

GENESIS HEALTH VENTURES INC /PA
Form SC TO-I/A
April 28, 2003

SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549

SCHEDULE TO

TENDER OFFER STATEMENT UNDER SECTION 14(d) (1) OR 13(e) (1)
OF THE SECURITIES EXCHANGE ACT OF 1934

(Amendment No. 2)

Genesis Health Ventures, Inc.

(Name of Subject Company (Issuer))

Genesis Health Ventures, Inc.

(Name of Filing Persons (Issuer))

Options under the 2001 Stock Option Plan to Purchase Common Stock,
Par Value \$.02 Per Share

(Title of Class of Securities)

Not Applicable*

(CUSIP Number of Class of Securities)

George V. Hager, Jr.
Executive Vice President and Chief Financial Officer
Genesis Health Ventures, Inc.
101 East State Street
Kennett Square, PA 19348
(610) 444-6350

(Name, address and telephone number of person authorized to receive
notices and communications on behalf of filing persons)

Copy To:

Richard J. McMahon, Esq.
Blank Rome LLP
One Logan Square
Philadelphia, PA 19103
Telephone: (215) 569-5500

CALCULATION OF FILING FEE

| Transaction Valuation (1) | Amount of Filing Fee(2) |
|---------------------------|-------------------------|
| \$17,461,675 | \$1,412.65 |

(1) Calculated solely for purposes of determining the filing fee. This amount assumes that options to purchase 1,077,500 shares of Common Stock of Genesis Health Ventures, Inc. having an aggregate value of \$16,022,425 as of March 31, 2003, will be tendered and cancelled

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pursuant to this offer in exchange for which the holders thereof will have acceleration of vesting of all of their restricted stock awards. The transaction valuation also includes cash consideration to be paid by Genesis Health Ventures, Inc., in the amount of \$2.00 per option for up to an aggregate of 654,000 options and cash consideration to be paid by Genesis Health Ventures, Inc. in the amount of \$2.50 per option for up to an aggregate of 52,500 options.

(2) Previously paid. The amount of the filing fee, calculated in accordance with Rule 0-11 of the Securities Exchange Act of 1934, as amended, equals \$80.90 per \$1,000,000 of transaction valuation.

Check box if any part of the fee is offset as provided by Rule 0-11(a)(2) and identify the filing with which the offsetting fee was previously paid. Identify the previous filing by registration statement number, or the Form or Schedule and the date of its filing.

Check the box if the filing relates solely to preliminary communications made before the commencement of a tender offer.

Check the appropriate boxes below to designate any transactions to which the statement relates:

third-party tender offer subject to Rule 14d-1.
 issuer tender offer subject to Rule 13e-4.
 going-private transaction subject to Rule 13e-3.
 amendment to Schedule 13D under Rule 13d-2.

Check the following box if the filing is a final amendment reporting the results of the tender offer:

*There is no trading market or CUSIP Number for the options. The CUSIP Number for the Common Stock underlying the options is 37183F-10-7.

This Amendment No. 2 amends and supplements the Tender Offer Statement on Schedule TO filed initially with the Securities and Exchange Commission on April 1, 2003, as amended and supplemented by Amendment No. 1 to the Tender Offer Statement on Schedule TO filed with the Securities and Exchange Commission on April 18, 2003 (the "Schedule TO"), relating to an offer by Genesis Health Ventures, Inc., (the "Company"), to its employees (which includes employees of the majority-owned or wholly-owned subsidiaries of the Company) to tender all options (the "Options") to purchase shares of its common stock, par value \$.02 per share ("Common Stock") outstanding under the Company's 2001 Stock Option Plan (the "2001 Stock Option Plan"), for the following consideration: (a) for those holders of Options who have received awards of more than 2,000 restricted shares of Common Stock under the 2001 Stock Incentive Plan, the acceleration of vesting of all such restricted shares (the "Restricted Share Acceleration") plus a cash payment of \$2.50 per share subject to the Option for Options having an exercise price below \$20.00 per share, and (b) with respect to those holders of Options who have not received awards of more than 2,000 restricted shares, (i) for those Options having an exercise price of at least \$20.00 per share, a cash payment of \$2.00 per share subject to the Option, and (ii) for those Options having an exercise price below \$20.00 per share, a cash payment of \$2.50 per share subject to the Option, on the terms and subject to the conditions set forth in the Offer to Acquire, dated April 1, 2003 ("Offer to Acquire"), that

