

DEPARTMENT OF HEALTH AND HUMAN SERVICES  
OFFICE OF DIRECTOR

ACTION REFERRAL

TO <i>Jacobs/Wells</i>	DATE <i>6-3-09</i>
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DIRECTOR'S USE ONLY	ACTION REQUESTED
1. LOG NUMBER <i>300672</i>	<input checked="" type="checkbox"/> Prepare reply for the Director's signature DATE DUE <i>6-10-09</i>
2. DATE SIGNED BY DIRECTOR <i>CC: Ms. ForKner, Myers</i>	<input type="checkbox"/> Prepare reply for appropriate signature DATE DUE _____
	<input type="checkbox"/> FOIA DATE DUE _____
	<input type="checkbox"/> Necessary Action DATE DUE _____

*Extend until 6/12/09, per Jacobs  
on 6/10/09, see attached e-mail.*

APPROVALS (Only when prepared for director's signature)	APPROVE	* DISAPPROVE (Note reason for disapproval and return to preparer.)	COMMENT
1. <i>Cleared 6/12/09, letters attached.</i>			
2. <i>Letter sent by Rep Williams Office 7/31/09</i>			
3. <i>w/ same info.</i>	<i>Attached</i>		
4.			

**DEPARTMENT OF HEALTH AND HUMAN SERVICES  
OFFICE OF DIRECTOR**

**ACTION REFERRAL**

TO <i>Jacobs</i>	DATE <i>6-3-09</i>
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<p style="text-align: center;"><b>DIRECTOR'S USE ONLY</b></p> <p>1. LOG NUMBER <i>400672</i></p> <p>2. DATE SIGNED BY DIRECTOR <i>cc: Ms. Forner, Wells, Myers</i></p>	<p style="text-align: center;"><b>ACTION REQUESTED</b></p> <p><input checked="" type="checkbox"/> Prepare reply for the Director's signature DATE DUE <i>6-10-09</i></p> <p><input type="checkbox"/> Prepare reply for appropriate signature DATE DUE _____</p> <p><input type="checkbox"/> FOIA DATE DUE _____</p> <p><input type="checkbox"/> Necessary Action</p>
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<b>APPROVALS</b> <small>(Only when prepared for director's signature)</small>	<b>APPROVE</b>	<b>* DISAPPROVE</b> <small>(Note reason for disapproval and return to preparer.)</small>	<b>COMMENT</b>
1.			
2.			
3.			
4.			

JOE WILSON  
2ND DISTRICT, SOUTH CAROLINA  
ASSISTANT REPUBLICAN WHIP

COMMITTEES:  
ARMED SERVICES  
RANKING, PERSONNEL SUBCOMMITTEE  
FOREIGN AFFAIRS  
EDUCATION AND LABOR  
HOUSE POLICY

Congress of the United States  
House of Representatives

June 1, 2009

IRB09157D

JUN 03 2009

Department of Health & Human Services  
OFFICE OF THE DIRECTOR

COUNTIES:  
AIKEN\*  
ALLENDALE  
BARNWELL  
BEAUFORT  
CALHOUN\*  
HAMPTON  
JASPER  
LEXINGTON  
ORANGEBURG\*  
RICHLAND\*  
(\*PARTS OF)  
W. ERIC DELL  
CHIEF OF STAFF  
AND COUNSEL

Emma Forkner, Director  
Department of Health and Human Services  
P.O. Box 8206  
Columbia, SC 29202

Re: Sharon K. Hamilton

Dear Mrs. Hamilton:

I am writing to you on behalf of the above named constituent who has contacted me regarding a problem with a Medicaid application. Enclosed is a letter from further explaining her concerns. Any assistance that you could provide would be appreciated

It is an honor to represent the people of the Second Congressional District of South Carolina, and I value your input.

Please respond to the Midlands District Office at 1700 Sunset Blvd., Suite 1, West Columbia, South Carolina 29169. Thank you for your time and concern in this and all other matters.

Very truly yours,



JOE WILSON  
Member of Congress

JW:www

MIDLANDS OFFICE:  
1700 SUNSET BLVD. (US 378), Suite 1  
West Columbia, SC 29169  
(803) 838-0041  
FAX: (803) 839-0078

212 CANNON HOUSE OFFICE BUILDING  
WASHINGTON, DC 20515-4002  
(202) 225-2452  
FAX: (202) 225-2455  
www.joewilson.house.gov

LOWCOUNTRY OFFICE:  
903 Port Republic Street  
P.O. Box 1538  
Beaufort, SC 29901  
(843) 521-2530  
FAX: (843) 521-2535

May 26, 2009

The Honorable Joe Wilson  
United States House of Representatives  
212 Cannon House Office Building  
Washington, D.C. 20515-4002

To The Honorable Joe Wilson:

I am writing you today because I am requesting your help in a matter concerning the SC State Department of Health and Human Services Office for Richland County and Fairfield County.

In October 2008, my grandmother of over 90 years old was admitted into Providence Northeast Hospital. She had to have surgery and after being discharged she was sent to Heritage Healthcare of Ridgeway for rehabilitation. A social worker, Shirley Williams at Richland County DSS signed her into the Nursing Home and stated that she would be there rehabilitating from her surgery. Ms. Williams suggested that we apply for Medicaid for my grandmother because her Medicare would not cover all of her expenses. We applied for Medicaid and submitted the information to Gladys Allen in the DHHS office in Fairfield County. Ms. Allen notified Ms. Shirley Williams that additional information was needed to finish processing her application. The information requested dated back to 2005. My family and I had to hunt for financial records, pre-burial contracts, vehicle information, life insurance policies, medical insurance policies and retirement income, as requested. After weeks of searching for all the information in my grandmother's apartment, we located all the information that we could find and sent it to Gladys Allen in November of 2008.

In December, Ms. Williams notified me that she received notification that my grandmother's Medicaid application was denied because they did not receive the information from me. I assured her that I did mail it in and she told me she would check into it. In December, Ms. Williams notified me that my grandmother would be a permanent resident at Heritage Healthcare of Ridgeway and that I should make all attempts to get rid of her apartment. I contacted her apartment complex immediately and submitted a 30 day notice as they requested. Also, Ms. Williams notified me that her Medicaid was still being processed and that she was going on vacation for 1 to 2 weeks.

In January 2009, I was notified by Ms. Williams that my grandmother needed to complete a Medicaid Income Trust application. I went to Ms. William's office and we completed the application and had it notarized in the office of the Richland County DSS.

She also advised me that because it was a Medicaid Income Trust application, it would need to be processed in Richland County because Gladys Allen in Fairfield County could not process this type of application. At this point, I still had not known whether my grandmother's Medicaid was approved or not.

From January 2009 to March 2009, I did not receive one piece of correspondence or was I ever called regarding my grandmother's Medicaid application. On March 11, 2009, I was finally contacted by Patrena Samuel in the Richland County DHHS office. On that call, Ms. Samuel requested another bank statement for my grandmother's account for the month of January 2009. I faxed it to her office and she notified me that my grandmother's application was processed and that she was covered for October 2008, November 2008 & January 2009 and going forward. Ms. Samuel advised me that she was over the income level for Medicaid because her social security went up in December and needed to apply for Medicaid Income Trust, but it was not done until January 2009. I stated to her "how was I supposed to know she needed that if no one contacted me to advise me that it was needed. Shirley Williams contacted me in January 2009 and I went to her office and completed it immediately". Also, I advised her that my grandmother's social security check had been going directly to the Healthcare facility since November, so how was I supposed to know there was an increase. Ms. Samuel didn't really have an answer for me and just stated again why she contacted me and told me I would receive something in the mail. The very first piece of correspondence I ever received from the DHHS office was a computer generated letter stating my grandmother was approved. I have attached a copy of the letters I received.

From October 2008 to March 2009, I was never directly contacted about my grandmother's Medicaid. The State Government offices of Richland County DHHS and Fairfield County DHHS never kept me posted on the status of my grandmother's application and I had no idea who to contact to ask because I was never sure which office her application was being processed in.

Since March 2009, Heritage Healthcare of Ridgeway has sent notice to Shirley Williams in the DSS office and stated that my grandmother has an outstanding balance from December 2008 and that she is being discharged of the facility. I cannot afford to take care of her, nor do I have the room in my residence to accommodate her since she is in a wheelchair. I sent in a request for an appeal of their decision about December 2008 non-coverage of Medicaid. I have attached the copy of the letter I sent to them and they letter they sent me back.

