unit measure: ☐ Hourly ☐ Weekly ☐ Unit of production ☐ Other (specify): _____

a Name of contributing employer

b EIN

c Dollar amount contributed by employer

d Date collective bargaining agreement expires (If employer contributes under more than one collective bargaining agreement, check box ☐ and see instructions regarding required attachment. Otherwise, enter the applicable date.) Month _____ Day _____ Year _____

e Contribution rate information (If more than one rate applies, check this box ☐ and see instructions regarding required attachment. Otherwise, complete items 13e(1) and 13e(2).)

(1) Contribution rate (in dollars and cents) _____

(2) Base unit measure: ☐ Hourly ☐ Weekly ☐ Unit of production ☐ Other (specify): _____

a Name of contributing employer

b EIN

c Dollar amount contributed by employer

d Date collective bargaining agreement expires (If employer contributes under more than one collective bargaining agreement, check box ☐ and see instructions regarding required attachment. Otherwise, enter the applicable date.) Month _____ Day _____ Year _____

e Contribution rate information (If more than one rate applies, check this box ☐ and see instructions regarding required attachment. Otherwise, complete items 13e(1) and 13e(2).)

(1) Contribution rate (in dollars and cents) _____

(2) Base unit measure: ☐ Hourly ☐ Weekly ☐ Unit of production ☐ Other (specify): _____

a Name of contributing employer

b EIN

c Dollar amount contributed by employer

d Date collective bargaining agreement expires (If employer contributes under more than one collective bargaining agreement, check box ☐ and see instructions regarding required attachment. Otherwise, enter the applicable date.) Month _____ Day _____ Year _____

e Contribution rate information (If more than one rate applies, check this box ☐ and see instructions regarding required attachment. Otherwise, complete items 13e(1) and 13e(2).)

(1) Contribution rate (in dollars and cents) _____

(2) Base unit measure: ☐ Hourly ☐ Weekly ☐ Unit of production ☐ Other (specify): _____

a Name of contributing employer

b EIN

c Dollar amount contributed by employer

d Date collective bargaining agreement expires (If employer contributes under more than one collective bargaining agreement, check box ☐ and see instructions regarding required attachment. Otherwise, enter the applicable date.) Month _____ Day _____ Year _____

e Contribution rate information (If more than one rate applies, check this box ☐ and see instructions regarding required attachment. Otherwise, complete items 13e(1) and 13e(2).)

(1) Contribution rate (in dollars and cents) _____

(2) Base unit measure: ☐ Hourly ☐ Weekly ☐ Unit of production ☐ Other (specify): _____

a Name of contributing employer

b EIN

c Dollar amount contributed by employer

d Date collective bargaining agreement expires (If employer contributes under more than one collective bargaining agreement, check box ☐ and see instructions regarding required attachment. Otherwise, enter the applicable date.) Month _____ Day _____ Year _____

e Contribution rate information (If more than one rate applies, check this box ☐ and see instructions regarding required attachment. Otherwise, complete items 13e(1) and 13e(2).)

(1) Contribution rate (in dollars and cents) _____

(2) Base unit measure: ☐ Hourly ☐ Weekly ☐ Unit of production ☐ Other (specify): _____

- 14** Enter the number of participants on whose behalf no contributions were made by an employer as an employer of the participant for:

a The current year	14a	
b The plan year immediately preceding the current plan year	14b	
c The second preceding plan year	14c	

- 15** Enter the ratio of the number of participants under the plan on whose behalf no employer had an obligation to make an employer contribution during the current plan year to:

a The corresponding number for the plan year immediately preceding the current plan year	15a	
b The corresponding number for the second preceding plan year	15b	

- 16** Information with respect to any employers who withdrew from the plan during the preceding plan year:

a Enter the number of employers who withdrew during the preceding plan year	16a	
b If item 16a is greater than 0, enter the aggregate amount of withdrawal liability assessed or estimated to be assessed against such withdrawn employers	16b	

- 17** If assets and liabilities from another plan have been transferred to or merged with this plan during the plan year, check box and see instructions regarding supplemental information to be included as an attachment. ☐

Part VI Additional Information for Single-Employer and Multiemployer Defined Benefit Pension Plans

- 18** If any liabilities to participants or their beneficiaries under the plan as of the end of the plan year consist (in whole or in part) of liabilities to such participants and beneficiaries under two or more pension plans as of immediately before such plan year, check box and see instructions regarding supplemental information to be included as an attachment. ☐

- 19** If the total number of participants is 1,000 or more, complete items (a) through (c)

a Enter the percentage of plan assets held as:
 Stock: _____% Investment-Grade Debt: _____% High-Yield Debt: _____% Real Estate: _____% Other: _____%

b Provide the average duration of the combined investment-grade and high-yield debt:
☐ 0-3 years ☐ 3-6 years ☐ 6-9 years ☐ 9-12 years ☐ 12-15 years ☐ 15-18 years ☐ 18-21 years ☐ 21 years or more

c What duration measure was used to calculate item 19(b)?
☐ Effective duration ☐ Macaulay duration ☐ Modified duration ☐ Other (specify): _____

FINANCIAL STATEMENTS AND
SUPPLEMENTAL SCHEDULE

Odyssey HealthCare 401(k) Savings Plan
As of December 31, 2009 and 2008, and for the Year Ended
December 31, 2009
With Report of Independent Auditors

Ernst & Young LLP

Odyssey HealthCare 401(k) Savings Plan

Financial Statements and Supplemental Schedule

As of December 31, 2009 and 2008, and for the Year Ended December 31, 2009

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Report of Independent Auditors

The Plan Administrator
Odyssey HealthCare Management, L.P.

We were engaged to audit the accompanying statements of net assets available for benefits of the Odyssey HealthCare 401(k) Savings Plan as of December 31, 2009 and 2008, and the related statement of changes in net assets available for benefits for the year ended December 31, 2009, and the supplemental schedule of assets (held at end of year) as of December 31, 2009. These financial statements and supplemental schedule are the responsibility of the Plan's management.

As permitted by 29 CFR 2520.103-8 of the Department of Labor's Rules and Regulations for Reporting and Disclosure under the Employee Retirement Income Security Act of 1974, the plan administrator instructed us not to perform, and we did not perform, any auditing procedures with respect to the investment information summarized in Note 3, which was certified by Reliance Trust Company, the trustee of the Plan, except for comparing such information with the related information included in the financial statements and supplemental schedule. We have been informed by the plan administrator that the trustee holds the Plan's investment assets and executes investment transactions. The plan administrator has obtained a certification from the trustee as of December 31, 2009 and 2008, and for the year ended December 31, 2009, that the information provided to the plan administrator by the trustee is complete and accurate.

Because of the significance of the information that we did not audit, we are unable to, and do not, express an opinion on the accompanying financial statements and supplemental schedule taken as a whole. The form and content of the information included in the financial statements and supplemental schedule, other than that derived from the investment information certified by the trustee, have been audited by us in accordance with auditing standards generally accepted in the United States and, in our opinion, are presented in compliance with the Department of Labor's Rules and Regulations for Reporting and Disclosure under the Employee Retirement Income Security Act of 1974.

Ernst & Young LLP

July 14, 2010

Odyssey HealthCare 401(k) Savings Plan

Statements of Net Assets Available for Benefits

	December 31,	
	2009	2008
Assets		
Contributions receivable	\$ —	\$ 95,564
Investments	39,466,690	28,296,417
Total assets	39,466,690	28,391,981
Liabilities		
Excess contributions payable	5,704	62,320
Excess earnings (losses) payable	1,156	(12,435)
Total liabilities	6,860	49,885
Net assets available for benefits, at fair value	39,459,830	28,342,096
Adjustment from fair value to contract value for fully benefit-responsive investment contracts held in collective trusts	264,235	292,847
Net assets available for benefits	\$ 39,724,065	\$ 28,634,943

See accompanying notes.

Odyssey HealthCare 401(k) Savings Plan

Statement of Changes in Net Assets Available for Benefits

Year Ended December 31, 2009

Additions

Investment income:

Net appreciation in fair value of investments in registered investment companies	\$ 6,491,865
Interest and dividends	705,998
Total net investment income	<u>7,197,863</u>

Contributions:

Participant	6,815,653
Employer	1,476,015
Rollovers	777,742
Total contributions	<u>9,069,410</u>

Total additions 16,267,273

Deductions

Administration fees	69,963
Benefit payments	5,108,188
Total deductions	<u>5,178,151</u>

Net increase 11,089,122

Net assets available for benefits at beginning of year 28,634,943

Net assets available for benefits at end of year \$ 39,724,065

See accompanying notes.

Odyssey HealthCare 401(k) Savings Plan

Notes to Financial Statements

December 31, 2009

1. Description of the Plan

The following description of the Odyssey HealthCare 401(k) Savings Plan (the Plan) provides only general information. Participants should refer to the Summary Plan Description for a more complete description of the Plan's provisions.

General

The Plan is a defined contribution plan covering all employees of Odyssey HealthCare Management, L.P., Odyssey HealthCare GP, L.L.C., Odyssey HealthCare of Marion County, Inc., and Odyssey HealthCare Flint (collectively, the Company) who have at least 90 consecutive days of active employment and are age 18 or older. The Plan is subject to the provisions of the Employee Retirement Income Security Act of 1974, as amended (ERISA).

Hartford Retirement Services, LLC serves as record-keeper of the Plan. Reliance Trust Company serves as trustee of the Plan.

Contributions

Participants may contribute up to 50% of pretax annual compensation, as defined by the Plan. Participants may also roll over amounts representing distributions from other qualified defined benefit or defined contribution plans. The Company may make discretionary contributions, which are allocated to participants based on the ratio of each participant's compensation to the total compensation for all participants. The Company did not make discretionary contributions relating to the 2009 Plan year. The Plan also has an employer matching contribution, which is 50% of the first 3% of the participant's elective deferral.

Participants direct their elective contributions into various investment options offered by the Plan and can change their investment options on a daily basis. The Company's contributions are allocated in the same manner as that of the participant's elective contributions.

Vesting

Participants are 100% vested in their pretax contributions. Effective January 1, 2008, the Company's vesting schedule for employer contributions is: one year of service but less than two years, 34% vested; two years of service but less than three years, 67% vested; and three years of service or more, 100% vested for all employees employed after December 31, 2006. Vesting is

Odyssey HealthCare 401(k) Savings Plan

Notes to Financial Statements (continued)

1. Description of the Plan (continued)

calculated on hours worked during each calendar year. Forfeitures may be used to reduce employer contributions or to pay Plan expenses. Unallocated forfeitures were \$23,000 and \$10,000 as of December 31, 2009 and 2008, respectively. Forfeitures of approximately \$83,000 were used to reduce employer contributions during 2009.

Participant Loans

A participant in the Plan may request a loan not in excess of the lesser of (1) 50% of the participant's vested account balance or (2) \$50,000. The minimum loan amount is \$500. The repayment terms of loans may not exceed five years, except if the loan is for the purchase of a participant's principal residence, for which a longer repayment term may be permitted. Each loan bears interest at the prime rate and repayments are made by payroll deduction.

Plan Termination

Although it has not expressed any intent to do so, the Company has the right under the Plan to discontinue its contributions at any time and to terminate the Plan subject to the provisions of ERISA. In the event of Plan termination, participants will become 100% vested in their accounts.

Payment of Benefits

On termination of service, death, permanent disability, or retirement, a participant may receive a lump sum amount equal to the vested value of his or her account, or elect to receive annual installments over a certain period. The period may not extend beyond the life expectancy of the participant or the joint life expectancy of the participant and his or her beneficiary. The Plan also provides for hardship distributions and in-service withdrawals upon attaining age 59 1/2 from the participant's vested account balance.

Administrative Expenses

Certain expenses of the Plan are paid by the Company for the benefit of the Plan. These expenses totaled approximately \$70,000 in 2009.

Odyssey HealthCare 401(k) Savings Plan

Notes to Financial Statements (continued)

2. Summary of Accounting Policies

Basis of Accounting

The Plan's financial statements are presented on the accrual basis of accounting. Benefit payments are recorded when paid.

Use of Estimates

The preparation of the financial statements in conformity with accounting principles generally accepted in the United States requires management to make estimates and assumptions that affect the amounts reported in the financial statements and accompanying notes and schedule. Actual results could differ from these estimates.

New Accounting Pronouncements

In May 2009, the Financial Accounting Standards Board (FASB) issued a new accounting pronouncement regarding subsequent events (formerly SFAS No 165 – *Subsequent Events*). This pronouncement, located under FASB Accounting Standards Codification (ASC) Topic 855, *Subsequent Events*, was issued to establish general standards of accounting for and disclosure of events that occur after the balance sheet date but before financial statements are issued or available to be issued. This pronouncement requires entities to disclose the date through which subsequent events have been evaluated, as well as whether that date is the date the financial statements were issued or the date the financial statements were available to be issued. The Plan adopted this pronouncement on a prospective basis effective beginning on April 1, 2009. The adoption of this pronouncement did not have any impact on the Plan's financial statements. In February 2010, the FASB amended its guidance on subsequent events to remove the requirements for public companies to disclose the date through which an entity has evaluated subsequent events.