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was filed as Exhibit (a)(1) to the Schedule TO, and which is amended as of April 18, 2003. A copy of the Offer to Acquire, as amended and restated, is attached hereto as Exhibit (a)(1) and is incorporated herein by reference. On April 28, 2003, Genesis announced the extension of the expiration of the offer until 12:00 Midnight, Philadelphia time, on May 12, 2003. The memorandum being distributed to eligible option holders regarding the extension is attached as Exhibit (a)(9).

Items 1, 2, 4 AND 6

Items 1, 2, 4 and 6 of the Schedule TO are hereby amended to include the following two statements:

The offer has been extended and now will expire at 12:00 Midnight, Philadelphia time, on May 12, 2003 unless the offer is further extended. Accordingly, each reference to the original April 28, 2003 expiration date contained in the Offer to Acquire, Letter of Acceptance, Notice of Withdrawal and other communications sent to eligible option holders now means May 12, 2003 at 12:00 Midnight, Philadelphia time.

Items 2, 4 AND 6

Items 2, 4 and 6 of the Schedule TO are hereby amended by the following amendments to the Offer to Acquire:

The Introduction, Section 2 ("Number of Options; Expiration Date") and Section 6 ("Acceptance of Options for Cancellation and Repurchase") of the Offer to Acquire are amended to indicate that those option holders receiving cash payments (less applicable withholding) will receive such consideration promptly either in their paycheck or a separate check.

Item 12. Exhibits.

- (a) (1) Offer to Acquire, as amended and restated.
- (2) Memoranda from Robert H. Fish, Chairman of the Board and Chief Executive Officer of Genesis Health Ventures, Inc., dated April 1, 2003.*
- (3) Form of Letter of Acceptance.*
- (4) Form of Notice of Withdrawal from the Offer.*
- (5) Intentionally left blank.
- (6) Genesis Health Ventures, Inc. Annual Report on Form 10-K for the year ended September 30, 2002, filed

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with the SEC on December 30, 2002 (incorporated herein by reference).

- (7) Genesis Health Ventures, Inc. Quarterly Report on Form 10-Q for the quarter ended December 31, 2002, filed with the SEC on February 12, 2003 (incorporated herein by reference).
 - (8) Memorandum from Robert H. Fish, Chairman of the Board and Chief Executive Officer of Genesis Health Ventures, Inc., dated April 18, 2003.*
 - (9) Memorandum from Robert H. Fish, Chairman of the Board and Chief Executive Officer of Genesis Health Ventures, Inc., dated April 28, 2003.
- (b) Not applicable.
- (d) (1) Genesis Health Ventures, Inc. 2001 Stock Option Plan (incorporated herein by reference to the applicable exhibit filed with the Company's Registration Statement on Form S-8 (File No. 333-82200), filed with the SEC on February 5, 2002).
- (2) Genesis Health Ventures, Inc. 2001 Stock Incentive Plan (incorporated herein by reference to the applicable exhibit filed with the Company's Registration Statement on Form S-8 (File No. 333-83430), filed with the SEC on February 26, 2002)
- (g) Not applicable.
- (h) Not applicable.

* Previously filed.

SIGNATURE

After due inquiry and to the best of my knowledge and belief, I certify that the information set forth in this Amendment No. 2 to the Schedule TO is true, complete and correct.

GENESIS HEALTH VENTURES, INC.

/s/George V. Hager, Jr.

George V. Hager, Jr.
Executive Vice President and Chief Financial Officer

Date: April 28, 2003

INDEX TO EXHIBITS

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