I feel that my grandmother's entire Medicaid application process was not done in a timely manner, nor was it done correctly. I was not kept abreast to what was going on or what was needed. I feel that everyone is trying to place blame on the next person

and I also feel that I am not to blame. With the holiday season at the end of the year, I can guarantee you that some of the individuals involved took vacation days and their work was left sitting on their desk until they returned. I am sure that you, Representative Wilson, can check into the vacation days of all of the individuals involved in this situation and you will see that their work was put off until they finished using their personal leave time. Also, had I had been notified throughout the entire process directly I could have completed any request for additional information as needed. Why would the DHHS contact the DSS office about information that I needed to get to them? Wouldn't it have been easier to contact me directly and cut through all the red tape?

At this point I have notified Heritage Healthcare of Ridgeway and let them know that I was appealing the Medicaid denial for December 2008. They have made notes to my grandmother's account and I hope that they will not kick her out of the facility. If you can be of assistance, my grandmother and I would greatly appreciate it because we are currently under deadline. I think that the DHHS office should give my grandmother coverage for December 2008, but if they do not, I feel the DSS office should pay the outstanding balance since they signed her into this facility and they were the "go-to" people regarding my grandmother's Medicaid application processing. In additional I cannot understand why I am given a deadline to complete the appeal request response, it is obvious that the DHHS office does not handle things in a timely manner anyway (The application process took from October 2008 to March 11, 2009; what an extremely long time-5 months, almost have a year!!).

Thank you,



Mrs. Sharon K. Hamilton

1609-B Willowby Street

Columbia, SC 29223

803-787-7065 home #

Additional information below & on next page:

**Shirley Williams**

DSS - Adult Protective Services  
3220 Two Notch Road  
Columbia, SC 29204  
803-714-7508

**Gladys Allen**  
Medicaid Case Worker  
DHHS  
PO Box 1139  
Windsboro, SC 29180  
803-635-5502 ext 433

**Patrena Samuel**  
Medicaid Income Trust Worker  
DHHS  
PO Box 2364  
Columbia, SC 29202  
803-898-3102

**Janet R. Goode**  
Hearing Officer  
Division of Appeals and Hearing  
PO Box 8206  
Columbia, SC 29202  
1-800-763-9087 or 803-898-2600

**MEDICAID APPROVAL LETTER**  
**MAO (NURSING HOMES)**

STATE OFFICE COUNTY DHHS  
P. O. Box 2384  
Columbia SC 29202-2364

Date: 03/12/2009  
Worker: PATRENA SAMUEL  
Telephone: 803 898-2635  
BG #: 50444496  
HH #: 101294402  
47 PSAMU

SHARON HAMILTON  
PO BOX 25504  
COLUMBIA SC 29224

Your application has been approved. The persons listed below will get Medicaid benefits:

Recipient Name	Recipient ID#	Medicaid Card Effective Date	Retro Date(s)
DOROTHY FOGG	3780934677	01/01/2009	10/01/2008 11/01/2008

The Medicaid card will be mailed to your current address. If you move, you must tell your County Department of Health and Human Services (DHHS) because the Post Office cannot forward your Medicaid cards. You must present this card to the doctor, hospital, drug store each time you go.

You may have a choice about the way that you receive your Medicaid services. For more information, call toll free 1-888-549-0820.

**X** As a condition of eligibility when you apply for medical assistance, you are assigning to the state your rights to any medical support or other payments for medical care and you are agreeing to cooperate with the state in obtaining third party payments.

**X** You may ask for a fair hearing before the Department of Health and Human Services if you believe an error was made in processing your application.

**To Request A Fair Hearing From the Department of Health and Human Services**

- Ask your Medicaid worker in writing within 30 days of the date on this letter. Attach a copy of this letter to your request.

**To Get Help With Your Fair Hearing**

- You can hire an attorney to help you
- You can have someone you know come to the hearing and speak for you
- Contact your Medicaid worker in person or by phone to get help in asking for a hearing.

You must tell your Medicaid worker in 10 days if you have a change in the following:

- Where you live
- Income
- Resources
- Family size (someone moves in or out)
- Any news that would change your case

**YOU WILL RECEIVE A REVIEW FORM IN THE MAIL EVERY 12 MONTHS (SOMETIMES SOONER). WHEN YOU RECEIVE THE REVIEW FORM, YOU MUST COMPLETE AND RETURN IT OR YOUR MEDICAID WILL STOP.**

South Carolina Department of Health and Human Services  
Notice of Action

From: STATE OFFICE COUNTY DHHS  
P. O. Box 2364  
Columbia SC 29202-2364

Date: 03/12/2009  
Worker Name: PATRENA SAMUEL  
Telephone: 803 898-2635  
BG#: 50444496  
HH#: 101294402

To: SHARON HAMILTON  
PO BOX 25504  
COLUMBIA SC 29224

47 PSAMU

Beneficiary Name:  
DOROTHY FOGG

Beneficiary ID:  
3780934677

Your application has been denied for: MAO (NURSING HOMES)

Reason for denial:

Your income is more than policy allows.

Denied for the month(s) of: 12/2008

Manual/policy reference supporting this action: 304.05.01

**Fair Hearing**

If you feel your case has been closed in error, you may ask for a fair hearing before the South Carolina Department of Health and Human Services.

- To ask for a fair hearing, send a request in writing, along with a copy of this letter, within 30 days to your worker.
- You can hire an attorney to help you or you can have someone come to the hearing and speak for you.

Augeo Benefits is a one-stop shop to help you find health insurance made just for you, that you can afford. For more information on health insurance plans that include Major Medical, Limited Medical, Dental and Savings on Prescriptions call Augeo Benefits at 866-273-5613 or visit online at [www.AugeoBenefits.com/sc](http://www.AugeoBenefits.com/sc).

**ATTENTION: ANDRE PINSON and CAROLYN ROACH**

Date: April 22, 2009

To: Andre Pinson, Case Worker

To: Carolyn Roach, Department Head

Case Number: 50444496, Dorothy W. Fogg

I am requesting that my grandmother's eligibility be re-looked at (a fair hearing/an appeal) for December 2008. We applied for Medicaid for her back in October of 2008. Now, in January of this year we were told that she needed a Medicaid Trust set up. And **finally** in March we were notified that she was approved for Medicaid for October and November of 2008, but not December 2008 and she was approved for January 2009 and future months.

This process took a very long time and had we have cut through some of the red tape and processed her application in a more timely manner then we would have known that a Medicaid Trust was needed in December as well. Due to the long processing turn-around time, I feel that it is only fair for her to be approved for Medicaid for the month of December as well. Please re-look at her Medicaid coverage for December of 2008. Due to the fact that we were finally notified that my grandmother's Medicaid was approved, but denied for December 2008, my grandmother has been notified that she has a bill of almost \$4000 for the month of December. Based on all the information that was submitted to your office over the past months, you all know just as well as I do that she does not have money like that and she cannot afford to pay this outrageous bill. The nursing home have sent notification that they may have to discharge her from the facility because of her outstanding balance and she will be left homeless, in a wheelchair and over the age of 90 years old. Look what our state government has come to and look how our tax money is spent, or should I say not spent on the people that need assistance the most.

In closing, I do not feel that we did anything wrong, so why should she not receive benefits for December when we were not notified that we even needed a trust set up until January. With the minimal amount of workers being

knowledgeable in the "Medicaid Trust" eligibility, processing and requirements, my grandmother should be granted coverage for the month of December. Please grant her coverage for the month of December 2008.

Thank you,

Sharon K. Hamilton

803-787-7065



**State of South Carolina**  
**Department of Health and Human Services**

Mark Sanford  
Governor

May 20, 2009

Emma Forkner  
Director

**FIRST CLASS MAIL AND CERTIFIED MAIL**

Sharon Hamilton  
PO Box 25504  
Columbia, SC 29224

RE: Appeal Request in the Matter of Dorothy Fogg v. SCDHHS  
Appeals Case #09-MAO-231 (NH)  
Household #101294402

**INTERLOCUTORY ORDER**  
**(CAUSE OF ACTION)**

Dear Ms. Hamilton:

This is an Interlocutory Order, issued pursuant to SCDHHS Regulation 126-154. Please read carefully, as you must file a response as directed by a date certain: June 8, 2009.

I am in receipt of your letter dated and received by fax by SCDHHS on April 22, 2009 appealing the proposed denial of your grandmother's Nursing Home vendor payment for December 2008. I am also in receipt of an Appeal Summary dated April 28, 2009, from Ms. Samuel, Program Coordinator I, Central Institutional Unit with attached documentation referenced in the appeal summary. I have enclosed a copy of the appeals summary and documentation for your reference. Central Institutional Unit has requested dismissal of appeal based on the request being made by you more than 30 days after receipt of the approval notice.