In September 2009, the FASB issued Accounting Standards Update No. 2009-12, *Investments in Certain Entities That Calculate Net Asset Value per Share (or Its Equivalent)* (ASU 2009-12). ASU 2009-12 provides amendments to ASC 820. The amendments permit, as a practical expedient, a reporting entity to estimate the fair value of an investment that is within the scope of ASU 2009-12 using the net asset value per share (or its equivalent) of the investment if the net asset value of the investment (or its equivalent) is calculated in a manner consistent with the measurement principles of ASC 946, *Financial Services – Investment Companies*, as of the

Odyssey HealthCare 401(k) Savings Plan

Notes to Financial Statements (continued)

2. Summary of Accounting Policies (continued)

reporting entity's measurement date. ASC 946 requires investment companies to report their investment assets at fair value in accordance with the principles of ASC 820. The amendments also require disclosures regarding the attributes of investments within the scope of ASU 2009-12, such as the nature of any restrictions on the investor's ability to redeem its investments at the measurement date, any unfunded capital commitments, and the investment strategies of the investees. The disclosures are required (by major category) for all investments within the scope of ASU 2009-12 regardless of whether the fair value of the investment is measured using the practical expedient. The amended guidance is effective for interim and annual periods ending after December 15, 2009; however, early application is permitted if financial statements for prior periods have not been issued. Entities that elect to early adopt may defer the additional disclosure requirements of the ASU until the effective date. Plan management elected to early adopt the amended guidance and therefore, as a practical expedient, measures the fair value of the Plan's investments within the scope of ASU 2009-12, based on the unadjusted net asset value per share of the investments (or its equivalent) as of the measurement date. Plan management adopted the disclosure provisions of the amended guidance on a prospective basis, effective January 1, 2009. The adoption of the disclosure provisions did not have any impact on the Plan's financial statements, as it contains only disclosure requirements.

In January 2010, the FASB issued Accounting Standards Update No. 2010-06, *Fair Value Measurements and Disclosures (Topic 820) – Improving Disclosures about Fair Value Measurements*. This update requires a number of new disclosures including disclosure of significant transfers in or out of Level 1 and Level 2 and the reasons for such transfers, an entity's policy for determining when transfers between levels are recognized, the valuation techniques and inputs used in determining the fair value of assets or liabilities classified as Level 2 or Level 3, and requires the changes in Level 3 fair value measurements to be disclosed separately rather than net. In addition, this update seeks to improve transparency by requiring fair value measurement disclosures for each class of assets and liabilities. This pronouncement is effective for interim and annual reporting periods beginning after December 15, 2009, except for the disclosures about purchases, sales, issuances, and settlements in the rollforward of activity in Level 3 fair value measurements, which are effective for fiscal years beginning after December 15, 2010, and for interim periods within those fiscal years. Plan management is currently evaluating the effect that the provisions of this pronouncement will have on the Plan's financial statements.

Odyssey HealthCare 401(k) Savings Plan

Notes to Financial Statements (continued)

2. Summary of Accounting Policies (continued)

Valuation of Investments

Registered investment companies' shares are reported at fair value based on published market prices, which represent the net asset values of shares held by the Plan at year-end. Participants' loans are carried at their unpaid principal balances, which approximate fair value. The collective trusts are valued as discussed below.

As described under FASB ASC Topic 946, *Financial Services – Investment Companies* (formerly FASB Staff Position AAG INV-1 and SOP 94-4-1, *Reporting Fully Benefit-Responsive Investment Contracts Held by Certain Investment Companies Subject to the AICPA Investment Company Guide and Defined-Contribution Health and Welfare and Pension Plans*), investment contracts held by a defined contribution plan are required to be reported at fair value. However, contract value is the relevant measurement attribute for the portion of the net assets available for benefits of a defined contribution plan attributable to fully benefit-responsive investment contracts, because contract value is the amount participants would receive if they were to initiate permitted transactions under the terms of the Plan. Contract value represents contributions made to the fund plus earnings, less withdrawals and administrative expenses.

At December 31, 2009, the Plan's investments included the Fixed Fund, a collective trust that invests in a variety of fully benefit-responsive investment contracts. At December 31, 2008, the Plan's investments included the Fidelity Advisor Stable Value Fund and the Fixed Fund, both collective trusts. The collective trusts are valued at redemption price as determined by the fund's issuer based on the fund's underlying assets at fair value. At December 31, 2009, the Fixed Fund contract value was reduced by approximately \$264,000 to represent the fair value of the fund. At December 31, 2008, the Fidelity Advisor Stable Value Fund contract value and the Fixed Fund contract value were reduced by approximately \$293,000 to represent the fair value of the funds.

Purchases and sales of securities are recorded on a trade-date basis. Interest income is recorded on the accrual basis, and dividend income is recorded on the ex-dividend date.

The Plan invests in various investment securities. Investment securities are exposed to various risks, such as interest rate, market, and credit risks. Due to the level of risk associated with certain investment securities, it is at least reasonably possible that changes in the values of investment securities will occur in the near term and that such changes could materially affect participants' account balances and the amounts reported in the statements of net assets available for benefits.

Odyssey HealthCare 401(k) Savings Plan

Notes to Financial Statements (continued)

2. Summary of Accounting Policies (continued)

Fair Value Measurements

In September 2006, the FASB issued a new accounting pronouncement regarding fair value (formerly Statement of Financial Accounting Standards No. 157, *Fair Value Measurements*). This pronouncement, located under ASC 820, *Fair Value Measurements and Disclosures*, defines fair value, establishes a framework for measuring fair value, and expands disclosures about fair value measurements. The Plan adopted this pronouncement effective January 1, 2008, for financial assets and financial liabilities, and it did not have a material impact on its financial statements. In February 2008, the FASB delayed by one year the effective date of this pronouncement for all nonfinancial assets and nonfinancial liabilities, except those that are recognized or disclosed at fair value in the financial statements on a recurring basis (at least annually). The Plan adopted this pronouncement effective January 1, 2009, for nonfinancial assets and nonfinancial liabilities, and it did not have any impact on the Plan's financial statements.

In April 2009, the FASB issued a new accounting pronouncement regarding fair value (formerly Staff Position No. 157-4, *Determining Fair Value When the Volume and Level of Activity for the Asset or Liability Have Significantly Decreased and Identifying Transactions That Are Not Orderly*). This pronouncement, located under ASC 820, provides additional guidance for estimating fair value when the volume and level of activity for the asset or liability have significantly decreased. This pronouncement also includes guidance on identifying circumstances that indicate a transaction is not orderly and on defining major categories of debt and equity securities to comply with the disclosure requirements of ASC 820. The Plan adopted this pronouncement on a prospective basis effective April 1, 2009. The adoption of this pronouncement did not have any impact on the Plan's financial statements, as it contains only disclosure requirements.

Fair value is the exchange price that would be received to sell an asset or paid to transfer a liability (an exit price) in the principal or the most advantageous market for the asset or liability in an orderly transaction between market participants on the measurement date. The FASB established a hierarchy for ranking the quality and reliability of the information used to determine fair values and requires that assets and liabilities carried at fair value be classified and disclosed in one of the following three categories:

- Level 1: Observable quoted market prices in active markets for identical assets or liabilities.

Odyssey HealthCare 401(k) Savings Plan

Notes to Financial Statements (continued)

2. Summary of Accounting Policies (continued)

- Level 2: Observable inputs other than Level 1, such as quoted prices in active markets for similar assets or liabilities, quoted prices for identical or similar assets or liabilities in markets that are not active, or inputs other than quoted prices that are observable for the asset or liability.
- Level 3: Unobservable inputs for the asset or liability that are significant to the fair value of the assets or liabilities.

Estimated fair values of financial instruments were as follows at December 31, 2009:

	Total	Quoted Prices in Active Markets for Identical Assets (Level 1)	Significant Other Observable Inputs (Level 2)	Unobservable Inputs (Level 3)
Mutual funds:				
U.S. equity funds	\$ 10,409,976	\$ 10,409,976	\$ —	\$ —
Target date funds	5,665,117	5,665,117	—	—
Balanced funds:				
U.S. stock funds	5,509,537	5,509,537	—	—
Bond funds	4,513,760	4,513,760	—	—
International equity	3,724,266	3,724,266	—	—
Fixed-income funds	3,471,849	3,471,849	—	—
	33,294,505	33,294,505	—	—
Fixed Fund ^(a)	4,978,528	—	4,978,528	—
Participant loans	1,193,657	—	—	1,193,657
Total	\$ 39,466,690	\$ 33,294,505	\$ 4,978,528	\$ 1,193,657

- (a) This category includes a collective trust fund that was designed to provide for the collective investment of assets of participating tax-qualified pension and profit-sharing plans and related trusts, and governmental plans in guaranteed investment contracts and in cash or other readily marketable assets. The fund primarily invests in a variety of fully benefit-responsive investment contracts such as guaranteed investment contracts (GICs) issued by insurance companies and other financial institutions and other investment products such as synthetic GICs. The issuer of GICs and synthetic GICs guarantees that all qualified participant withdrawals will occur at contract value plus accrued interest. GICs generally do not permit issuers to terminate the agreement prior to the scheduled maturity date. The fund requires 12 months written notice for non-benefit related withdrawals by plans. The fair value of this fund has been determined based on the fair value of the underlying investment contracts held by the fund. The fair value differs from the contract value. As previously described in Note 2, contract value is the relevant measurement attributable to fully benefit-responsive investment contracts because contract value is the amount participants would receive if they were to initiate permitted transactions under the terms of the Plan.

Odyssey HealthCare 401(k) Savings Plan

Notes to Financial Statements (continued)

2. Summary of Accounting Policies (continued)

The Fixed Fund seeks maximum total return through both current income and price appreciation, consistent with the preservation of capital and prudent risk-taking. The Fixed Fund's portfolio is an intermediate core that utilizes all major sectors of the bond market while managing an average portfolio duration ranging from 2–5 years.

The table below sets forth a summary of changes in the fair value of the Plan's Level 3 assets as follows:

Balance at January 1, 2008	\$ 635,024
Add: Loans issued	675,129
Add: Interest income	64,390
Add: Loans transferred in from VistaCare 401(k) Plan	371,485
Less: Loan repayments	(461,609)
Less: Loans deemed distributed	(233,842)
Balance at December 31, 2008	1,050,577
Add: Loans issued	833,414
Add: Interest income	72,476
Less: Loan repayments	(621,451)
Less: Loans deemed distributed	(141,359)
Balance at December 31, 2009	<u>\$ 1,193,657</u>

3. Investments

Other than the fair value of the Fidelity Advisor Stable Value Fund, the fair value of the Fixed Fund and the adjustment from fair value to contract value for fully benefit-responsive investment contracts held in collective trusts, all investment information disclosed in the accompanying financial statements, notes, and supplemental schedule, including investments held at December 31, 2009 and 2008, and net appreciation in fair value of investments, and interest and dividend income for the year ended December 31, 2009, was obtained or derived from information supplied to the plan administrator and certified as complete and accurate by Reliance Trust Company, the Plan's trustee. The contract values of the Fidelity Advisor Stable Value Fund and the Fixed Fund were certified as complete and accurate by the trustee.

Odyssey HealthCare 401(k) Savings Plan

Notes to Financial Statements (continued)

3. Investments (continued)

The fair values of individual investments that represent 5% or more of the Plan's net assets are as follows:

	December 31 2009
Fixed Fund	\$ 4,978,528 ⁽¹⁾
MFS Conservative Allocation Fund-R2	4,379,684
Growth Fund of America Fund-R2	2,965,761
MFS Lifetime 2020 Fund-R2	2,309,273
MFS Moderate Allocation Fund-R2	2,132,599
MFS Value Fund-R2	2,034,277
DWS Equity 500 Index Fund-S	1,995,964
	December 31 2008
MFS Conservative Allocation Fund-R1	\$ 3,155,621
Fixed Fund	2,754,831 ⁽¹⁾
Fidelity Advisor Stable Value Fund	2,404,387 ⁽²⁾
Growth Fund of America Fund-R2	1,985,979
MFS Value Fund-R2	1,726,925
MFS Moderate Allocation Fund-R2	1,454,572

⁽¹⁾\$5,242,763 and \$2,981,741 were the contract values in 2009 and 2008, respectively.

⁽²⁾\$2,470,324 was the contract value in 2008.

Odyssey HealthCare 401(k) Savings Plan

Notes to Financial Statements (continued)

4. Reconciliation of Financial Statements to Form 5500

The following is a reconciliation of net assets available for benefits per the financial statements to the Form 5500:

	December 31	
	2009	2008
Net assets available for benefits per the financial statements	\$ 39,724,065	\$ 28,634,943
Add: Excess contributions payable	5,704	62,320
Add: Excess (losses) earnings payable	1,156	(12,435)
Net assets available for benefits per the Form 5500	<u>\$ 39,730,925</u>	<u>\$ 28,684,828</u>

The following is a reconciliation of contributions, investment income, and benefit payments per the financial statements to the Form 5500:

	December 31 2009
Net increase in net assets available for benefits per the financial statements	\$ 11,089,122
Add: Excess contributions payable	5,704
Add: Excess earnings payable	1,156
Less: Prior-year excess contributions payable	(62,320)
Add: Prior-year excess (losses) payable	12,435
Net increase in net assets available for benefits per the Form 5500	<u>\$ 11,046,097</u>

Excess contributions to the Plan by participants are recorded on the Form 5500 in the subsequent year in which they are paid by the Plan (cash basis) versus the current year in which they are due (accrual basis) on the financial statements.

5. Related-Party Transactions

Certain Plan investments are sponsored by MFS Fund Distributors, Inc., which is managed by Hartford Retirement Services, LLC. These transactions qualify as party-in-interest transactions. All of these transactions are exempt from the prohibited transactions rules.