The DHHS Form 3251 ME dated and mailed to you, your grandmother's representative, on March 11, 2009 states, "Your eligibility for a vendor payment made to a medical provider in your behalf, by the department, will be discontinued beginning 12/1/08." DHHS Form 3251, page 2, has FAIR HEARING marked with an "X". The FAIR HEARING section explains your rights to a fair hearing and the guidelines and rules for requesting a fair hearing. An individual requesting a fair hearing must send a signed, written request within 30 days to your Medicaid eligibility worker. Your

Division of Appeals and Hearings

Post Office Box 8206 • Columbia, South Carolina 29202-8206

(803) 898-2600 • Fax (803) 255-8206

Dorothy Fogg  
May 20, 2009  
Page 2

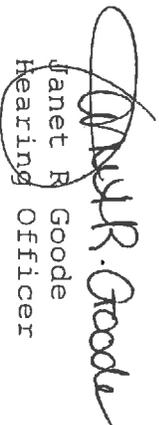
signed, written request was dated and received April 22, 2009. Your request for a fair hearing was untimely and requested after the 30-day time limit.

The purpose of an administrative fair hearing is to allow you to present evidence of an error by the Department. A Hearing Officer cannot consider "special circumstances", inability to pay for private health insurance, daily living expenses, household expenses or medical expenses/bills. A Hearing Officer cannot change, waive or set aside policy or Medicaid regulations for any applicant or recipient. A hearing cannot be granted if you merely wish to challenge Agency policy. **Unless you can present evidence that the Department has made an error in its decision, there is no relief I can grant you.**

Pursuant to authority granted this Hearing Officer by SCDHHS Regulation 126-154, you must respond with a more definite statement of a cause of action upon which relief could be granted. For example: Was there an error in the application or interpretation of Agency policy of Federal law? You must state **in writing**, and I must receive your written response with supporting documentation by a date certain: **June 8, 2009**. Otherwise, I will assume you have abandoned your appeal and it will be dismissed.

If you have any questions, you may call me at 1-800-763-9087.

Sincerely,

  
Janet R Goode  
Hearing Officer

Enclosures

# Interoffice Memo

**Date:** 4/30/2009  
**To:** Vastine Crouch, Director, Division of Appeals  
**Cc:** Paterna Samuel  
**From:** Donna Day, Department Head, Central Institutional Unit  
**RE:** Appeals Information

---

Please see the attached Appeals information re: Dorothy Fogg. We respectfully request consideration be given to dismissing the appeal based on the request being made more than 30 days after receipt of the approval notice.

Attachments





*State of South Carolina*  
*Department of Health and Human Services*

Mark Sanford  
Governor

Robert M. Kent  
Director

April 28, 2009

Mr. Vastine Crouch  
Division of Appeals and Hearings  
Department of Health and Human Services  
P. O. Box 8206  
Columbia, South Carolina 29202-8206

Dear Mr. Crouch:

Our office has received a request for a fair hearing on the eligibility of Dorothy W. Fogg.

Identifying Information:

Beneficiary: Dorothy W. Fogg  
Address: Ridgeway Health and Rehabilitation Center, Ridgeway, South Carolina  
Authorized Representative/Trustee: Sharon Hamilton  
Address: P. O. Box 25504, Columbia, SC 29224  
Medicaid Category: Nursing Home -- Category 10  
Budget Group#: 50444496  
Social Security #: 043-07-7294  
Date of Birth: 01/17/1915

The Central Institutional Unit (CIU) received a Nursing Home Services application via the Fairfield County DHHS office on January 22, 2009 for Ms. Dorothy W. Fogg. It was assigned to Patrena Samuel. Shirley Williams, a Richland County DSS Adult Protective Services worker, filed the application on January 14, 2009. Ms. Fogg's granddaughter, Sharon Hamilton, was listed as another person to contact for information. Ms. Fogg's file included an application that was made in Fairfield county on October 10, 2008; this application was filed by Richland County DSS Adult Protective Services worker Shirley Williams as well. This application was processed and denied by Gladys Allen for "Failure to return information" on November 26, 2008.

It appears that information was returned on December 3, 2008. A bendex report printed on December 3, 2008 reflected an increase in SSA benefits effective December which resulted in the need to establish an Income Trust. It is unclear when Ms. Williams was informed of the need to do an Income Trust. However, there is a DHHS 907-A Checklist for the Trustee of an Income Trust in the case file which was originally dated 12/05/08; this date was marked though and it was redated 01/08/09 and initialed by Ms. Williams. On January 14, 2009, Ms. Allen received a

Division of Policy and Planning, Central Institutional Unit  
P. O. Box 2364 Columbia South Carolina 29202-8206  
(803) 803-898-2635 Fax (803) 803-255-8350

new application for Ms. Fogg with a completed Income Trust Agreement done on January 8, 2009. On January 22, 2009 Ms. Allen faxed the application to the Central Institutional Unit and forwarded the original, which was received on January 23, 2009. After attempting to contact Shirley Williams for additional bank information on Ms. Fogg, Ms. Samuel contacted Sharon Hamilton to obtain the additional bank information and to find out what account would serve as Ms. Fogg's income trust account. Ms. Hamilton called back later to find out the status of the application. At that time she was told that all information was in and that Ms. Fogg would be approved for October and November 2008 and January 2009. Ms. Samuel explained that there would be a break in coverage for December 2008 because Ms. Fogg needed an income trust due to the increase in her Social Security payment. Since the Income Trust wasn't done until January, Ms. Fogg did not qualify for coverage in December 2008. Ms. Hamilton asked why this was the case when they weren't told about the Income Trust until January. Ms. Samuel explained that since the first application done in October was denied and the new application wasn't done until January, there would have been no way to let her know an income trust was needed in December. When the bank information came in Ms. Samuel budgeted Ms. Fogg's application for each retro month and the month of application. On March 11, 2009, the application was approved for the October and November retro months and January. A DHHS 3229 was sent to Ms. Hamilton for the months of approval and a DHHS 932 was sent for the month of denial. **A fair hearing request was received on April 22, 2009 which was more than 30 days after the action.**

Sincerely,

Patrena Samuel  
Program Coordinator I  
Central Institutional Unit  
803-898-3102

Donna Day  
Program Coordinator II  
Central Institutional Unit  
803-898-2677

Attached Documentation:

1. Copy of DHHS 3260 Request for Fair Hearing for Medicaid Applicant and Beneficiary
2. Copy of letter from Authorized Representative/Trustee requesting Fair Hearing
3. Copy of DHHS 3251 ME Notice of Proposed Action – Medical Assistance Only (used to inform trustee of denial of coverage for December 2008)
4. Copy of DHHS 907A, Checklist for the Trustee of an Income Trust (originally dated December 5, 2008 and changed to January 8, 2009)
5. Copy of DHHS 1296 ME Medicaid Application for Nursing Home (Stamped January 14, 2009 by Fairfield County DHHS and January 23, 2009 by Bureau of Eligibility Policy and Oversight / CIU)
6. Copy of budget sheets (showing countable income for December 2008)
7. Copy of printout of SVES SSA Response (showing changes in applicant's Social Security income)
8. Copy of DCRB pension statement (showing applicant's pension income)
9. Copy of Income Trust Agreement approved January 2009
10. Copy of DHHS 926 Income Trust Memorandum or Understanding

11. Copy of DHHS 1296 ME Medicaid Application for Nursing Home (stamped October 10, 2008 by Region IV LEP Office and October 14, 2008 by Fairfield County DHHS)

12. Copy of denial from Medicaid Eligibility Determination System

Apr 22 09 03:47p

Hamilton

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P.1

**ATTENTION: ANDRE PINSON and CAROLYN ROACH**

Date: April 22, 2009

To: Andre Pinson, Case Worker

To: Carolyn Roach, Department Head

Case Number: 50444496, Dorothy W. Fogg

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This process took a very long time and had we have cut through some of the red tape and processed her application in a more timely manner then we would have known that a Medicaid Trust was needed in December as well. Due to the long processing turn-around time, I feel that it is only fair for her to be approved for Medicaid for the month of December as well. Please re-look at her Medicaid coverage for December of 2008. Due to the fact that we were finally notified that my grandmother's Medicaid was approved, but denied for December 2008, my grandmother has been notified that she has a bill of almost \$4000 for the month of December. Based on all the information that was submitted to your office over the past months, you all know just as well as I do that she does not have money like that and she cannot afford to pay this outrageous bill. The nursing home have sent notification that they may have to discharge her from the facility because of her outstanding balance and she will be left homeless, in a wheelchair and over the age of 90 years old. Look what our state government has come to and look how our tax money is spent, or should I say not spent on the people that need assistance the most.