Odyssey HealthCare 401(k) Savings Plan

Notes to Financial Statements (continued)

6. Income Tax Status

The Plan has received a determination letter from the Internal Revenue Service (IRS) dated March 2, 2006, stating that the Plan is qualified under Section 401(a) of the Internal Revenue Code (the Code) and therefore the related trust is exempt from taxation. Subsequent to this determination by the IRS, the Plan was amended. Once a Plan is qualified, the Plan is required to operate in conformity with the Code to maintain its qualified status. The plan administrator believes the Plan is being operated in compliance with the applicable requirements of the Code and, therefore, believes the Plan is qualified and the related trust is tax-exempt.

7. Subsequent Events

On May 23, 2010, it was announced that Gentiva Health Services, Inc. (Gentiva), GTO Acquisition Corp., and Odyssey HealthCare, Inc. entered into an Agreement and Plan of Merger (the Plan of Merger). Based on the terms and conditions, GTO Acquisition Corp. will merge with and into Odyssey HealthCare, Inc. with Odyssey HealthCare, Inc. continuing as the surviving corporation and as a subsidiary wholly owned by Gentiva. It is anticipated that the Plan of Merger will finalize during the third quarter of 2010. The impact on the Plan of this Plan of Merger is unknown as this time.

Management evaluated subsequent events for the Plan through July 14, 2010, the date the financial statements were available to be issued.

Supplemental Schedule

Odyssey HealthCare 401(k) Savings Plan

Schedule H; Line 4i – Schedule of Assets (Held At End of Year)

EIN: 75-2923658 Plan #: 001

December 31, 2009

(b) Identity of Issuer, Borrower, Including (a) Lessor, or Similar Party	(c) Description of Investment, Maturity Date, Rate of Interest, Collateral, Par, or Maturing Value	(e) Current Value
SEI Trust Company	Fixed Fund	\$ 4,978,528
* MFS Fund Distributors, Inc.	MFS Conservative Allocation Fund-R2	4,379,684
* MFS Fund Distributors, Inc.	MFS Value Fund-R2	2,034,277
* MFS Fund Distributors, Inc.	MFS Bond Fund-R2	1,868,119
* MFS Fund Distributors, Inc.	MFS Moderate Allocation Fund-R2	2,132,599
* MFS Fund Distributors, Inc.	MFS Growth Allocation Fund-R2	1,897,229
* MFS Fund Distributors, Inc.	MFS Aggressive Growth Allocation Fund-R2	1,479,709
DWS	DWS Equity 500 Index Fund-S	1,995,964
American Funds	Growth Fund of America Fund-R2	2,965,761
Thornburg	Thornburg Core Growth Fund-R3	1,712,892
Franklin Mutual	Mutual Global Discovery Fund-R	1,233,267
Franklin Mutual	Strategic Income Fund-R	681,167
Pioneer	Pioneer Emerging Markets Fund-R	1,299,123
Thornburg	Thornburg International Value Fund-R3	1,191,876
Oppenheimer	Oppenheimer Main Street Small Cap-N	1,384,541
* MFS Fund Distributors, Inc.	MFS Lifetime 2020 Fund-R2	2,309,273
* MFS Fund Distributors, Inc.	MFS Government Securities Fund-R2	922,563
Columbia	Columbia Mid Cap Value Fund-R	68,992
Columbia	Columbia Select Small Cap-R	39,311
* MFS Fund Distributors, Inc.	MFS Lifetime 2040 Fund-R2	937,345
* MFS Fund Distributors, Inc.	MFS Lifetime Retirement Income Fund-R2	134,076
* MFS Fund Distributors, Inc.	MFS Lifetime 2030 Fund-R2	1,719,948
Victory	Victory Small Company Opportunity Fund-R	79,425
* MFS Fund Distributors, Inc.	MFS Lifetime 2010 Fund-R2	698,551
Davis New York	Davis New York Venture Fund-R	128,813
* Participants	Loans with varying maturities and interest rates ranging from 5.25% to 10.25%	1,193,657
		<u>\$ 39,466,690</u>

*Party-in-interest.

Column (d) is not applicable as investments are participant-directed.

FINANCIAL STATEMENTS AND
SUPPLEMENTAL SCHEDULE

Odyssey HealthCare 401(k) Savings Plan
As of December 31, 2009 and 2008, and for the Year Ended
December 31, 2009
With Report of Independent Auditors

Ernst & Young LLP

Odyssey HealthCare 401(k) Savings Plan

Financial Statements and Supplemental Schedule

As of December 31, 2009 and 2008, and for the Year Ended December 31, 2009

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Report of Independent Auditors

The Plan Administrator
Odyssey HealthCare Management, L.P.

We were engaged to audit the accompanying statements of net assets available for benefits of the Odyssey HealthCare 401(k) Savings Plan as of December 31, 2009 and 2008, and the related statement of changes in net assets available for benefits for the year ended December 31, 2009, and the supplemental schedule of assets (held at end of year) as of December 31, 2009. These financial statements and supplemental schedule are the responsibility of the Plan's management.

As permitted by 29 CFR 2520.103-8 of the Department of Labor's Rules and Regulations for Reporting and Disclosure under the Employee Retirement Income Security Act of 1974, the plan administrator instructed us not to perform, and we did not perform, any auditing procedures with respect to the investment information summarized in Note 3, which was certified by Reliance Trust Company, the trustee of the Plan, except for comparing such information with the related information included in the financial statements and supplemental schedule. We have been informed by the plan administrator that the trustee holds the Plan's investment assets and executes investment transactions. The plan administrator has obtained a certification from the trustee as of December 31, 2009 and 2008, and for the year ended December 31, 2009, that the information provided to the plan administrator by the trustee is complete and accurate.

Because of the significance of the information that we did not audit, we are unable to, and do not, express an opinion on the accompanying financial statements and supplemental schedule taken as a whole. The form and content of the information included in the financial statements and supplemental schedule, other than that derived from the investment information certified by the trustee, have been audited by us in accordance with auditing standards generally accepted in the United States and, in our opinion, are presented in compliance with the Department of Labor's Rules and Regulations for Reporting and Disclosure under the Employee Retirement Income Security Act of 1974.

Ernst & Young LLP

July 14, 2010

Odyssey HealthCare 401(k) Savings Plan

Statements of Net Assets Available for Benefits

	December 31,	
	2009	2008
Assets		
Contributions receivable	\$ —	\$ 95,564
Investments	39,466,690	28,296,417
Total assets	39,466,690	28,391,981
Liabilities		
Excess contributions payable	5,704	62,320
Excess earnings (losses) payable	1,156	(12,435)
Total liabilities	6,860	49,885
Net assets available for benefits, at fair value	39,459,830	28,342,096
Adjustment from fair value to contract value for fully benefit-responsive investment contracts held in collective trusts	264,235	292,847
Net assets available for benefits	\$ 39,724,065	\$ 28,634,943

See accompanying notes.

Odyssey HealthCare 401(k) Savings Plan

Statement of Changes in Net Assets Available for Benefits

Year Ended December 31, 2009

Additions

Investment income:

Net appreciation in fair value of investments in registered investment companies	\$ 6,491,865
Interest and dividends	705,998
Total net investment income	<u>7,197,863</u>

Contributions:

Participant	6,815,653
Employer	1,476,015
Rollovers	777,742
Total contributions	<u>9,069,410</u>

Total additions 16,267,273

Deductions

Administration fees	69,963
Benefit payments	5,108,188
Total deductions	<u>5,178,151</u>

Net increase 11,089,122

Net assets available for benefits at beginning of year 28,634,943

Net assets available for benefits at end of year \$ 39,724,065

See accompanying notes.

Odyssey HealthCare 401(k) Savings Plan

Notes to Financial Statements

December 31, 2009

1. Description of the Plan

The following description of the Odyssey HealthCare 401(k) Savings Plan (the Plan) provides only general information. Participants should refer to the Summary Plan Description for a more complete description of the Plan's provisions.

General

The Plan is a defined contribution plan covering all employees of Odyssey HealthCare Management, L.P., Odyssey HealthCare GP, L.L.C., Odyssey HealthCare of Marion County, Inc., and Odyssey HealthCare Flint (collectively, the Company) who have at least 90 consecutive days of active employment and are age 18 or older. The Plan is subject to the provisions of the Employee Retirement Income Security Act of 1974, as amended (ERISA).

Hartford Retirement Services, LLC serves as record-keeper of the Plan. Reliance Trust Company serves as trustee of the Plan.

Contributions

Participants may contribute up to 50% of pretax annual compensation, as defined by the Plan. Participants may also roll over amounts representing distributions from other qualified defined benefit or defined contribution plans. The Company may make discretionary contributions, which are allocated to participants based on the ratio of each participant's compensation to the total compensation for all participants. The Company did not make discretionary contributions relating to the 2009 Plan year. The Plan also has an employer matching contribution, which is 50% of the first 3% of the participant's elective deferral.

Participants direct their elective contributions into various investment options offered by the Plan and can change their investment options on a daily basis. The Company's contributions are allocated in the same manner as that of the participant's elective contributions.

Vesting

Participants are 100% vested in their pretax contributions. Effective January 1, 2008, the Company's vesting schedule for employer contributions is: one year of service but less than two years, 34% vested; two years of service but less than three years, 67% vested; and three years of service or more, 100% vested for all employees employed after December 31, 2006. Vesting is

Odyssey HealthCare 401(k) Savings Plan

Notes to Financial Statements (continued)

1. Description of the Plan (continued)

calculated on hours worked during each calendar year. Forfeitures may be used to reduce employer contributions or to pay Plan expenses. Unallocated forfeitures were \$23,000 and \$10,000 as of December 31, 2009 and 2008, respectively. Forfeitures of approximately \$83,000 were used to reduce employer contributions during 2009.

Participant Loans

A participant in the Plan may request a loan not in excess of the lesser of (1) 50% of the participant's vested account balance or (2) \$50,000. The minimum loan amount is \$500. The repayment terms of loans may not exceed five years, except if the loan is for the purchase of a participant's principal residence, for which a longer repayment term may be permitted. Each loan bears interest at the prime rate and repayments are made by payroll deduction.

Plan Termination

Although it has not expressed any intent to do so, the Company has the right under the Plan to discontinue its contributions at any time and to terminate the Plan subject to the provisions of ERISA. In the event of Plan termination, participants will become 100% vested in their accounts.

Payment of Benefits

On termination of service, death, permanent disability, or retirement, a participant may receive a lump sum amount equal to the vested value of his or her account, or elect to receive annual installments over a certain period. The period may not extend beyond the life expectancy of the participant or the joint life expectancy of the participant and his or her beneficiary. The Plan also provides for hardship distributions and in-service withdrawals upon attaining age 59 1/2 from the participant's vested account balance.

Administrative Expenses

Certain expenses of the Plan are paid by the Company for the benefit of the Plan. These expenses totaled approximately \$70,000 in 2009.

Odyssey HealthCare 401(k) Savings Plan

Notes to Financial Statements (continued)

2. Summary of Accounting Policies

Basis of Accounting

The Plan's financial statements are presented on the accrual basis of accounting. Benefit payments are recorded when paid.

Use of Estimates

The preparation of the financial statements in conformity with accounting principles generally accepted in the United States requires management to make estimates and assumptions that affect the amounts reported in the financial statements and accompanying notes and schedule. Actual results could differ from these estimates.

New Accounting Pronouncements

In May 2009, the Financial Accounting Standards Board (FASB) issued a new accounting pronouncement regarding subsequent events (formerly SFAS No 165 – *Subsequent Events*). This pronouncement, located under FASB Accounting Standards Codification (ASC) Topic 855, *Subsequent Events*, was issued to establish general standards of accounting for and disclosure of events that occur after the balance sheet date but before financial statements are issued or available to be issued. This pronouncement requires entities to disclose the date through which subsequent events have been evaluated, as well as whether that date is the date the financial statements were issued or the date the financial statements were available to be issued. The Plan adopted this pronouncement on a prospective basis effective beginning on April 1, 2009. The adoption of this pronouncement did not have any impact on the Plan's financial statements. In February 2010, the FASB amended its guidance on subsequent events to remove the requirements for public companies to disclose the date through which an entity has evaluated subsequent events.

In September 2009, the FASB issued Accounting Standards Update No. 2009-12, *Investments in Certain Entities That Calculate Net Asset Value per Share (or Its Equivalent)* (ASU 2009-12). ASU 2009-12 provides amendments to ASC 820. The amendments permit, as a practical expedient, a reporting entity to estimate the fair value of an investment that is within the scope of ASU 2009-12 using the net asset value per share (or its equivalent) of the investment if the net asset value of the investment (or its equivalent) is calculated in a manner consistent with the measurement principles of ASC 946, *Financial Services – Investment Companies*, as of the

Odyssey HealthCare 401(k) Savings Plan

Notes to Financial Statements (continued)

2. Summary of Accounting Policies (continued)

reporting entity's measurement date. ASC 946 requires investment companies to report their investment assets at fair value in accordance with the principles of ASC 820. The amendments also require disclosures regarding the attributes of investments within the scope of ASU 2009-12, such as the nature of any restrictions on the investor's ability to redeem its investments at the measurement date, any unfunded capital commitments, and the investment strategies of the investees. The disclosures are required (by major category) for all investments within the scope of ASU 2009-12 regardless of whether the fair value of the investment is measured using the practical expedient. The amended guidance is effective for interim and annual periods ending after December 15, 2009; however, early application is permitted if financial statements for prior periods have not been issued. Entities that elect to early adopt may defer the additional disclosure requirements of the ASU until the effective date. Plan management elected to early adopt the amended guidance and therefore, as a practical expedient, measures the fair value of the Plan's investments within the scope of ASU 2009-12, based on the unadjusted net asset value per share of the investments (or its equivalent) as of the measurement date. Plan management adopted the disclosure provisions of the amended guidance on a prospective basis, effective January 1, 2009. The adoption of the disclosure provisions did not have any impact on the Plan's financial statements, as it contains only disclosure requirements.

In January 2010, the FASB issued Accounting Standards Update No. 2010-06, *Fair Value Measurements and Disclosures (Topic 820) – Improving Disclosures about Fair Value Measurements*. This update requires a number of new disclosures including disclosure of significant transfers in or out of Level 1 and Level 2 and the reasons for such transfers, an entity's policy for determining when transfers between levels are recognized, the valuation techniques and inputs used in determining the fair value of assets or liabilities classified as Level 2 or Level 3, and requires the changes in Level 3 fair value measurements to be disclosed separately rather than net. In addition, this update seeks to improve transparency by requiring fair value measurement disclosures for each class of assets and liabilities. This pronouncement is effective for interim and annual reporting periods beginning after December 15, 2009, except for the disclosures about purchases, sales, issuances, and settlements in the rollforward of activity in Level 3 fair value measurements, which are effective for fiscal years beginning after December 15, 2010, and for interim periods within those fiscal years. Plan management is currently evaluating the effect that the provisions of this pronouncement will have on the Plan's financial statements.

Odyssey HealthCare 401(k) Savings Plan

Notes to Financial Statements (continued)

2. Summary of Accounting Policies (continued)

Valuation of Investments

Registered investment companies' shares are reported at fair value based on published market prices, which represent the net asset values of shares held by the Plan at year-end. Participants' loans are carried at their unpaid principal balances, which approximate fair value. The collective trusts are valued as discussed below.

As described under FASB ASC Topic 946, *Financial Services – Investment Companies* (formerly FASB Staff Position AAG INV-1 and SOP 94-4-1, *Reporting Fully Benefit-Responsive Investment Contracts Held by Certain Investment Companies Subject to the AICPA Investment Company Guide and Defined-Contribution Health and Welfare and Pension Plans*), investment contracts held by a defined contribution plan are required to be reported at fair value. However, contract value is the relevant measurement attribute for the portion of the net assets available for benefits of a defined contribution plan attributable to fully benefit-responsive investment contracts, because contract value is the amount participants would receive if they were to initiate permitted transactions under the terms of the Plan. Contract value represents contributions made to the fund plus earnings, less withdrawals and administrative expenses.

At December 31, 2009, the Plan's investments included the Fixed Fund, a collective trust that invests in a variety of fully benefit-responsive investment contracts. At December 31, 2008, the Plan's investments included the Fidelity Advisor Stable Value Fund and the Fixed Fund, both collective trusts. The collective trusts are valued at redemption price as determined by the fund's issuer based on the fund's underlying assets at fair value. At December 31, 2009, the Fixed Fund contract value was reduced by approximately \$264,000 to represent the fair value of the fund. At December 31, 2008, the Fidelity Advisor Stable Value Fund contract value and the Fixed Fund contract value were reduced by approximately \$293,000 to represent the fair value of the funds.

Purchases and sales of securities are recorded on a trade-date basis. Interest income is recorded on the accrual basis, and dividend income is recorded on the ex-dividend date.

The Plan invests in various investment securities. Investment securities are exposed to various risks, such as interest rate, market, and credit risks. Due to the level of risk associated with certain investment securities, it is at least reasonably possible that changes in the values of investment securities will occur in the near term and that such changes could materially affect participants' account balances and the amounts reported in the statements of net assets available for benefits.

Odyssey HealthCare 401(k) Savings Plan

Notes to Financial Statements (continued)

2. Summary of Accounting Policies (continued)

Fair Value Measurements

In September 2006, the FASB issued a new accounting pronouncement regarding fair value (formerly Statement of Financial Accounting Standards No. 157, *Fair Value Measurements*). This pronouncement, located under ASC 820, *Fair Value Measurements and Disclosures*, defines fair value, establishes a framework for measuring fair value, and expands disclosures about fair value measurements. The Plan adopted this pronouncement effective January 1, 2008, for financial assets and financial liabilities, and it did not have a material impact on its financial statements. In February 2008, the FASB delayed by one year the effective date of this pronouncement for all nonfinancial assets and nonfinancial liabilities, except those that are recognized or disclosed at fair value in the financial statements on a recurring basis (at least annually). The Plan adopted this pronouncement effective January 1, 2009, for nonfinancial assets and nonfinancial liabilities, and it did not have any impact on the Plan's financial statements.

In April 2009, the FASB issued a new accounting pronouncement regarding fair value (formerly Staff Position No. 157-4, *Determining Fair Value When the Volume and Level of Activity for the Asset or Liability Have Significantly Decreased and Identifying Transactions That Are Not Orderly*). This pronouncement, located under ASC 820, provides additional guidance for estimating fair value when the volume and level of activity for the asset or liability have significantly decreased. This pronouncement also includes guidance on identifying circumstances that indicate a transaction is not orderly and on defining major categories of debt and equity securities to comply with the disclosure requirements of ASC 820. The Plan adopted this pronouncement on a prospective basis effective April 1, 2009. The adoption of this pronouncement did not have any impact on the Plan's financial statements, as it contains only disclosure requirements.

Fair value is the exchange price that would be received to sell an asset or paid to transfer a liability (an exit price) in the principal or the most advantageous market for the asset or liability in an orderly transaction between market participants on the measurement date. The FASB established a hierarchy for ranking the quality and reliability of the information used to determine fair values and requires that assets and liabilities carried at fair value be classified and disclosed in one of the following three categories:

- Level 1: Observable quoted market prices in active markets for identical assets or liabilities.

Odyssey HealthCare 401(k) Savings Plan

Notes to Financial Statements (continued)

2. Summary of Accounting Policies (continued)

- Level 2: Observable inputs other than Level 1, such as quoted prices in active markets for similar assets or liabilities, quoted prices for identical or similar assets or liabilities in markets that are not active, or inputs other than quoted prices that are observable for the asset or liability.
- Level 3: Unobservable inputs for the asset or liability that are significant to the fair value of the assets or liabilities.

Estimated fair values of financial instruments were as follows at December 31, 2009:

	Total	Quoted Prices in Active Markets for Identical Assets (Level 1)	Significant Other Observable Inputs (Level 2)	Unobservable Inputs (Level 3)
Mutual funds:				
U.S. equity funds	\$ 10,409,976	\$ 10,409,976	\$ —	\$ —
Target date funds	5,665,117	5,665,117	—	—
Balanced funds:				
U.S. stock funds	5,509,537	5,509,537	—	—
Bond funds	4,513,760	4,513,760	—	—
International equity	3,724,266	3,724,266	—	—
Fixed-income funds	3,471,849	3,471,849	—	—
	33,294,505	33,294,505	—	—
Fixed Fund ^(a)	4,978,528	—	4,978,528	—
Participant loans	1,193,657	—	—	1,193,657
Total	\$ 39,466,690	\$ 33,294,505	\$ 4,978,528	\$ 1,193,657

- (a) This category includes a collective trust fund that was designed to provide for the collective investment of assets of participating tax-qualified pension and profit-sharing plans and related trusts, and governmental plans in guaranteed investment contracts and in cash or other readily marketable assets. The fund primarily invests in a variety of fully benefit-responsive investment contracts such as guaranteed investment contracts (GICs) issued by insurance companies and other financial institutions and other investment products such as synthetic GICs. The issuer of GICs and synthetic GICs guarantees that all qualified participant withdrawals will occur at contract value plus accrued interest. GICs generally do not permit issuers to terminate the agreement prior to the scheduled maturity date. The fund requires 12 months written notice for non-benefit related withdrawals by plans. The fair value of this fund has been determined based on the fair value of the underlying investment contracts held by the fund. The fair value differs from the contract value. As previously described in Note 2, contract value is the relevant measurement attributable to fully benefit-responsive investment contracts because contract value is the amount participants would receive if they were to initiate permitted transactions under the terms of the Plan.

Odyssey HealthCare 401(k) Savings Plan

Notes to Financial Statements (continued)

2. Summary of Accounting Policies (continued)

The Fixed Fund seeks maximum total return through both current income and price appreciation, consistent with the preservation of capital and prudent risk-taking. The Fixed Fund's portfolio is an intermediate core that utilizes all major sectors of the bond market while managing an average portfolio duration ranging from 2–5 years.

The table below sets forth a summary of changes in the fair value of the Plan's Level 3 assets as follows:

Balance at January 1, 2008	\$ 635,024
Add: Loans issued	675,129
Add: Interest income	64,390
Add: Loans transferred in from VistaCare 401(k) Plan	371,485
Less: Loan repayments	(461,609)
Less: Loans deemed distributed	(233,842)
Balance at December 31, 2008	1,050,577
Add: Loans issued	833,414
Add: Interest income	72,476
Less: Loan repayments	(621,451)
Less: Loans deemed distributed	(141,359)
Balance at December 31, 2009	<u>\$ 1,193,657</u>

3. Investments

Other than the fair value of the Fidelity Advisor Stable Value Fund, the fair value of the Fixed Fund and the adjustment from fair value to contract value for fully benefit-responsive investment contracts held in collective trusts, all investment information disclosed in the accompanying financial statements, notes, and supplemental schedule, including investments held at December 31, 2009 and 2008, and net appreciation in fair value of investments, and interest and dividend income for the year ended December 31, 2009, was obtained or derived from information supplied to the plan administrator and certified as complete and accurate by Reliance Trust Company, the Plan's trustee. The contract values of the Fidelity Advisor Stable Value Fund and the Fixed Fund were certified as complete and accurate by the trustee.

Odyssey HealthCare 401(k) Savings Plan

Notes to Financial Statements (continued)

3. Investments (continued)

The fair values of individual investments that represent 5% or more of the Plan's net assets are as follows:

	December 31 2009
Fixed Fund	\$ 4,978,528 ⁽¹⁾
MFS Conservative Allocation Fund-R2	4,379,684
Growth Fund of America Fund-R2	2,965,761
MFS Lifetime 2020 Fund-R2	2,309,273
MFS Moderate Allocation Fund-R2	2,132,599
MFS Value Fund-R2	2,034,277
DWS Equity 500 Index Fund-S	1,995,964
	December 31 2008
MFS Conservative Allocation Fund-R1	\$ 3,155,621
Fixed Fund	2,754,831 ⁽¹⁾
Fidelity Advisor Stable Value Fund	2,404,387 ⁽²⁾
Growth Fund of America Fund-R2	1,985,979
MFS Value Fund-R2	1,726,925
MFS Moderate Allocation Fund-R2	1,454,572

⁽¹⁾\$5,242,763 and \$2,981,741 were the contract values in 2009 and 2008, respectively.

⁽²⁾\$2,470,324 was the contract value in 2008.

Odyssey HealthCare 401(k) Savings Plan

Notes to Financial Statements (continued)

4. Reconciliation of Financial Statements to Form 5500

The following is a reconciliation of net assets available for benefits per the financial statements to the Form 5500:

	December 31	
	2009	2008
Net assets available for benefits per the financial statements	\$ 39,724,065	\$ 28,634,943
Add: Excess contributions payable	5,704	62,320
Add: Excess (losses) earnings payable	1,156	(12,435)
Net assets available for benefits per the Form 5500	<u>\$ 39,730,925</u>	<u>\$ 28,684,828</u>

The following is a reconciliation of contributions, investment income, and benefit payments per the financial statements to the Form 5500:

	December 31 2009
Net increase in net assets available for benefits per the financial statements	\$ 11,089,122
Add: Excess contributions payable	5,704
Add: Excess earnings payable	1,156
Less: Prior-year excess contributions payable	(62,320)
Add: Prior-year excess (losses) payable	12,435
Net increase in net assets available for benefits per the Form 5500	<u>\$ 11,046,097</u>

Excess contributions to the Plan by participants are recorded on the Form 5500 in the subsequent year in which they are paid by the Plan (cash basis) versus the current year in which they are due (accrual basis) on the financial statements.

5. Related-Party Transactions

Certain Plan investments are sponsored by MFS Fund Distributors, Inc., which is managed by Hartford Retirement Services, LLC. These transactions qualify as party-in-interest transactions. All of these transactions are exempt from the prohibited transactions rules.

Odyssey HealthCare 401(k) Savings Plan

Notes to Financial Statements (continued)

6. Income Tax Status

The Plan has received a determination letter from the Internal Revenue Service (IRS) dated March 2, 2006, stating that the Plan is qualified under Section 401(a) of the Internal Revenue Code (the Code) and therefore the related trust is exempt from taxation. Subsequent to this determination by the IRS, the Plan was amended. Once a Plan is qualified, the Plan is required to operate in conformity with the Code to maintain its qualified status. The plan administrator believes the Plan is being operated in compliance with the applicable requirements of the Code and, therefore, believes the Plan is qualified and the related trust is tax-exempt.

7. Subsequent Events

On May 23, 2010, it was announced that Gentiva Health Services, Inc. (Gentiva), GTO Acquisition Corp., and Odyssey HealthCare, Inc. entered into an Agreement and Plan of Merger (the Plan of Merger). Based on the terms and conditions, GTO Acquisition Corp. will merge with and into Odyssey HealthCare, Inc. with Odyssey HealthCare, Inc. continuing as the surviving corporation and as a subsidiary wholly owned by Gentiva. It is anticipated that the Plan of Merger will finalize during the third quarter of 2010. The impact on the Plan of this Plan of Merger is unknown as this time.

Management evaluated subsequent events for the Plan through July 14, 2010, the date the financial statements were available to be issued.