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Apr 22 09 03:47p

Hamilton

8037877065

P.2

knowledgeable in the "Medicaid Trust" eligibility, processing and requirements,  
my grandmother should be granted coverage for the month of December.  
Please grant her coverage for the month of December 2008.

Thank you,



Sharon K. Hamilton

803-787-7065

Apr 22 09 03:48p

Hamilton

8037877065

p. 3

SOUTH CAROLINA  
DEPARTMENT OF HEALTH AND HUMAN SERVICES  
NOTICE OF PROPOSED ACTION - MEDICAL ASSISTANCE ONLY

FROM: Division of Policy and Planning  
PO Box 2364  
Columbia, SC 29202-2364

DATE: 03/1/09  
BUDGET GROUP NUMBER: 50444496

IF YOU HAVE ANY QUESTIONS ABOUT THIS  
NOTICE, PLEASE CONTACT:

TO: Sharon Hamilton  
PO Box 25504  
Columbia, SC 29224

Andie Pinson  
TELEPHONE NUMBER: 803-898-2635

*Re: Deathy W. Froy*

PLEASE READ THE STATEMENTS CHECKED  BELOW FOR INFORMATION ABOUT YOUR ASSISTANCE.

TYPE OF ASSISTANCE RECEIVED: Nursing Home Services

NOTICE: If your circumstances change, you have an increase or decrease in income or you have new or additional information that would affect your case, it is your responsibility to notify the Department of Health and Human Services within ten (10) days.

- The monthly amount you pay to the medical facility will change from \$ \_\_\_\_\_ to \$ \_\_\_\_\_ beginning \_\_\_\_\_.
- The monthly amount you pay to the medical facility will be \$ \_\_\_\_\_ beginning \_\_\_\_\_.
- Community Long Term Care (CLTC) has informed the Department that your level of nursing care will be changed from \_\_\_\_\_ to \_\_\_\_\_. The nursing care facility in which you reside does not provide both skilled and intermediate level care in the same area. Therefore, you should be sure that you are transferred promptly to the area of your present facility or to a different nursing care facility that will provide you with the level of care appropriate to your needs. The Department will terminate its Medicare reimbursement or Medicaid vendor payment on \_\_\_\_\_ unless you are placed in the proper level of care.
- CLTC has informed the Department that you will be eligible for \_\_\_\_\_ level nursing care upon termination of your Medicare benefits; therefore, a Medicaid vendor payment will be made to the nursing care facility in your behalf.
- Your eligibility for a vendor payment made to a medical provider in your behalf, by the department, will be discontinued beginning 12/01/2008.

Reason for Action: Due to increase in income from Social Security recipient needed an Income Trust effective December 2008. Income Trust was not completed until January 2009.

MANUAL/POLICY REFERENCE SUPPORTING THIS ACTION (A copy of the referenced material is available upon request from the county department):  
304.19 03

Apr 22 09 03:48p

Hamilton

8037877065

P.4

FAIR HEARING:

If you feel that DHHS has made an error in processing your case, you may ask for a fair hearing before the South Carolina Department of Health and Human Services.

- To ask for a fair hearing, send a signed, written request (along with a copy of this letter) within 30 days to your Medicaid eligibility worker.
- You can hire an attorney to help you, or you can have someone come to the hearing and speak for you.
- If you request a hearing within 10 days of the date on this letter, you can ask in your request that your Medicaid coverage continue until a final decision is made by the hearing officer. However, if the hearing officer rules that the decision was correct, you will be required to pay back any Medicaid benefits you received while your case was being reviewed.

NOTICE

If your circumstances change, you have an increase or decrease in income or you have new or additional information that would affect your case, it is your responsibility to notify your Department of Health and Human Services within ten (10) days.

STATE RETIREMENT

If your Medicaid is being terminated because you have been discharged from a nursing home and you receive State Retirement benefits, you must contact the South Carolina State Retirement System at the end of six (6) months from your date of discharge if:

1. You have not been admitted to a nursing facility or,
2. You have not been admitted to a hospital. You may be eligible to receive an increase in your State Retirement check.

**From:** Lena Girgis  
**To:** Brenda James; Jan Polatty  
**Date:** 6/10/2009 9:15 am  
**Subject:** Log 0672 Extension

**CC:** Jennifer Lynch  
Alicia has approved an extension until Friday, June 12 on Log 0672. Thanks.

Lena A. Girgis  
Medicaid Eligibility & Beneficiary Services  
South Carolina Department of Health and Human Services  
1801 Main Street  
Columbia, SC 29201  
(803) 898-2502  
(803) 255-8235 FAX  
girgis@scdhhs.gov



*State of South Carolina*  
*Department of Health and Human Services*

Log 0672

Mark Sanford  
Governor

Emma Forkner  
Director

June 12, 2009

Ms. Sharon K. Hamilton  
1609-B Willowby Street  
Columbia, South Carolina 29223

Dear Ms. Hamilton:

Congressman Joe Wilson asked our agency to assist with your concerns regarding Medicaid benefits for your grandmother, Dorothy Fogg. We apologize for any stress or confusion our eligibility determination process may have caused you and your family.

Our Division of Hearings and Appeals has received your response to the Interlocutory Order requesting that you state the issue for appeal and respond to the request for dismissal due to timeliness. In addition, our Bureau of Eligibility, Policy and Planning is reviewing your grandmother's application to determine if your issues may be resolved without a formal hearing. We will be in contact with you shortly regarding our decision.

Again, we apologize for any inconvenience this process may have caused you. If you have additional questions about the Medicaid program, please call Jennifer Lynch in Constituent Services at (803) 898-3965.

Sincerely,

A handwritten signature in cursive script that reads "Alicia Jacobs".

Alicia Jacobs  
Deputy Director

AJ/cl



*State of South Carolina*  
*Department of Health and Human Services*

Mark Sanford  
Governor

Emma Forkner  
Director

June 12, 2009

The Honorable Joe Wilson  
United States House of Representatives  
Midlands District Office  
1700 Sunset Boulevard, Suite 1  
West Columbia, South Carolina 29169

Dear Congressman Wilson:

Thank you for contacting our agency on behalf of Sharon K. Hamilton regarding Medicaid benefits for her grandmother, Dorothy Fogg.

Ms. Hamilton requested an appeal regarding Medicaid's decision to deny benefits for December 2008, and we have been in contact with Ms. Hamilton regarding her request. We are currently reviewing the situation and will be in further contact with her shortly regarding our decision.

Thank you for your continued interest and support of the South Carolina Medicaid program. If I may be of further assistance on this or any other matter, please let me know.

Sincerely,

A handwritten signature in cursive script that reads "Emma Forkner".

Emma Forkner  
Director

EF/jcl

JOE WILSON  
2ND DISTRICT, SOUTH CAROLINA

ASSISTANT REPUBLICAN WHIP

COMMITTEES:  
ARMED SERVICES  
RANKING, PERSONNEL SUBCOMMITTEE  
FOREIGN AFFAIRS  
EDUCATION AND LABOR  
HOUSE POLICY

Congress of the United States  
House of Representatives

Ref. Log #612

RECEIVED

July 31, 2009

AUG 04 2009

Department of Health & Human Services  
OFFICE OF THE DIRECTOR

The Honorable Emma Forkner  
Director  
State Of South Carolina  
Department of Health and Human Services  
Post Office Box 8206  
Columbia, South Carolina 29202

Re: Mrs. Sharon K. Hamilton  
1609 Willowby Street, Apartment B  
Columbia, SC 29223

Dear Emma,

I am writing to you on behalf of the above named constituent who has contacted me regarding an issue involving the State Of South Carolina. Enclosed is correspondence from Mrs. Hamilton further explaining the concerns. Your kind attention in this matter would be greatly appreciated.

It is an honor to represent the people of the Second Congressional District, and I value your input. Thank you for your time and concern in this and all other matters.