Supplemental Schedule

Odyssey HealthCare 401(k) Savings Plan

Schedule H; Line 4i – Schedule of Assets (Held At End of Year)

EIN: 75-2923658 Plan #: 001

December 31, 2009

(b) Identity of Issuer, Borrower, Including (a) Lessor, or Similar Party	(c) Description of Investment, Maturity Date, Rate of Interest, Collateral, Par, or Maturing Value	(e) Current Value
SEI Trust Company	Fixed Fund	\$ 4,978,528
* MFS Fund Distributors, Inc.	MFS Conservative Allocation Fund-R2	4,379,684
* MFS Fund Distributors, Inc.	MFS Value Fund-R2	2,034,277
* MFS Fund Distributors, Inc.	MFS Bond Fund-R2	1,868,119
* MFS Fund Distributors, Inc.	MFS Moderate Allocation Fund-R2	2,132,599
* MFS Fund Distributors, Inc.	MFS Growth Allocation Fund-R2	1,897,229
* MFS Fund Distributors, Inc.	MFS Aggressive Growth Allocation Fund-R2	1,479,709
DWS	DWS Equity 500 Index Fund-S	1,995,964
American Funds	Growth Fund of America Fund-R2	2,965,761
Thornburg	Thornburg Core Growth Fund-R3	1,712,892
Franklin Mutual	Mutual Global Discovery Fund-R	1,233,267
Franklin Mutual	Strategic Income Fund-R	681,167
Pioneer	Pioneer Emerging Markets Fund-R	1,299,123
Thornburg	Thornburg International Value Fund-R3	1,191,876
Oppenheimer	Oppenheimer Main Street Small Cap-N	1,384,541
* MFS Fund Distributors, Inc.	MFS Lifetime 2020 Fund-R2	2,309,273
* MFS Fund Distributors, Inc.	MFS Government Securities Fund-R2	922,563
Columbia	Columbia Mid Cap Value Fund-R	68,992
Columbia	Columbia Select Small Cap-R	39,311
* MFS Fund Distributors, Inc.	MFS Lifetime 2040 Fund-R2	937,345
* MFS Fund Distributors, Inc.	MFS Lifetime Retirement Income Fund-R2	134,076
* MFS Fund Distributors, Inc.	MFS Lifetime 2030 Fund-R2	1,719,948
Victory	Victory Small Company Opportunity Fund-R	79,425
* MFS Fund Distributors, Inc.	MFS Lifetime 2010 Fund-R2	698,551
Davis New York	Davis New York Venture Fund-R	128,813
* Participants	Loans with varying maturities and interest rates ranging from 5.25% to 10.25%	1,193,657
		<u>\$ 39,466,690</u>

*Party-in-interest.

Column (d) is not applicable as investments are participant-directed.

FINANCIAL STATEMENTS AND
SUPPLEMENTAL SCHEDULE

Odyssey HealthCare 401(k) Savings Plan
As of December 31, 2009 and 2008, and for the Year Ended
December 31, 2009
With Report of Independent Auditors

Ernst & Young LLP

Odyssey HealthCare 401(k) Savings Plan

Financial Statements and Supplemental Schedule

As of December 31, 2009 and 2008, and for the Year Ended December 31, 2009

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Report of Independent Auditors

The Plan Administrator
Odyssey HealthCare Management, L.P.

We were engaged to audit the accompanying statements of net assets available for benefits of the Odyssey HealthCare 401(k) Savings Plan as of December 31, 2009 and 2008, and the related statement of changes in net assets available for benefits for the year ended December 31, 2009, and the supplemental schedule of assets (held at end of year) as of December 31, 2009. These financial statements and supplemental schedule are the responsibility of the Plan's management.

As permitted by 29 CFR 2520.103-8 of the Department of Labor's Rules and Regulations for Reporting and Disclosure under the Employee Retirement Income Security Act of 1974, the plan administrator instructed us not to perform, and we did not perform, any auditing procedures with respect to the investment information summarized in Note 3, which was certified by Reliance Trust Company, the trustee of the Plan, except for comparing such information with the related information included in the financial statements and supplemental schedule. We have been informed by the plan administrator that the trustee holds the Plan's investment assets and executes investment transactions. The plan administrator has obtained a certification from the trustee as of December 31, 2009 and 2008, and for the year ended December 31, 2009, that the information provided to the plan administrator by the trustee is complete and accurate.

Because of the significance of the information that we did not audit, we are unable to, and do not, express an opinion on the accompanying financial statements and supplemental schedule taken as a whole. The form and content of the information included in the financial statements and supplemental schedule, other than that derived from the investment information certified by the trustee, have been audited by us in accordance with auditing standards generally accepted in the United States and, in our opinion, are presented in compliance with the Department of Labor's Rules and Regulations for Reporting and Disclosure under the Employee Retirement Income Security Act of 1974.

Ernst & Young LLP

July 14, 2010

Odyssey HealthCare 401(k) Savings Plan

Statements of Net Assets Available for Benefits

	December 31,	
	2009	2008
Assets		
Contributions receivable	\$ —	\$ 95,564
Investments	39,466,690	28,296,417
Total assets	39,466,690	28,391,981
Liabilities		
Excess contributions payable	5,704	62,320
Excess earnings (losses) payable	1,156	(12,435)
Total liabilities	6,860	49,885
Net assets available for benefits, at fair value	39,459,830	28,342,096
Adjustment from fair value to contract value for fully benefit-responsive investment contracts held in collective trusts	264,235	292,847
Net assets available for benefits	\$ 39,724,065	\$ 28,634,943

See accompanying notes.

Odyssey HealthCare 401(k) Savings Plan

Statement of Changes in Net Assets Available for Benefits

Year Ended December 31, 2009

Additions

Investment income:

Net appreciation in fair value of investments in registered investment companies	\$ 6,491,865
Interest and dividends	705,998
Total net investment income	<u>7,197,863</u>

Contributions:

Participant	6,815,653
Employer	1,476,015
Rollovers	777,742
Total contributions	<u>9,069,410</u>

Total additions 16,267,273

Deductions

Administration fees	69,963
Benefit payments	5,108,188
Total deductions	<u>5,178,151</u>

Net increase 11,089,122

Net assets available for benefits at beginning of year 28,634,943

Net assets available for benefits at end of year \$ 39,724,065

See accompanying notes.

Odyssey HealthCare 401(k) Savings Plan

Notes to Financial Statements

December 31, 2009

1. Description of the Plan

The following description of the Odyssey HealthCare 401(k) Savings Plan (the Plan) provides only general information. Participants should refer to the Summary Plan Description for a more complete description of the Plan's provisions.

General

The Plan is a defined contribution plan covering all employees of Odyssey HealthCare Management, L.P., Odyssey HealthCare GP, L.L.C., Odyssey HealthCare of Marion County, Inc., and Odyssey HealthCare Flint (collectively, the Company) who have at least 90 consecutive days of active employment and are age 18 or older. The Plan is subject to the provisions of the Employee Retirement Income Security Act of 1974, as amended (ERISA).

Hartford Retirement Services, LLC serves as record-keeper of the Plan. Reliance Trust Company serves as trustee of the Plan.

Contributions

Participants may contribute up to 50% of pretax annual compensation, as defined by the Plan. Participants may also roll over amounts representing distributions from other qualified defined benefit or defined contribution plans. The Company may make discretionary contributions, which are allocated to participants based on the ratio of each participant's compensation to the total compensation for all participants. The Company did not make discretionary contributions relating to the 2009 Plan year. The Plan also has an employer matching contribution, which is 50% of the first 3% of the participant's elective deferral.

Participants direct their elective contributions into various investment options offered by the Plan and can change their investment options on a daily basis. The Company's contributions are allocated in the same manner as that of the participant's elective contributions.

Vesting

Participants are 100% vested in their pretax contributions. Effective January 1, 2008, the Company's vesting schedule for employer contributions is: one year of service but less than two years, 34% vested; two years of service but less than three years, 67% vested; and three years of service or more, 100% vested for all employees employed after December 31, 2006. Vesting is

Odyssey HealthCare 401(k) Savings Plan

Notes to Financial Statements (continued)

1. Description of the Plan (continued)

calculated on hours worked during each calendar year. Forfeitures may be used to reduce employer contributions or to pay Plan expenses. Unallocated forfeitures were \$23,000 and \$10,000 as of December 31, 2009 and 2008, respectively. Forfeitures of approximately \$83,000 were used to reduce employer contributions during 2009.

Participant Loans

A participant in the Plan may request a loan not in excess of the lesser of (1) 50% of the participant's vested account balance or (2) \$50,000. The minimum loan amount is \$500. The repayment terms of loans may not exceed five years, except if the loan is for the purchase of a participant's principal residence, for which a longer repayment term may be permitted. Each loan bears interest at the prime rate and repayments are made by payroll deduction.

Plan Termination

Although it has not expressed any intent to do so, the Company has the right under the Plan to discontinue its contributions at any time and to terminate the Plan subject to the provisions of ERISA. In the event of Plan termination, participants will become 100% vested in their accounts.

Payment of Benefits

On termination of service, death, permanent disability, or retirement, a participant may receive a lump sum amount equal to the vested value of his or her account, or elect to receive annual installments over a certain period. The period may not extend beyond the life expectancy of the participant or the joint life expectancy of the participant and his or her beneficiary. The Plan also provides for hardship distributions and in-service withdrawals upon attaining age 59 1/2 from the participant's vested account balance.

Administrative Expenses

Certain expenses of the Plan are paid by the Company for the benefit of the Plan. These expenses totaled approximately \$70,000 in 2009.

Odyssey HealthCare 401(k) Savings Plan

Notes to Financial Statements (continued)

2. Summary of Accounting Policies

Basis of Accounting

The Plan's financial statements are presented on the accrual basis of accounting. Benefit payments are recorded when paid.

Use of Estimates

The preparation of the financial statements in conformity with accounting principles generally accepted in the United States requires management to make estimates and assumptions that affect the amounts reported in the financial statements and accompanying notes and schedule. Actual results could differ from these estimates.

New Accounting Pronouncements

In May 2009, the Financial Accounting Standards Board (FASB) issued a new accounting pronouncement regarding subsequent events (formerly SFAS No 165 – *Subsequent Events*). This pronouncement, located under FASB Accounting Standards Codification (ASC) Topic 855, *Subsequent Events*, was issued to establish general standards of accounting for and disclosure of events that occur after the balance sheet date but before financial statements are issued or available to be issued. This pronouncement requires entities to disclose the date through which subsequent events have been evaluated, as well as whether that date is the date the financial statements were issued or the date the financial statements were available to be issued. The Plan adopted this pronouncement on a prospective basis effective beginning on April 1, 2009. The adoption of this pronouncement did not have any impact on the Plan's financial statements. In February 2010, the FASB amended its guidance on subsequent events to remove the requirements for public companies to disclose the date through which an entity has evaluated subsequent events.

In September 2009, the FASB issued Accounting Standards Update No. 2009-12, *Investments in Certain Entities That Calculate Net Asset Value per Share (or Its Equivalent)* (ASU 2009-12). ASU 2009-12 provides amendments to ASC 820. The amendments permit, as a practical expedient, a reporting entity to estimate the fair value of an investment that is within the scope of ASU 2009-12 using the net asset value per share (or its equivalent) of the investment if the net asset value of the investment (or its equivalent) is calculated in a manner consistent with the measurement principles of ASC 946, *Financial Services – Investment Companies*, as of the

Odyssey HealthCare 401(k) Savings Plan

Notes to Financial Statements (continued)

2. Summary of Accounting Policies (continued)

reporting entity's measurement date. ASC 946 requires investment companies to report their investment assets at fair value in accordance with the principles of ASC 820. The amendments also require disclosures regarding the attributes of investments within the scope of ASU 2009-12, such as the nature of any restrictions on the investor's ability to redeem its investments at the measurement date, any unfunded capital commitments, and the investment strategies of the investees. The disclosures are required (by major category) for all investments within the scope of ASU 2009-12 regardless of whether the fair value of the investment is measured using the practical expedient. The amended guidance is effective for interim and annual periods ending after December 15, 2009; however, early application is permitted if financial statements for prior periods have not been issued. Entities that elect to early adopt may defer the additional disclosure requirements of the ASU until the effective date. Plan management elected to early adopt the amended guidance and therefore, as a practical expedient, measures the fair value of the Plan's investments within the scope of ASU 2009-12, based on the unadjusted net asset value per share of the investments (or its equivalent) as of the measurement date. Plan management adopted the disclosure provisions of the amended guidance on a prospective basis, effective January 1, 2009. The adoption of the disclosure provisions did not have any impact on the Plan's financial statements, as it contains only disclosure requirements.

In January 2010, the FASB issued Accounting Standards Update No. 2010-06, *Fair Value Measurements and Disclosures (Topic 820) – Improving Disclosures about Fair Value Measurements*. This update requires a number of new disclosures including disclosure of significant transfers in or out of Level 1 and Level 2 and the reasons for such transfers, an entity's policy for determining when transfers between levels are recognized, the valuation techniques and inputs used in determining the fair value of assets or liabilities classified as Level 2 or Level 3, and requires the changes in Level 3 fair value measurements to be disclosed separately rather than net. In addition, this update seeks to improve transparency by requiring fair value measurement disclosures for each class of assets and liabilities. This pronouncement is effective for interim and annual reporting periods beginning after December 15, 2009, except for the disclosures about purchases, sales, issuances, and settlements in the rollforward of activity in Level 3 fair value measurements, which are effective for fiscal years beginning after December 15, 2010, and for interim periods within those fiscal years. Plan management is currently evaluating the effect that the provisions of this pronouncement will have on the Plan's financial statements.