Please respond to the Midlands District Office at 1700 Sunset Blvd., Suite 1, West Columbia, South Carolina 29169. The phone number is 803-939-0041. The fax number is 803-939-0078. The e-mail address is [Brad.Leake@Mail.House.Gov](mailto:Brad.Leake@Mail.House.Gov)

Very truly yours,

JOE WILSON  
Member of Congress

JW:BL

MIDLANDS OFFICE:  
1700 SUNSET BLVD. (US 378), SUITE 1  
WEST COLUMBIA, SC 29169  
(803) 939-0041  
Fax: (803) 939-0078

212 CANNON HOUSE OFFICE BUILDING  
WASHINGTON, DC 20515-4002  
(202) 225-2452  
Fax: (202) 225-2455  
[www.joewilson.house.gov](http://www.joewilson.house.gov)

LOWCOUNTRY OFFICE:  
903 PORT REPUBLIC STREET  
P.O. BOX 1538  
BEAUFORT, SC 29901  
(843) 521-2530  
Fax: (843) 521-2535

TOLL FREE 1-888-381-1442

COUNTIES:  
AIKEN\*  
ALLENDALE  
BARNWELL  
BEAUFORT  
CALHOUN\*  
HAMPTON  
JASPER  
LEXINGTON  
ORANGEBURG\*  
RICHLAND\*  
(\*PARTS OF)

W. ERIC DELL  
CHIEF OF STAFF  
AND COUNSEL



JUN 15 2009

*State of South Carolina*  
*Department of Health and Human Services*

Mark Sanford  
Governor

Emma Forkner  
Director

June 12, 2009

The Honorable Joe Wilson  
United States House of Representatives  
Midlands District Office  
1700 Sunset Boulevard, Suite 1  
West Columbia, South Carolina 29169

Dear Congressman Wilson:

Thank you for contacting our agency on behalf of Sharon K. Hamilton regarding Medicaid benefits for her grandmother, Dorothy Fogg.

Ms. Hamilton requested an appeal regarding Medicaid's decision to deny benefits for December 2008, and we have been in contact with Ms. Hamilton regarding her request. We are currently reviewing the situation and will be in further contact with her shortly regarding our decision.

Thank you for your continued interest and support of the South Carolina Medicaid program. If I may be of further assistance on this or any other matter, please let me know.

Sincerely,

A handwritten signature in cursive script, appearing to read "Emma Forkner", is written over a horizontal line.

Emma Forkner  
Director

EF/jcl

June 1, 2009

Emma Forkner, Director  
Department of Health and Human Services  
P.O. Box 8206  
Columbia, SC 29202

Re: Sharon K. Hamilton

Dear Mrs. Hamilton:

I am writing to you on behalf of the above named constituent who has contacted me regarding a problem with a Medicaid application. Enclosed is a letter from further explaining her concerns. Any assistance that you could provide would be appreciated

It is an honor to represent the people of the Second Congressional District of South Carolina, and I value your input.

Please respond to the Midlands District Office at 1700 Sunset Blvd., Suite 1, West Columbia, South Carolina 29169. Thank you for your time and concern in this and all other matters.

Very truly yours,



JOE WILSON  
Member of Congress

JW:vw

**Fax Cover Sheet**

**To:**

The Honorable Joe Wilson  
United States House of Representatives  
212 Cannon House Office Building  
Washington, D.C. 20515-4002

**DC Phone:**

202-225-2452

**DC Fax:**

202-225-2455

**Electronic Correspondence:** <http://www.house.gov/formwilson/IMA/issue.htm>

**WWW Homepage:** <http://www.house.gov/joewilson/>

**District Offices:**

1700 Sunset Boulevard, Suite 1   **Voice:** 803-939-0041  
West Columbia, SC 29169   **FAX:** 803-939-0078

**From:**

Mrs. Sharon K. Hamilton  
1609-B Willowby Street

Columbia, SC 29223

803-787-7065

**19pages including this cover page**

May 26, 2009

The Honorable Joe Wilson  
United States House of Representatives  
212 Cannon House Office Building  
Washington, D.C. 20515-4002

To The Honorable Joe Wilson:

I am writing you today because I am requesting your help in a matter concerning the SC State Department of Health and Human Services Office for Richland County and Fairfield County.

In October 2008, my grandmother of over 90 years old was admitted into Providence Northeast Hospital. She had to have surgery and after being discharged she was sent to Heritage Healthcare of Ridgeway for rehabilitation. A social worker, Shirley Williams at Richland County DSS signed her into the Nursing Home and stated that she would be there rehabilitating from her surgery. Ms. Williams suggested that we apply for Medicaid for my grandmother because her Medicare would not cover all of her expenses. We applied for Medicaid and submitted the information to Gladys Allen in the DHHS office in Fairfield County. Ms. Allen notified Ms. Shirley Williams that additional information was needed to finish processing her application. The information requested dated back to 2005. My family and I had to hunt for financial records, pre-burial contracts, vehicle information, life insurance policies, medical insurance policies and retirement income, as requested. After weeks of searching for all the information in my grandmother's apartment, we located all the information that we could find and sent it to Gladys Allen in November of 2008.

In December, Ms. Williams notified me that she received notification that my grandmother's Medicaid application was denied because they did not receive the information from me. I assured her that I did mail it in and she told me she would check into it. In December, Ms. Williams notified me that my grandmother would be a permanent resident at Heritage Healthcare of Ridgeway and that I should make all attempts to get rid of her apartment. I contacted her apartment complex immediately and submitted a 30 day notice as they requested. Also, Ms. Williams notified me that her Medicaid was still being processed and that she was going on vacation for 1 to 2 weeks.

In January 2009, I was notified by Ms. Williams that my grandmother needed to complete a Medicaid Income Trust application. I went to Ms. William's office and we completed the application and had it notarized in the office of the Richland County DSS.

She also advised me that because it was a Medicaid Income Trust application, it would need to be processed in Richland County because Gladys Allen in Fairfield County could not process this type of application. At this point, I still had not known whether my grandmother's Medicaid was approved or not.

From January 2009 to March 2009, I did not receive one piece of correspondence or was I ever called regarding my grandmother's Medicaid application. On March 11, 2009, I was finally contacted by Patrena Samuel in the Richland County DHHS office. On that call, Ms. Samuel requested another bank statement for my grandmother's account for the month of January 2009. I faxed it to her office and she notified me that my grandmother's application was processed and that she was covered for October 2008, November 2008 & January 2009 and going forward. Ms. Samuel advised me that she was over the income level for Medicaid because her social security went up in December and needed to apply for Medicaid Income Trust, but it was not done until January 2009. I stated to her "how was I supposed to know she needed that if no one contacted me to advise me that it was needed. Shirley Williams contacted me in January 2009 and I went to her office and completed it immediately". Also, I advised her that my grandmother's social security check had been going directly to the Healthcare facility since November, so how was I supposed to know there was an increase. Ms. Samuel didn't really have an answer for me and just stated again why she contacted me and told me I would receive something in the mail. The very first piece of correspondence I ever received from the DHHS office was a computer generated letter stating my grandmother was approved. I have attached a copy of the letters I received.

From October 2008 to March 2009, I was never directly contacted about my grandmother's Medicaid. The State Government offices of Richland County DHHS and Fairfield County DHHS never kept me posted on the status of my grandmother's application and I had no idea who to contact to ask because I was never sure which office her application was being processed in.

Since March 2009, Heritage Healthcare of Ridgeway has sent notice to Shirley Williams in the DSS office and stated that my grandmother has an outstanding balance from December 2008 and that she is being discharged of the facility. I cannot afford to take care of her, nor do I have the room in my residence to accommodate her since she is in a wheelchair. I sent in a request for an appeal of their decision about December 2008 non-coverage of Medicaid. I have attached the copy of the letter I sent to them and they letter they sent me back.

I feel that my grandmother's entire Medicaid application process was not done in a timely manner, nor was it done correctly. I was not kept abreast to what was going on or what was needed. I feel that everyone is trying to place blame on the next person

and I also feel that I am not to blame. With the holiday season at the end of the year, I can guarantee you that some of the individuals involved took vacation days and their work was left sitting on their desk until they returned. I am sure that you, Representative Wilson, can check into the vacation days of all of the individuals involved in this situation and you will see that their work was put off until they finished using their personal leave time. Also, had I had been notified throughout the entire process directly I could have completed any request for additional information as needed. Why would the DHHS contact the DSS office about information that I needed to get to them? Wouldn't it have been easier to contact me directly and cut through all the red tape?

At this point I have notified Heritage Healthcare of Ridgeway and let them know that I was appealing the Medicaid denial for December 2008. They have made notes to my grandmother's account and I hope that they will not kick her out of the facility. If you can be of assistance, my grandmother and I would greatly appreciate it because we are currently under deadline. I think that the DHHS office should give my grandmother coverage for December 2008, but if they do not, I feel the DSS office should pay the outstanding balance since they signed her into this facility and they were the "go-to" people regarding my grandmother's Medicaid application processing. In additional I cannot understand why I am given a deadline to complete the appeal request response, it is obvious that the DHHS office does not handle things in a timely manner anyway (The application process took from October 2008 to March 11, 2009; what an extremely long time-5 months, almost have a year!).