Odyssey HealthCare 401(k) Savings Plan

Notes to Financial Statements (continued)

2. Summary of Accounting Policies (continued)

Valuation of Investments

Registered investment companies' shares are reported at fair value based on published market prices, which represent the net asset values of shares held by the Plan at year-end. Participants' loans are carried at their unpaid principal balances, which approximate fair value. The collective trusts are valued as discussed below.

As described under FASB ASC Topic 946, *Financial Services – Investment Companies* (formerly FASB Staff Position AAG INV-1 and SOP 94-4-1, *Reporting Fully Benefit-Responsive Investment Contracts Held by Certain Investment Companies Subject to the AICPA Investment Company Guide and Defined-Contribution Health and Welfare and Pension Plans*), investment contracts held by a defined contribution plan are required to be reported at fair value. However, contract value is the relevant measurement attribute for the portion of the net assets available for benefits of a defined contribution plan attributable to fully benefit-responsive investment contracts, because contract value is the amount participants would receive if they were to initiate permitted transactions under the terms of the Plan. Contract value represents contributions made to the fund plus earnings, less withdrawals and administrative expenses.

At December 31, 2009, the Plan's investments included the Fixed Fund, a collective trust that invests in a variety of fully benefit-responsive investment contracts. At December 31, 2008, the Plan's investments included the Fidelity Advisor Stable Value Fund and the Fixed Fund, both collective trusts. The collective trusts are valued at redemption price as determined by the fund's issuer based on the fund's underlying assets at fair value. At December 31, 2009, the Fixed Fund contract value was reduced by approximately \$264,000 to represent the fair value of the fund. At December 31, 2008, the Fidelity Advisor Stable Value Fund contract value and the Fixed Fund contract value were reduced by approximately \$293,000 to represent the fair value of the funds.

Purchases and sales of securities are recorded on a trade-date basis. Interest income is recorded on the accrual basis, and dividend income is recorded on the ex-dividend date.

The Plan invests in various investment securities. Investment securities are exposed to various risks, such as interest rate, market, and credit risks. Due to the level of risk associated with certain investment securities, it is at least reasonably possible that changes in the values of investment securities will occur in the near term and that such changes could materially affect participants' account balances and the amounts reported in the statements of net assets available for benefits.

Odyssey HealthCare 401(k) Savings Plan

Notes to Financial Statements (continued)

2. Summary of Accounting Policies (continued)

Fair Value Measurements

In September 2006, the FASB issued a new accounting pronouncement regarding fair value (formerly Statement of Financial Accounting Standards No. 157, *Fair Value Measurements*). This pronouncement, located under ASC 820, *Fair Value Measurements and Disclosures*, defines fair value, establishes a framework for measuring fair value, and expands disclosures about fair value measurements. The Plan adopted this pronouncement effective January 1, 2008, for financial assets and financial liabilities, and it did not have a material impact on its financial statements. In February 2008, the FASB delayed by one year the effective date of this pronouncement for all nonfinancial assets and nonfinancial liabilities, except those that are recognized or disclosed at fair value in the financial statements on a recurring basis (at least annually). The Plan adopted this pronouncement effective January 1, 2009, for nonfinancial assets and nonfinancial liabilities, and it did not have any impact on the Plan's financial statements.

In April 2009, the FASB issued a new accounting pronouncement regarding fair value (formerly Staff Position No. 157-4, *Determining Fair Value When the Volume and Level of Activity for the Asset or Liability Have Significantly Decreased and Identifying Transactions That Are Not Orderly*). This pronouncement, located under ASC 820, provides additional guidance for estimating fair value when the volume and level of activity for the asset or liability have significantly decreased. This pronouncement also includes guidance on identifying circumstances that indicate a transaction is not orderly and on defining major categories of debt and equity securities to comply with the disclosure requirements of ASC 820. The Plan adopted this pronouncement on a prospective basis effective April 1, 2009. The adoption of this pronouncement did not have any impact on the Plan's financial statements, as it contains only disclosure requirements.

Fair value is the exchange price that would be received to sell an asset or paid to transfer a liability (an exit price) in the principal or the most advantageous market for the asset or liability in an orderly transaction between market participants on the measurement date. The FASB established a hierarchy for ranking the quality and reliability of the information used to determine fair values and requires that assets and liabilities carried at fair value be classified and disclosed in one of the following three categories:

- Level 1: Observable quoted market prices in active markets for identical assets or liabilities.

Odyssey HealthCare 401(k) Savings Plan

Notes to Financial Statements (continued)

2. Summary of Accounting Policies (continued)

- Level 2: Observable inputs other than Level 1, such as quoted prices in active markets for similar assets or liabilities, quoted prices for identical or similar assets or liabilities in markets that are not active, or inputs other than quoted prices that are observable for the asset or liability.
- Level 3: Unobservable inputs for the asset or liability that are significant to the fair value of the assets or liabilities.

Estimated fair values of financial instruments were as follows at December 31, 2009:

	Total	Quoted Prices in Active Markets for Identical Assets (Level 1)	Significant Other Observable Inputs (Level 2)	Unobservable Inputs (Level 3)
Mutual funds:				
U.S. equity funds	\$ 10,409,976	\$ 10,409,976	\$ —	\$ —
Target date funds	5,665,117	5,665,117	—	—
Balanced funds:				
U.S. stock funds	5,509,537	5,509,537	—	—
Bond funds	4,513,760	4,513,760	—	—
International equity	3,724,266	3,724,266	—	—
Fixed-income funds	3,471,849	3,471,849	—	—
	33,294,505	33,294,505	—	—
Fixed Fund ^(a)	4,978,528	—	4,978,528	—
Participant loans	1,193,657	—	—	1,193,657
Total	\$ 39,466,690	\$ 33,294,505	\$ 4,978,528	\$ 1,193,657

- (a) This category includes a collective trust fund that was designed to provide for the collective investment of assets of participating tax-qualified pension and profit-sharing plans and related trusts, and governmental plans in guaranteed investment contracts and in cash or other readily marketable assets. The fund primarily invests in a variety of fully benefit-responsive investment contracts such as guaranteed investment contracts (GICs) issued by insurance companies and other financial institutions and other investment products such as synthetic GICs. The issuer of GICs and synthetic GICs guarantees that all qualified participant withdrawals will occur at contract value plus accrued interest. GICs generally do not permit issuers to terminate the agreement prior to the scheduled maturity date. The fund requires 12 months written notice for non-benefit related withdrawals by plans. The fair value of this fund has been determined based on the fair value of the underlying investment contracts held by the fund. The fair value differs from the contract value. As previously described in Note 2, contract value is the relevant measurement attributable to fully benefit-responsive investment contracts because contract value is the amount participants would receive if they were to initiate permitted transactions under the terms of the Plan.

Odyssey HealthCare 401(k) Savings Plan

Notes to Financial Statements (continued)

2. Summary of Accounting Policies (continued)

The Fixed Fund seeks maximum total return through both current income and price appreciation, consistent with the preservation of capital and prudent risk-taking. The Fixed Fund's portfolio is an intermediate core that utilizes all major sectors of the bond market while managing an average portfolio duration ranging from 2–5 years.

The table below sets forth a summary of changes in the fair value of the Plan's Level 3 assets as follows:

Balance at January 1, 2008	\$ 635,024
Add: Loans issued	675,129
Add: Interest income	64,390
Add: Loans transferred in from VistaCare 401(k) Plan	371,485
Less: Loan repayments	(461,609)
Less: Loans deemed distributed	(233,842)
Balance at December 31, 2008	1,050,577
Add: Loans issued	833,414
Add: Interest income	72,476
Less: Loan repayments	(621,451)
Less: Loans deemed distributed	(141,359)
Balance at December 31, 2009	<u>\$ 1,193,657</u>

3. Investments

Other than the fair value of the Fidelity Advisor Stable Value Fund, the fair value of the Fixed Fund and the adjustment from fair value to contract value for fully benefit-responsive investment contracts held in collective trusts, all investment information disclosed in the accompanying financial statements, notes, and supplemental schedule, including investments held at December 31, 2009 and 2008, and net appreciation in fair value of investments, and interest and dividend income for the year ended December 31, 2009, was obtained or derived from information supplied to the plan administrator and certified as complete and accurate by Reliance Trust Company, the Plan's trustee. The contract values of the Fidelity Advisor Stable Value Fund and the Fixed Fund were certified as complete and accurate by the trustee.

Odyssey HealthCare 401(k) Savings Plan

Notes to Financial Statements (continued)

3. Investments (continued)

The fair values of individual investments that represent 5% or more of the Plan's net assets are as follows:

	December 31 2009
Fixed Fund	\$ 4,978,528 ⁽¹⁾
MFS Conservative Allocation Fund-R2	4,379,684
Growth Fund of America Fund-R2	2,965,761
MFS Lifetime 2020 Fund-R2	2,309,273
MFS Moderate Allocation Fund-R2	2,132,599
MFS Value Fund-R2	2,034,277
DWS Equity 500 Index Fund-S	1,995,964
	December 31 2008
MFS Conservative Allocation Fund-R1	\$ 3,155,621
Fixed Fund	2,754,831 ⁽¹⁾
Fidelity Advisor Stable Value Fund	2,404,387 ⁽²⁾
Growth Fund of America Fund-R2	1,985,979
MFS Value Fund-R2	1,726,925
MFS Moderate Allocation Fund-R2	1,454,572

⁽¹⁾\$5,242,763 and \$2,981,741 were the contract values in 2009 and 2008, respectively.

⁽²⁾\$2,470,324 was the contract value in 2008.

Odyssey HealthCare 401(k) Savings Plan

Notes to Financial Statements (continued)

4. Reconciliation of Financial Statements to Form 5500

The following is a reconciliation of net assets available for benefits per the financial statements to the Form 5500:

	December 31	
	2009	2008
Net assets available for benefits per the financial statements	\$ 39,724,065	\$ 28,634,943
Add: Excess contributions payable	5,704	62,320
Add: Excess (losses) earnings payable	1,156	(12,435)
Net assets available for benefits per the Form 5500	<u>\$ 39,730,925</u>	<u>\$ 28,684,828</u>

The following is a reconciliation of contributions, investment income, and benefit payments per the financial statements to the Form 5500:

	December 31 2009
Net increase in net assets available for benefits per the financial statements	\$ 11,089,122
Add: Excess contributions payable	5,704
Add: Excess earnings payable	1,156
Less: Prior-year excess contributions payable	(62,320)
Add: Prior-year excess (losses) payable	12,435
Net increase in net assets available for benefits per the Form 5500	<u>\$ 11,046,097</u>

Excess contributions to the Plan by participants are recorded on the Form 5500 in the subsequent year in which they are paid by the Plan (cash basis) versus the current year in which they are due (accrual basis) on the financial statements.

5. Related-Party Transactions

Certain Plan investments are sponsored by MFS Fund Distributors, Inc., which is managed by Hartford Retirement Services, LLC. These transactions qualify as party-in-interest transactions. All of these transactions are exempt from the prohibited transactions rules.

Odyssey HealthCare 401(k) Savings Plan

Notes to Financial Statements (continued)

6. Income Tax Status

The Plan has received a determination letter from the Internal Revenue Service (IRS) dated March 2, 2006, stating that the Plan is qualified under Section 401(a) of the Internal Revenue Code (the Code) and therefore the related trust is exempt from taxation. Subsequent to this determination by the IRS, the Plan was amended. Once a Plan is qualified, the Plan is required to operate in conformity with the Code to maintain its qualified status. The plan administrator believes the Plan is being operated in compliance with the applicable requirements of the Code and, therefore, believes the Plan is qualified and the related trust is tax-exempt.

7. Subsequent Events

On May 23, 2010, it was announced that Gentiva Health Services, Inc. (Gentiva), GTO Acquisition Corp., and Odyssey HealthCare, Inc. entered into an Agreement and Plan of Merger (the Plan of Merger). Based on the terms and conditions, GTO Acquisition Corp. will merge with and into Odyssey HealthCare, Inc. with Odyssey HealthCare, Inc. continuing as the surviving corporation and as a subsidiary wholly owned by Gentiva. It is anticipated that the Plan of Merger will finalize during the third quarter of 2010. The impact on the Plan of this Plan of Merger is unknown as this time.

Management evaluated subsequent events for the Plan through July 14, 2010, the date the financial statements were available to be issued.

Supplemental Schedule

Odyssey HealthCare 401(k) Savings Plan

Schedule H; Line 4i – Schedule of Assets (Held At End of Year)

EIN: 75-2923658 Plan #: 001

December 31, 2009

(a)	(b) Identity of Issuer, Borrower, Including Lessor, or Similar Party	(c) Description of Investment, Maturity Date, Rate of Interest, Collateral, Par, or Maturing Value	(e) Current Value
	SEI Trust Company	Fixed Fund	\$ 4,978,528
*	MFS Fund Distributors, Inc.	MFS Conservative Allocation Fund-R2	4,379,684
*	MFS Fund Distributors, Inc.	MFS Value Fund-R2	2,034,277
*	MFS Fund Distributors, Inc.	MFS Bond Fund-R2	1,868,119
*	MFS Fund Distributors, Inc.	MFS Moderate Allocation Fund-R2	2,132,599
*	MFS Fund Distributors, Inc.	MFS Growth Allocation Fund-R2	1,897,229
*	MFS Fund Distributors, Inc.	MFS Aggressive Growth Allocation Fund-R2	1,479,709
	DWS	DWS Equity 500 Index Fund-S	1,995,964
	American Funds	Growth Fund of America Fund-R2	2,965,761
	Thornburg	Thornburg Core Growth Fund-R3	1,712,892
	Franklin Mutual	Mutual Global Discovery Fund-R	1,233,267
	Franklin Mutual	Strategic Income Fund-R	681,167
	Pioneer	Pioneer Emerging Markets Fund-R	1,299,123
	Thornburg	Thornburg International Value Fund-R3	1,191,876
	Oppenheimer	Oppenheimer Main Street Small Cap-N	1,384,541
*	MFS Fund Distributors, Inc.	MFS Lifetime 2020 Fund-R2	2,309,273
*	MFS Fund Distributors, Inc.	MFS Government Securities Fund-R2	922,563
	Columbia	Columbia Mid Cap Value Fund-R	68,992
	Columbia	Columbia Select Small Cap-R	39,311
*	MFS Fund Distributors, Inc.	MFS Lifetime 2040 Fund-R2	937,345
*	MFS Fund Distributors, Inc.	MFS Lifetime Retirement Income Fund-R2	134,076
*	MFS Fund Distributors, Inc.	MFS Lifetime 2030 Fund-R2	1,719,948
	Victory	Victory Small Company Opportunity Fund-R	79,425
*	MFS Fund Distributors, Inc.	MFS Lifetime 2010 Fund-R2	698,551
	Davis New York	Davis New York Venture Fund-R	128,813
*	Participants	Loans with varying maturities and interest rates ranging from 5.25% to 10.25%	1,193,657
			\$ 39,466,690

*Party-in-interest.

Column (d) is not applicable as investments are participant-directed.

FINANCIAL STATEMENTS AND
SUPPLEMENTAL SCHEDULE

Odyssey HealthCare 401(k) Savings Plan
As of December 31, 2009 and 2008, and for the Year Ended
December 31, 2009
With Report of Independent Auditors

Ernst & Young LLP

Odyssey HealthCare 401(k) Savings Plan

Financial Statements and Supplemental Schedule

As of December 31, 2009 and 2008, and for the Year Ended December 31, 2009

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Report of Independent Auditors

The Plan Administrator
Odyssey HealthCare Management, L.P.

We were engaged to audit the accompanying statements of net assets available for benefits of the Odyssey HealthCare 401(k) Savings Plan as of December 31, 2009 and 2008, and the related statement of changes in net assets available for benefits for the year ended December 31, 2009, and the supplemental schedule of assets (held at end of year) as of December 31, 2009. These financial statements and supplemental schedule are the responsibility of the Plan's management.

As permitted by 29 CFR 2520.103-8 of the Department of Labor's Rules and Regulations for Reporting and Disclosure under the Employee Retirement Income Security Act of 1974, the plan administrator instructed us not to perform, and we did not perform, any auditing procedures with respect to the investment information summarized in Note 3, which was certified by Reliance Trust Company, the trustee of the Plan, except for comparing such information with the related information included in the financial statements and supplemental schedule. We have been informed by the plan administrator that the trustee holds the Plan's investment assets and executes investment transactions. The plan administrator has obtained a certification from the trustee as of December 31, 2009 and 2008, and for the year ended December 31, 2009, that the information provided to the plan administrator by the trustee is complete and accurate.

Because of the significance of the information that we did not audit, we are unable to, and do not, express an opinion on the accompanying financial statements and supplemental schedule taken as a whole. The form and content of the information included in the financial statements and supplemental schedule, other than that derived from the investment information certified by the trustee, have been audited by us in accordance with auditing standards generally accepted in the United States and, in our opinion, are presented in compliance with the Department of Labor's Rules and Regulations for Reporting and Disclosure under the Employee Retirement Income Security Act of 1974.

Ernst & Young LLP

July 14, 2010

Odyssey HealthCare 401(k) Savings Plan

Statements of Net Assets Available for Benefits

	December 31,	
	2009	2008
Assets		
Contributions receivable	\$ —	\$ 95,564
Investments	39,466,690	28,296,417
Total assets	39,466,690	28,391,981
Liabilities		
Excess contributions payable	5,704	62,320
Excess earnings (losses) payable	1,156	(12,435)
Total liabilities	6,860	49,885
Net assets available for benefits, at fair value	39,459,830	28,342,096
Adjustment from fair value to contract value for fully benefit-responsive investment contracts held in collective trusts	264,235	292,847
Net assets available for benefits	\$ 39,724,065	\$ 28,634,943

See accompanying notes.

Odyssey HealthCare 401(k) Savings Plan

Statement of Changes in Net Assets Available for Benefits

Year Ended December 31, 2009

Additions

Investment income:

Net appreciation in fair value of investments in registered investment companies	\$ 6,491,865
Interest and dividends	705,998
Total net investment income	<u>7,197,863</u>

Contributions:

Participant	6,815,653
Employer	1,476,015
Rollovers	777,742
Total contributions	<u>9,069,410</u>

Total additions	16,267,273
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Deductions

Administration fees	69,963
Benefit payments	5,108,188
Total deductions	<u>5,178,151</u>

Net increase	11,089,122
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Net assets available for benefits at beginning of year	<u>28,634,943</u>
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Net assets available for benefits at end of year	<u><u>\$ 39,724,065</u></u>
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See accompanying notes.

Odyssey HealthCare 401(k) Savings Plan

Notes to Financial Statements

December 31, 2009

1. Description of the Plan

The following description of the Odyssey HealthCare 401(k) Savings Plan (the Plan) provides only general information. Participants should refer to the Summary Plan Description for a more complete description of the Plan's provisions.

General

The Plan is a defined contribution plan covering all employees of Odyssey HealthCare Management, L.P., Odyssey HealthCare GP, L.L.C., Odyssey HealthCare of Marion County, Inc., and Odyssey HealthCare Flint (collectively, the Company) who have at least 90 consecutive days of active employment and are age 18 or older. The Plan is subject to the provisions of the Employee Retirement Income Security Act of 1974, as amended (ERISA).

Hartford Retirement Services, LLC serves as record-keeper of the Plan. Reliance Trust Company serves as trustee of the Plan.

Contributions

Participants may contribute up to 50% of pretax annual compensation, as defined by the Plan. Participants may also roll over amounts representing distributions from other qualified defined benefit or defined contribution plans. The Company may make discretionary contributions, which are allocated to participants based on the ratio of each participant's compensation to the total compensation for all participants. The Company did not make discretionary contributions relating to the 2009 Plan year. The Plan also has an employer matching contribution, which is 50% of the first 3% of the participant's elective deferral.

Participants direct their elective contributions into various investment options offered by the Plan and can change their investment options on a daily basis. The Company's contributions are allocated in the same manner as that of the participant's elective contributions.

Vesting

Participants are 100% vested in their pretax contributions. Effective January 1, 2008, the Company's vesting schedule for employer contributions is: one year of service but less than two years, 34% vested; two years of service but less than three years, 67% vested; and three years of service or more, 100% vested for all employees employed after December 31, 2006. Vesting is

Odyssey HealthCare 401(k) Savings Plan

Notes to Financial Statements (continued)

1. Description of the Plan (continued)

calculated on hours worked during each calendar year. Forfeitures may be used to reduce employer contributions or to pay Plan expenses. Unallocated forfeitures were \$23,000 and \$10,000 as of December 31, 2009 and 2008, respectively. Forfeitures of approximately \$83,000 were used to reduce employer contributions during 2009.

Participant Loans

A participant in the Plan may request a loan not in excess of the lesser of (1) 50% of the participant's vested account balance or (2) \$50,000. The minimum loan amount is \$500. The repayment terms of loans may not exceed five years, except if the loan is for the purchase of a participant's principal residence, for which a longer repayment term may be permitted. Each loan bears interest at the prime rate and repayments are made by payroll deduction.

Plan Termination

Although it has not expressed any intent to do so, the Company has the right under the Plan to discontinue its contributions at any time and to terminate the Plan subject to the provisions of ERISA. In the event of Plan termination, participants will become 100% vested in their accounts.

Payment of Benefits

On termination of service, death, permanent disability, or retirement, a participant may receive a lump sum amount equal to the vested value of his or her account, or elect to receive annual installments over a certain period. The period may not extend beyond the life expectancy of the participant or the joint life expectancy of the participant and his or her beneficiary. The Plan also provides for hardship distributions and in-service withdrawals upon attaining age 59 1/2 from the participant's vested account balance.

Administrative Expenses

Certain expenses of the Plan are paid by the Company for the benefit of the Plan. These expenses totaled approximately \$70,000 in 2009.

Odyssey HealthCare 401(k) Savings Plan

Notes to Financial Statements (continued)

2. Summary of Accounting Policies

Basis of Accounting

The Plan's financial statements are presented on the accrual basis of accounting. Benefit payments are recorded when paid.

Use of Estimates

The preparation of the financial statements in conformity with accounting principles generally accepted in the United States requires management to make estimates and assumptions that affect the amounts reported in the financial statements and accompanying notes and schedule. Actual results could differ from these estimates.

New Accounting Pronouncements

In May 2009, the Financial Accounting Standards Board (FASB) issued a new accounting pronouncement regarding subsequent events (formerly SFAS No 165 – *Subsequent Events*). This pronouncement, located under FASB Accounting Standards Codification (ASC) Topic 855, *Subsequent Events*, was issued to establish general standards of accounting for and disclosure of events that occur after the balance sheet date but before financial statements are issued or available to be issued. This pronouncement requires entities to disclose the date through which subsequent events have been evaluated, as well as whether that date is the date the financial statements were issued or the date the financial statements were available to be issued. The Plan adopted this pronouncement on a prospective basis effective beginning on April 1, 2009. The adoption of this pronouncement did not have any impact on the Plan's financial statements. In February 2010, the FASB amended its guidance on subsequent events to remove the requirements for public companies to disclose the date through which an entity has evaluated subsequent events.

In September 2009, the FASB issued Accounting Standards Update No. 2009-12, *Investments in Certain Entities That Calculate Net Asset Value per Share (or Its Equivalent)* (ASU 2009-12). ASU 2009-12 provides amendments to ASC 820. The amendments permit, as a practical expedient, a reporting entity to estimate the fair value of an investment that is within the scope of ASU 2009-12 using the net asset value per share (or its equivalent) of the investment if the net asset value of the investment (or its equivalent) is calculated in a manner consistent with the measurement principles of ASC 946, *Financial Services – Investment Companies*, as of the

Odyssey HealthCare 401(k) Savings Plan

Notes to Financial Statements (continued)

2. Summary of Accounting Policies (continued)

reporting entity's measurement date. ASC 946 requires investment companies to report their investment assets at fair value in accordance with the principles of ASC 820. The amendments also require disclosures regarding the attributes of investments within the scope of ASU 2009-12, such as the nature of any restrictions on the investor's ability to redeem its investments at the measurement date, any unfunded capital commitments, and the investment strategies of the investees. The disclosures are required (by major category) for all investments within the scope of ASU 2009-12 regardless of whether the fair value of the investment is measured using the practical expedient. The amended guidance is effective for interim and annual periods ending after December 15, 2009; however, early application is permitted if financial statements for prior periods have not been issued. Entities that elect to early adopt may defer the additional disclosure requirements of the ASU until the effective date. Plan management elected to early adopt the amended guidance and therefore, as a practical expedient, measures the fair value of the Plan's investments within the scope of ASU 2009-12, based on the unadjusted net asset value per share of the investments (or its equivalent) as of the measurement date. Plan management adopted the disclosure provisions of the amended guidance on a prospective basis, effective January 1, 2009. The adoption of the disclosure provisions did not have any impact on the Plan's financial statements, as it contains only disclosure requirements.

In January 2010, the FASB issued Accounting Standards Update No. 2010-06, *Fair Value Measurements and Disclosures (Topic 820) – Improving Disclosures about Fair Value Measurements*. This update requires a number of new disclosures including disclosure of significant transfers in or out of Level 1 and Level 2 and the reasons for such transfers, an entity's policy for determining when transfers between levels are recognized, the valuation techniques and inputs used in determining the fair value of assets or liabilities classified as Level 2 or Level 3, and requires the changes in Level 3 fair value measurements to be disclosed separately rather than net. In addition, this update seeks to improve transparency by requiring fair value measurement disclosures for each class of assets and liabilities. This pronouncement is effective for interim and annual reporting periods beginning after December 15, 2009, except for the disclosures about purchases, sales, issuances, and settlements in the rollforward of activity in Level 3 fair value measurements, which are effective for fiscal years beginning after December 15, 2010, and for interim periods within those fiscal years. Plan management is currently evaluating the effect that the provisions of this pronouncement will have on the Plan's financial statements.

Odyssey HealthCare 401(k) Savings Plan

Notes to Financial Statements (continued)

2. Summary of Accounting Policies (continued)

Valuation of Investments

Registered investment companies' shares are reported at fair value based on published market prices, which represent the net asset values of shares held by the Plan at year-end. Participants' loans are carried at their unpaid principal balances, which approximate fair value. The collective trusts are valued as discussed below.

As described under FASB ASC Topic 946, *Financial Services – Investment Companies* (formerly FASB Staff Position AAG INV-1 and SOP 94-4-1, *Reporting Fully Benefit-Responsive Investment Contracts Held by Certain Investment Companies Subject to the AICPA Investment Company Guide and Defined-Contribution Health and Welfare and Pension Plans*), investment contracts held by a defined contribution plan are required to be reported at fair value. However, contract value is the relevant measurement attribute for the portion of the net assets available for benefits of a defined contribution plan attributable to fully benefit-responsive investment contracts, because contract value is the amount participants would receive if they were to initiate permitted transactions under the terms of the Plan. Contract value represents contributions made to the fund plus earnings, less withdrawals and administrative expenses.