Thank you,



Mrs. Sharon K. Hamilton

1609-B Willowby Street

Columbia, SC 29223

803-787-7065 home #

Additional information below & on next page:

**Shirley Williams**

DSS - Adult Protective Services  
3220 Two Notch Road  
Columbia, SC 29204  
803-714-7508

**Gladys Allen**  
Medicaid Case Worker  
DHHS  
PO Box 1139  
Winnboro, SC 29180  
803-635-5502 ext 433

**Patrena Samuel**  
Medicaid Income Trust Worker  
DHHS  
PO Box 2364  
Columbia, SC 29202  
803-898-3102

**Janet R. Goode**  
Hearing Officer  
Division of Appeals and Hearing  
PO Box 8206  
Columbia, SC 29202  
1-800-763-9087 or 803-898-2600

**MEDICAID APPROVAL LETTER  
MAO (NURSING HOMES)**

STATE OFFICE COUNTY DHHS  
P. O. Box 2364  
Columbia SC 29202-2364

SHARON HAMILTON  
PO BOX 25504  
COLUMBIA SC 29224

Date: 03/12/2009  
Worker: PATRENA SAMUEL  
Telephone: 803 898-2635  
BG #: 50444496  
HH #: 101294402  
47 PSAMU

Your application has been approved. The persons listed below will get Medicaid benefits:

Recipient Name	Recipient ID#	Medicaid Card Effective Date	Retro Date(s)
DOROTHY FOGG	3780934677	01/01/2009	10/01/2008 11/01/2008

The Medicaid card will be mailed to your current address. If you move, you must tell your County Department of Health and Human Services (DHHS) because the Post Office cannot forward your Medicaid cards. You must present this card to the doctor, hospital, drug store each time you go.

You may have a choice about the way that you receive your Medicaid services. For more information, call toll free 1-888-549-0820.

X As a condition of eligibility when you apply for medical assistance, you are assigning to the state your rights to any medical support or other payments for medical care and you are agreeing to cooperate with the state in obtaining third party payments.

X You may ask for a fair hearing before the Department of Health and Human Services if you believe an error was made in processing your application.

**To Request A Fair Hearing From the Department of Health and Human Services**

- Ask your Medicaid worker in writing within 30 days of the date on this letter. Attach a copy of this letter to your request.

**To Get Help With Your Fair Hearing**

- You can hire an attorney to help you
- You can have someone you know come to the hearing and speak for you
- Contact your Medicaid worker in person or by phone to get help in asking for a hearing.

You must tell your Medicaid worker in 10 days if you have a change in the following:

- Where you live
- Income
- Resources
- Family size (someone moves in or out)
- Any news that would change your case

**YOU WILL RECEIVE A REVIEW FORM IN THE MAIL EVERY 12 MONTHS (SOMETIMES SOONER). WHEN YOU RECEIVE THE REVIEW FORM, YOU MUST COMPLETE AND RETURN IT OR YOUR MEDICAID WILL STOP.**

South Carolina Department of Health and Human Services  
Notice of Action

From: STATE OFFICE COUNTY DHHS  
P. O. Box 2364  
Columbia SC 29202-2364

Date: 03/12/2009  
Worker Name: PATRENA SAMUEL  
Telephone: 803 898-2635  
BG#: 50444496  
HH#: 101294402

To: SHARON HAMILTON  
PO BOX 25504  
COLUMBIA SC 29224

47 PSAMU

Beneficiary Name:  
DOROTHY FOGG

Beneficiary ID:  
3780934677

Your application has been denied for: MAO (NURSING HOMES)

Reason for denial:  
Your income is more than policy allows.

Denied for the month(s) of: 12/2008

Manual/policy reference supporting this action: 304.05.01

**Fair Hearing**

If you feel your case has been closed in error, you may ask for a fair hearing before the South Carolina Department of Health and Human Services.

- To ask for a fair hearing, send a request in writing, along with a copy of this letter, within 30 days to your worker.
- You can hire an attorney to help you or you can have someone come to the hearing and speak for you.

Augeo Benefits is a one-stop shop to help you find health insurance made just for you, that you can afford. For more information on health insurance plans that include Major Medical, Limited Medical, Dental and Savings on Prescriptions call Augeo Benefits at 866-273-5613 or visit online at [www.AugeoBenefits.com/sc](http://www.AugeoBenefits.com/sc).

**ATTENTION: ANDRE PINSON and CAROLYN ROACH**

Date: April 22, 2009

To: Andre Pinson, Case Worker

To: Carolyn Roach, Department Head

Case Number: 50444496, Dorothy W. Fogg

I am requesting that my grandmother's eligibility be re-looked at (a fair hearing/an appeal) for December 2008. We applied for Medicaid for her back in October of 2008. Now, in January of this year we were told that she needed a Medicaid Trust set up. And **finally** in March we were notified that she was approved for Medicaid for October and November of 2008, but not December 2008 and she was approved for January 2009 and future months.

This process took a very long time and had we have cut through some of the red tape and processed her application in a more timely manner then we would have known that a Medicaid Trust was needed in December as well. Due to the long processing turn-around time, I feel that it is only fair for her to be approved for Medicaid for the month of December as well. Please re-look at her Medicaid coverage for December of 2008. Due to the fact that we were finally notified that my grandmother's Medicaid was approved, but denied for December 2008, my grandmother has been notified that she has a bill of almost \$4000 for the month of December. Based on all the information that was submitted to your office over the past months, you all know just as well as I do that she does not have money like that and she cannot afford to pay this outrageous bill. The nursing home have sent notification that they may have to discharge her from the facility because of her outstanding balance and she will be left homeless, in a wheelchair and over the age of 90 years old. Look what our state government has come to and look how our tax money is spent, or should I say not spent on the people that need assistance the most.

In closing, I do not feel that we did anything wrong, so why should she not receive benefits for December when we were not notified that we even needed a trust set up until January. With the minimal amount of workers being

knowledgeable in the "Medicaid Trust" eligibility, processing and requirements, my grandmother should be granted coverage for the month of December. Please grant her coverage for the month of December 2008.

Thank you,

Sharon K. Hamilton

803-787-7065



*State of South Carolina*  
*Department of Health and Human Services*

Mark Sanford  
Governor

May 20, 2009

Emma Parkner  
Director

**FIRST CLASS MAIL AND CERTIFIED MAIL**

Sharon Hamilton  
PO Box 25504  
Columbia, SC 29224

RE: Appeal Request in the Matter of Dorothy Fogg v. SCDHHS  
Appeals Case #09-MAO-231 (NH)  
Household #101294402

**INTERLOCUTORY ORDER**  
**(CAUSE OF ACTION)**

Dear Ms. Hamilton:

This is an Interlocutory Order, issued pursuant to SCDHHS Regulation 126-154. Please read carefully, as you must file a response as directed by a date certain: **June 8, 2009**.

I am in receipt of your letter dated and received by fax by SCDHHS on April 22, 2009 appealing the proposed denial of your grandmother's Nursing Home vendor payment for December 2008. I am also in receipt of an Appeal Summary dated April 28, 2009 from Ms. Samuel, Program Coordinator I, Central Institutional Unit with attached documentation referenced in the appeal summary. I have enclosed a copy of the appeals summary and documentation for your reference. Central Institutional Unit has requested dismissal of appeal based on the request being made by you more than 30 days after receipt of the approval notice.

The DHHS Form 3251 ME dated and mailed to you, your grandmother's representative, on March 11, 2009 states, "your eligibility for a vendor payment made to a medical provider in your behalf, by the department, will be discontinued beginning 12/1/08." DHHS Form 3251, page 2, has FAIR HEARING marked with an "X". The FAIR HEARING section explains your rights to a fair hearing and the guidelines and rules for requesting a fair hearing. An individual requesting a fair hearing must send a signed, written request within 30 days to your Medicaid eligibility worker. Your

Dorothy Fogg  
May 20, 2009  
Page 2

signed, written request was dated and received April 22, 2009. Your request for a fair hearing was untimely and requested after the 30-day time limit.

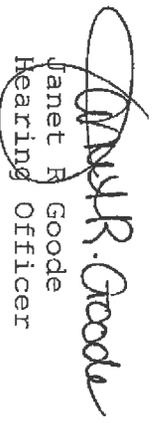
The purpose of an administrative fair hearing is to allow you to present evidence of an error by the Department. A Hearing Officer cannot consider "special circumstances", inability to pay for private health insurance, daily living expenses, household expenses or medical expenses/bills. A Hearing Officer cannot change, waive or set aside policy or Medicaid regulations for any applicant or recipient. A hearing cannot be granted if you merely wish to challenge Agency policy. **Unless you can present evidence that the Department has made an error in its decision, there is no relief I can grant you.**

Pursuant to authority granted this Hearing Officer by SCDHHS Regulation 126-154, you must respond with a more definite statement of a cause of action upon which relief could be granted. For example: Was there an error in the application or interpretation of Agency policy of Federal law?

You must state **in writing**, and I must receive your written response with supporting documentation by a date certain: **June 8, 2009**. Otherwise, I will assume you have abandoned your appeal and it will be dismissed.

If you have any questions, you may call me at 1-800-763-9087.

Sincerely,

  
Janet R. Goode  
Hearing Officer

Enclosures

# Interoffice Memo

**Date:** 4/30/2009  
**To:** Vastine Crouch, Director, Division of Appeals  
**Cc:** Patrena Samuel  
**From:** Donna Day, Department Head, Central Institutional Unit  
**RE:** Appeals Information

---

Please see the attached Appeals information re: Dorothy Fogg. We respectfully request consideration be given to dismissing the appeal based on the request being made more than 30 days after receipt of the approval notice.

Attachments





*State of South Carolina*  
*Department of Health and Human Services*

Mark Sanford  
Governor

Robert M. Kerr  
Director

April 28, 2009

Mr. Yastine Crouch  
Division of Appeals and Hearings  
Department of Health and Human Services  
P. O. Box 8206  
Columbia, South Carolina 29202-8206

Dear Mr. Crouch:

Our office has received a request for a fair hearing on the eligibility of Dorothy W. Fogg.

Identifying Information:

Beneficiary: Dorothy W. Fogg  
Address: Ridgeway Health and Rehabilitation Center, Ridgeway, South Carolina  
Authorized Representative/Trustee: Sharon Hamilton  
Address: P. O. Box 25504, Columbia, SC 29224  
Medicaid Category: Nursing Home -- Category 10  
Budget Group#: 50444496  
Social Security #: 043-07-7294  
Date of Birth: 01/17/1915

The Central Institutional Unit (CIU) received a Nursing Home Services application via the Fairfield County DHHS office on January 22, 2009 for Ms. Dorothy W. Fogg. It was assigned to Patrena Samuel. Shirley Williams, a Richland County DSS Adult Protective Services worker, filed the application on January 14, 2009. Ms. Fogg's granddaughter, Sharon Hamilton, was listed as another person to contact for information. Ms. Fogg's file included an application that was made in Fairfield county on October 10, 2008; this application was filed by Richland County DSS Adult Protective Services worker Shirley Williams as well. This application was processed and denied by Gladys Allen for "Failure to return information" on November 26, 2008. It appears that information was returned on December 3, 2008. A bendex report printed on December 3, 2008 reflected an increase in SSA benefits effective December which resulted in the need to establish an Income Trust. It is unclear when Ms. Williams was informed of the need to do an Income Trust. However, there is a DHHS 907-A Checklist for the Trustee of an Income Trust in the case file which was originally dated 12/05/08; this date was marked though and it was redated 01/08/09 and initialed by Ms. Williams. On January 14, 2009, Ms. Allen received a

Division of Policy and Planning, Central Institutional Unit  
P. O. Box 2364 Columbia South Carolina 29202-8206  
(803) 803-898-2635 Fax (803) 803-255-8350

new application for Ms. Fogg with a completed Income Trust Agreement done on January 8, 2009. On January 22, 2009 Ms. Allen faxed the application to the Central Institutional Unit and forwarded the original, which was received on January 23, 2009. After attempting to contact Shirley Williams for additional bank information on Ms. Fogg, Ms. Samuel contacted Sharon Hamilton to obtain the additional bank information and to find out what account would serve as Ms. Fogg's income trust account. Ms. Hamilton called back later to find out the status of the application. At that time she was told that all information was in and that Ms. Fogg would be approved for October and November 2008 and January 2009. Ms. Samuel explained that there would be a break in coverage for December 2008 because Ms. Fogg needed an income trust due to the increase in her Social Security payment. Since the Income Trust wasn't done until January, Ms. Fogg did not qualify for coverage in December 2008. Ms. Hamilton asked why this was the case when they weren't told about the Income Trust until January. Ms. Samuel explained that since the first application done in October was denied and the new application wasn't done until January, there would have been no way to let her know an income trust was needed in December. When the bank information came in Ms. Samuel budgeted Ms. Fogg's application for each retro month and the month of application. On March 11, 2009, the application was approved for the October and November retro months and January. A DHHS 3229 was sent to Ms. Hamilton for the months of approval and a DHHS 932 was sent for the month of denial. **A fair hearing request was received on April 22, 2009 which was more than 30 days after the action.**

Sincerely,

Patrena Samuel  
Program Coordinator I  
Central Institutional Unit  
803-898-3102

Donna Day  
Program Coordinator II  
Central Institutional Unit  
803-898-2677

Attached Documentation:

1. Copy of DHHS 3260 Request for Fair Hearing for Medicaid Applicant and Beneficiary
2. Copy of letter from Authorized Representative/Trustee requesting Fair Hearing
3. Copy of DHHS 3251 ME Notice of Proposed Action – Medical Assistance Only (used to inform trustee of denial of coverage for December 2008)
4. Copy of DHHS 907A, Checklist for the Trustee of an Income Trust (originally dated December 5, 2008 and changed to January 8, 2009)
5. Copy of DHHS 1296 ME Medicaid Application for Nursing Home (stamped January 14, 2009 by Fairfield County DHHS and January 23, 2009 by Bureau of Eligibility Policy and Oversight / CIU)
6. Copy of budget sheets (showing countable income for December 2008)
7. Copy of printout of SVES SSA Response (showing changes in applicant's Social Security income)
8. Copy of DCRB pension statement (showing applicant's pension income)
9. Copy of Income Trust Agreement approved January 2009
10. Copy of DHHS 926 Income Trust Memorandum or Understanding

11. Copy of DHHS 1296 MB Medicaid Application for Nursing Home (stamped October 10, 2008 by Region IV LEP Office and October 14, 2008 by Fairfield County DHHS)
12. Copy of denial from Medicaid Eligibility Determination System

Rpr 22 09 09:47p Hamilton

8037877065

P. 1

**ATTENTION: ANDRE PINSON and CAROLYN ROACH**

Date: April 22, 2009

To: Andre Pinson, Case Worker

To: Carolyn Roach, Department Head

Case Number: 50444496, Dorothy W. Fogs

I am requesting that my grandmother's eligibility be re-looked at (a fair hearing/ fair appeal) for December 2008. We applied for Medicaid for her back in October of 2008. Now, in January of this year we were told that she needed a Medicaid Trust set up. And finally in March we were notified that she was approved for Medicaid for October and November of 2008, but not December 2008 and she was approved for January 2009 and future months.

This process took a very long time and had we have any through some of the red tape and processed her application in a more timely manner then we would have known that a Medicaid Trust was needed in December as well. Due to the long processing turn-around time, I feel that it is only fair for her to be approved for Medicaid for the month of December as well. Please re-look at her Medicaid coverage for December of 2008. Due to the fact that we were finally notified that my grandmother's Medicaid was approved, but denied for December 2008, my grandmother has been notified that she has a bill of almost \$4000 for the month of December. Based on all the information that was submitted to your office over the past months, you all know just as well as I do that she does not have money like that and she cannot afford to pay this outrageous bill. The nursing home have sent notification that they may have to discharge her from the facility because of her outstanding balance and she will be left homeless, in a wheelchair and over the age of 90 years old. Look what our state government has come to and look how our tax money is spent, or should I say not spent on the people that need assistance the most.

In closing, I do not feel that we did anything wrong, so why should she not receive benefits for December when we were not notified that we even needed a trust set up until January. With the minimal amount of workers being

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knowledgeable in the "Medicaid Trust" eligibility, processing and requirements,  
my grandmother should be granted coverage for the month of December.  
Please grant her coverage for the month of December 2008.

Thank you!



Sharon K. Hamilton

803-787-7065

Rpt 22 09 03:48P

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SOUTH CAROLINA  
DEPARTMENT OF HEALTH AND HUMAN SERVICES  
NOTICE OF PROPOSED ACTION - MEDICAL ASSISTANCE ONLY

FROM: Division of Policy and Planning  
PO Box 2364  
Columbia, SC 29202-2364

DATE: 03/1/09  
BUDGET GROUP NUMBER: 50444496

IF YOU HAVE ANY QUESTIONS ABOUT THIS  
NOTICE, PLEASE CONTACT:

TO: Sharon Hamilton  
PO Box 25504  
Columbia, SC 29224

Andro Pinson  
TELEPHONE NUMBER: 803-698-2633

Re: Debra Lynn Fogg

PLEASE READ THE STATEMENTS CHECKED BY BELOW FOR INFORMATION ABOUT YOUR ASSISTANCE.  
TYPE OF ASSISTANCE RECEIVED: Nursing Home Services

NOTICE: If your circumstances change, you have an increase or decrease in income or you have new or additional information that would affect your case, it is your responsibility to notify the Department of Health and Human Services within ten (10) days.