At December 31, 2009, the Plan's investments included the Fixed Fund, a collective trust that invests in a variety of fully benefit-responsive investment contracts. At December 31, 2008, the Plan's investments included the Fidelity Advisor Stable Value Fund and the Fixed Fund, both collective trusts. The collective trusts are valued at redemption price as determined by the fund's issuer based on the fund's underlying assets at fair value. At December 31, 2009, the Fixed Fund contract value was reduced by approximately \$264,000 to represent the fair value of the fund. At December 31, 2008, the Fidelity Advisor Stable Value Fund contract value and the Fixed Fund contract value were reduced by approximately \$293,000 to represent the fair value of the funds.

Purchases and sales of securities are recorded on a trade-date basis. Interest income is recorded on the accrual basis, and dividend income is recorded on the ex-dividend date.

The Plan invests in various investment securities. Investment securities are exposed to various risks, such as interest rate, market, and credit risks. Due to the level of risk associated with certain investment securities, it is at least reasonably possible that changes in the values of investment securities will occur in the near term and that such changes could materially affect participants' account balances and the amounts reported in the statements of net assets available for benefits.

Odyssey HealthCare 401(k) Savings Plan

Notes to Financial Statements (continued)

2. Summary of Accounting Policies (continued)

Fair Value Measurements

In September 2006, the FASB issued a new accounting pronouncement regarding fair value (formerly Statement of Financial Accounting Standards No. 157, *Fair Value Measurements*). This pronouncement, located under ASC 820, *Fair Value Measurements and Disclosures*, defines fair value, establishes a framework for measuring fair value, and expands disclosures about fair value measurements. The Plan adopted this pronouncement effective January 1, 2008, for financial assets and financial liabilities, and it did not have a material impact on its financial statements. In February 2008, the FASB delayed by one year the effective date of this pronouncement for all nonfinancial assets and nonfinancial liabilities, except those that are recognized or disclosed at fair value in the financial statements on a recurring basis (at least annually). The Plan adopted this pronouncement effective January 1, 2009, for nonfinancial assets and nonfinancial liabilities, and it did not have any impact on the Plan's financial statements.

In April 2009, the FASB issued a new accounting pronouncement regarding fair value (formerly Staff Position No. 157-4, *Determining Fair Value When the Volume and Level of Activity for the Asset or Liability Have Significantly Decreased and Identifying Transactions That Are Not Orderly*). This pronouncement, located under ASC 820, provides additional guidance for estimating fair value when the volume and level of activity for the asset or liability have significantly decreased. This pronouncement also includes guidance on identifying circumstances that indicate a transaction is not orderly and on defining major categories of debt and equity securities to comply with the disclosure requirements of ASC 820. The Plan adopted this pronouncement on a prospective basis effective April 1, 2009. The adoption of this pronouncement did not have any impact on the Plan's financial statements, as it contains only disclosure requirements.

Fair value is the exchange price that would be received to sell an asset or paid to transfer a liability (an exit price) in the principal or the most advantageous market for the asset or liability in an orderly transaction between market participants on the measurement date. The FASB established a hierarchy for ranking the quality and reliability of the information used to determine fair values and requires that assets and liabilities carried at fair value be classified and disclosed in one of the following three categories:

- Level 1: Observable quoted market prices in active markets for identical assets or liabilities.

Odyssey HealthCare 401(k) Savings Plan

Notes to Financial Statements (continued)

2. Summary of Accounting Policies (continued)

- Level 2: Observable inputs other than Level 1, such as quoted prices in active markets for similar assets or liabilities, quoted prices for identical or similar assets or liabilities in markets that are not active, or inputs other than quoted prices that are observable for the asset or liability.
- Level 3: Unobservable inputs for the asset or liability that are significant to the fair value of the assets or liabilities.

Estimated fair values of financial instruments were as follows at December 31, 2009:

	Total	Quoted Prices in Active Markets for Identical Assets (Level 1)	Significant Other Observable Inputs (Level 2)	Unobservable Inputs (Level 3)
Mutual funds:				
U.S. equity funds	\$ 10,409,976	\$ 10,409,976	\$ —	\$ —
Target date funds	5,665,117	5,665,117	—	—
Balanced funds:				
U.S. stock funds	5,509,537	5,509,537	—	—
Bond funds	4,513,760	4,513,760	—	—
International equity	3,724,266	3,724,266	—	—
Fixed-income funds	3,471,849	3,471,849	—	—
	33,294,505	33,294,505	—	—
Fixed Fund ^(a)	4,978,528	—	4,978,528	—
Participant loans	1,193,657	—	—	1,193,657
Total	\$ 39,466,690	\$ 33,294,505	\$ 4,978,528	\$ 1,193,657

- (a) This category includes a collective trust fund that was designed to provide for the collective investment of assets of participating tax-qualified pension and profit-sharing plans and related trusts, and governmental plans in guaranteed investment contracts and in cash or other readily marketable assets. The fund primarily invests in a variety of fully benefit-responsive investment contracts such as guaranteed investment contracts (GICs) issued by insurance companies and other financial institutions and other investment products such as synthetic GICs. The issuer of GICs and synthetic GICs guarantees that all qualified participant withdrawals will occur at contract value plus accrued interest. GICs generally do not permit issuers to terminate the agreement prior to the scheduled maturity date. The fund requires 12 months written notice for non-benefit related withdrawals by plans. The fair value of this fund has been determined based on the fair value of the underlying investment contracts held by the fund. The fair value differs from the contract value. As previously described in Note 2, contract value is the relevant measurement attributable to fully benefit-responsive investment contracts because contract value is the amount participants would receive if they were to initiate permitted transactions under the terms of the Plan.

Odyssey HealthCare 401(k) Savings Plan

Notes to Financial Statements (continued)

2. Summary of Accounting Policies (continued)

The Fixed Fund seeks maximum total return through both current income and price appreciation, consistent with the preservation of capital and prudent risk-taking. The Fixed Fund's portfolio is an intermediate core that utilizes all major sectors of the bond market while managing an average portfolio duration ranging from 2–5 years.

The table below sets forth a summary of changes in the fair value of the Plan's Level 3 assets as follows:

Balance at January 1, 2008	\$ 635,024
Add: Loans issued	675,129
Add: Interest income	64,390
Add: Loans transferred in from VistaCare 401(k) Plan	371,485
Less: Loan repayments	(461,609)
Less: Loans deemed distributed	(233,842)
Balance at December 31, 2008	1,050,577
Add: Loans issued	833,414
Add: Interest income	72,476
Less: Loan repayments	(621,451)
Less: Loans deemed distributed	(141,359)
Balance at December 31, 2009	<u>\$ 1,193,657</u>

3. Investments

Other than the fair value of the Fidelity Advisor Stable Value Fund, the fair value of the Fixed Fund and the adjustment from fair value to contract value for fully benefit-responsive investment contracts held in collective trusts, all investment information disclosed in the accompanying financial statements, notes, and supplemental schedule, including investments held at December 31, 2009 and 2008, and net appreciation in fair value of investments, and interest and dividend income for the year ended December 31, 2009, was obtained or derived from information supplied to the plan administrator and certified as complete and accurate by Reliance Trust Company, the Plan's trustee. The contract values of the Fidelity Advisor Stable Value Fund and the Fixed Fund were certified as complete and accurate by the trustee.

Odyssey HealthCare 401(k) Savings Plan

Notes to Financial Statements (continued)

3. Investments (continued)

The fair values of individual investments that represent 5% or more of the Plan's net assets are as follows:

	December 31 2009
Fixed Fund	\$ 4,978,528 ⁽¹⁾
MFS Conservative Allocation Fund-R2	4,379,684
Growth Fund of America Fund-R2	2,965,761
MFS Lifetime 2020 Fund-R2	2,309,273
MFS Moderate Allocation Fund-R2	2,132,599
MFS Value Fund-R2	2,034,277
DWS Equity 500 Index Fund-S	1,995,964
	December 31 2008
MFS Conservative Allocation Fund-R1	\$ 3,155,621
Fixed Fund	2,754,831 ⁽¹⁾
Fidelity Advisor Stable Value Fund	2,404,387 ⁽²⁾
Growth Fund of America Fund-R2	1,985,979
MFS Value Fund-R2	1,726,925
MFS Moderate Allocation Fund-R2	1,454,572

⁽¹⁾\$5,242,763 and \$2,981,741 were the contract values in 2009 and 2008, respectively.

⁽²⁾\$2,470,324 was the contract value in 2008.

Odyssey HealthCare 401(k) Savings Plan

Notes to Financial Statements (continued)

4. Reconciliation of Financial Statements to Form 5500

The following is a reconciliation of net assets available for benefits per the financial statements to the Form 5500:

	December 31	
	2009	2008
Net assets available for benefits per the financial statements	\$ 39,724,065	\$ 28,634,943
Add: Excess contributions payable	5,704	62,320
Add: Excess (losses) earnings payable	1,156	(12,435)
Net assets available for benefits per the Form 5500	<u>\$ 39,730,925</u>	<u>\$ 28,684,828</u>

The following is a reconciliation of contributions, investment income, and benefit payments per the financial statements to the Form 5500:

	December 31 2009
Net increase in net assets available for benefits per the financial statements	\$ 11,089,122
Add: Excess contributions payable	5,704
Add: Excess earnings payable	1,156
Less: Prior-year excess contributions payable	(62,320)
Add: Prior-year excess (losses) payable	12,435
Net increase in net assets available for benefits per the Form 5500	<u>\$ 11,046,097</u>

Excess contributions to the Plan by participants are recorded on the Form 5500 in the subsequent year in which they are paid by the Plan (cash basis) versus the current year in which they are due (accrual basis) on the financial statements.

5. Related-Party Transactions

Certain Plan investments are sponsored by MFS Fund Distributors, Inc., which is managed by Hartford Retirement Services, LLC. These transactions qualify as party-in-interest transactions. All of these transactions are exempt from the prohibited transactions rules.

Odyssey HealthCare 401(k) Savings Plan

Notes to Financial Statements (continued)

6. Income Tax Status

The Plan has received a determination letter from the Internal Revenue Service (IRS) dated March 2, 2006, stating that the Plan is qualified under Section 401(a) of the Internal Revenue Code (the Code) and therefore the related trust is exempt from taxation. Subsequent to this determination by the IRS, the Plan was amended. Once a Plan is qualified, the Plan is required to operate in conformity with the Code to maintain its qualified status. The plan administrator believes the Plan is being operated in compliance with the applicable requirements of the Code and, therefore, believes the Plan is qualified and the related trust is tax-exempt.

7. Subsequent Events

On May 23, 2010, it was announced that Gentiva Health Services, Inc. (Gentiva), GTO Acquisition Corp., and Odyssey HealthCare, Inc. entered into an Agreement and Plan of Merger (the Plan of Merger). Based on the terms and conditions, GTO Acquisition Corp. will merge with and into Odyssey HealthCare, Inc. with Odyssey HealthCare, Inc. continuing as the surviving corporation and as a subsidiary wholly owned by Gentiva. It is anticipated that the Plan of Merger will finalize during the third quarter of 2010. The impact on the Plan of this Plan of Merger is unknown as this time.

Management evaluated subsequent events for the Plan through July 14, 2010, the date the financial statements were available to be issued.

Supplemental Schedule

Odyssey HealthCare 401(k) Savings Plan

Schedule H; Line 4i – Schedule of Assets (Held At End of Year)

EIN: 75-2923658 Plan #: 001

December 31, 2009

(b) Identity of Issuer, Borrower, Including (a) Lessor, or Similar Party	(c) Description of Investment, Maturity Date, Rate of Interest, Collateral, Par, or Maturing Value	(e) Current Value
SEI Trust Company	Fixed Fund	\$ 4,978,528
* MFS Fund Distributors, Inc.	MFS Conservative Allocation Fund-R2	4,379,684
* MFS Fund Distributors, Inc.	MFS Value Fund-R2	2,034,277
* MFS Fund Distributors, Inc.	MFS Bond Fund-R2	1,868,119
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* MFS Fund Distributors, Inc.	MFS Aggressive Growth Allocation Fund-R2	1,479,709
DWS	DWS Equity 500 Index Fund-S	1,995,964
American Funds	Growth Fund of America Fund-R2	2,965,761
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Franklin Mutual	Strategic Income Fund-R	681,167
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Thornburg	Thornburg International Value Fund-R3	1,191,876
Oppenheimer	Oppenheimer Main Street Small Cap-N	1,384,541
* MFS Fund Distributors, Inc.	MFS Lifetime 2020 Fund-R2	2,309,273
* MFS Fund Distributors, Inc.	MFS Government Securities Fund-R2	922,563
Columbia	Columbia Mid Cap Value Fund-R	68,992
Columbia	Columbia Select Small Cap-R	39,311
* MFS Fund Distributors, Inc.	MFS Lifetime 2040 Fund-R2	937,345
* MFS Fund Distributors, Inc.	MFS Lifetime Retirement Income Fund-R2	134,076
* MFS Fund Distributors, Inc.	MFS Lifetime 2030 Fund-R2	1,719,948
Victory	Victory Small Company Opportunity Fund-R	79,425
* MFS Fund Distributors, Inc.	MFS Lifetime 2010 Fund-R2	698,551
Davis New York	Davis New York Venture Fund-R	128,813
* Participants	Loans with varying maturities and interest rates ranging from 5.25% to 10.25%	1,193,657
		<u>\$ 39,466,690</u>

*Party-in-interest.

Column (d) is not applicable as investments are participant-directed.