The monthly amount you pay to the medical facility will change from \$ \_\_\_\_\_ to \$ \_\_\_\_\_ beginning \_\_\_\_\_

The monthly amount you pay to the medical facility will be \$ \_\_\_\_\_ beginning \_\_\_\_\_

Community Long Term Care (CLTC) has informed the Department that your level of nursing care will be changed from \_\_\_\_\_ to \_\_\_\_\_ beginning \_\_\_\_\_. The nursing care facility in which you reside does not provide both skilled and intermediate level care in the same area. Therefore, you should be sure that you are transferred promptly to the area of your present facility or to a different nursing care facility that will provide you with the level of care appropriate to your needs. The Department will terminate its Medicaid reimbursement of Medicaid vendor payments on \_\_\_\_\_ unless you are placed in the proper level of care.

CLTC has informed the Department that you will be eligible for \_\_\_\_\_ level nursing care upon termination of your Medicare benefits; therefore, a Medicaid vendor payment will be made to the nursing care facility in your behalf.

Your eligibility for a vendor payment made to a medical provider in your behalf, by the department, will be discontinued beginning 12/01/2008.

Reason for Action: Due to increase in income from Social Security recipient needed for Income Test effective December 2008. Income Test was not completed until January 2009.

MANUAL/POLICY REFERENCE SUPPORTING THIS ACTION (A copy of this referenced material is available upon request from the county department):  
304.19.03

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 **FAIR HEARING:**

If you feel that DHHS has made an error in processing your case, you may ask for a fair hearing before the South Carolina Department of Health and Human Services.

- > To ask for a fair hearing, send a signed, written request (along with a copy of this letter) within 30 days to your Medicaid eligibility worker.
- > You can hire an attorney to help you, or you can have someone come to the hearing and speak for you.
- > If you request a hearing within 10 days of the date on this letter, you can ask in your request that your Medicaid coverage continue until a final decision is made by the hearing officer. However, if the hearing officer rules that the decision was correct, you will be required to pay back any Medicaid benefits you received while your case was being reviewed.

 **NOTICE**

If your circumstances change, you have an increase or decrease in income or you have new or additional information that would affect your case, it is your responsibility to notify your Department of Health and Human Services within ten (10) days.

 **STATE RETIREMENT**

If your Medicaid is being terminated because you have been discharged from a nursing home and you receive State Retirement benefits, you must contact the South Carolina State Retirement System at the end of six (6) months from your date of discharge if:

1. You have not been admitted to a nursing facility or,
2. You have not been admitted to a hospital. You may be eligible to receive an increase in your State Retirement check.



State of South Carolina  
Department of Health and Human Services

log # 672

Mark Sanford  
Governor

Emma Forkner  
Director

June 26, 2009

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*Follow-up to*

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**Building – Suite 224, Columbia, S. C. 29201-5755** within thirty (30) days of receipt of this Decision/Order. A copy of the Notice of Appeal should be provided to the S. C. Department of Health and Human Services’ (SCDHHS) Office of General Counsel. The Notice of Appeal must be submitted in accordance with Rule 33 of the Rules of Procedure for the S.C. Administrative Law Court, which establishes specific requirements for the contents of a Notice of Appeal, as well as the requirement that a copy of the request for transcript accompany the Notice of Appeal. The original request for transcript should be directed to the SCDHHS’ Division of Appeals at the address below. **In accordance with the ALC rules, the cost of producing the transcript will be the responsibility of the party requesting appellate review.** For a copy of the ALC rules, you may contact the Administrative Law Court at (803) 734-0550.

**Also, please see the enclosed Rule 71 of the Rules of Procedure for the ALC, which sets forth the required filing fee for an appeal.**

Sincerely,

*Nastine G. Crouch*  
Nastine G. Crouch  
Director, Division of Appeals and Hearings

VGC/sta  
Enclosures (2)

Sharon Hamilton

June 26, 2009

Page Two

cc: Donna Day, Supervisor, Division of Policy and Planning, SCDHHS  
Office of General Counsel, SCDHHS

**ORDER OF DISMISSAL  
IN THE APPEAL MATTER OF  
DF (PETITIONER) V. SCDDHHS (RESPONDENT)**

Appeals' Case #09-MAO-231 (NH)  
Household Number: 101294402  
Hearing Date: N/A

**JURISDICTION**

This case is adjudicated under the authority granted by the South Carolina General Assembly to the South Carolina Department of Health and Human Services to administer various programs and grants (See, e.g., S.C. Code Ann. 44-6-10, et seq.). The appeal has been conducted pursuant to the provisions of the Appeals and Hearings regulations of the South Carolina Department of Health and Human Services (Reg. 126-150, et seq.) and the South Carolina Administrative Procedures Act (S.C. Code Ann. 1-23-310, et seq.).

**PROCEDURAL HISTORY**

On October 10, 2008, Richland County DSS Adult Protective Services worker applied for Nursing Home Services on behalf of the Petitioner. Application was processed and denied on November 26, 2008 for failure to return information.

On January 14, 2009, Richland County DSS Adult Protective Services worker applied for Nursing Home Services on behalf of the Petitioner.

On January 22, 2009, the application for Nursing Home Services was received in Central Institutional Unit via the Fairfield County DHHS office.

On March 11, 2009, the application was approved for retroactive months of October 2008, November 2008 and January 2009. Petitioner did not qualify for coverage for the month of December 2008 due to an increase in Social Security payment. An income trust was not completed until January 2009.

On March 11, 2009, Petitioner's representative was sent A DHHS 3251 ME, Notice of Proposed Action, informing her of denial of coverage for December 2008. DHHS 3251 ME informed Petitioner representative of Fair Hearing right. She was directed she must send a signed, written request within 30 days requesting a Fair Hearing.

On April 22, 2009, more than 30 days after DHHS 3251 ME was sent to Petitioner representative, a fair hearing request was received.

On April 30, 2009, Respondent requested dismissal of appeal based on the request for Fair Hearing being made more than 30 days after receipt of Notice of Proposed Action.

## ISSUE

The issue is whether the Petitioner requested a Fair Hearing within 30 days Notice of Proposed Action denying Nursing Home vendor payment for December 2008. Any issues raised in the proceedings or hearing of this case but not addressed in this Decision are deemed denied.

## FINDINGS OF FACT

After careful consideration of the entire record, I make the following findings by a preponderance of the evidence:

1. On May 20, 2009, the Petitioner was sent an Interlocutory Order from the Hearing Officer via First Class and Certified Mail. The Petitioner was directed to inform the Hearing Officer of a more definite statement, *Cause of Action*, as to what the error of fact or law made by the Agency is that appeal is based upon with the issue being request for dismissal of appeal by the Respondent based on the request being made more than 30 days after receipt of Notice of Proposed Action. The Petitioner was directed to state the error in writing and mail the correspondence back by a date certain, June 8, 2009, or the appeal would be dismissed (See, Case File), and I so find;
2. The Petitioner's response to the Interlocutory Order was received in the Appeals and Hearing Unit on June 3, 2009 (See, Case File), and I so find;
3. The Petitioner failed to state a good cause for not being timely. Therefore, Hearing Officer is granting the Respondent's request for dismissal, and I so find.

## APPLICABLE LAW AND CONCLUSIONS OF LAW

1. South Carolina Department of Health and Human Services' regulations on Appeals and Hearings §126-154 states: "A Hearing Officer has the authority, among other things, to: direct all procedures; issue interlocutory orders; schedule hearings and conferences; preside at formal proceedings; rule on procedural and evidentiary issues; require the submission of briefs and/or conclusions of law; call witnesses; recess, continue, and conclude any proceedings; dismiss any appeal for failure to comply with the requirements of the subarticle."
2. 101.13.10 Right to Appeal and Fair Hearing (**Rev. 06/01/09**)

At the time of any action affecting an applicant or beneficiary's claim for assistance, the applicant/beneficiary must be:

- Informed of his right to a fair hearing;
- Informed of the method by which he/she may request a hearing; and
- Informed that he/she may represent himself/herself or be represented by any other authorized

person such as a lawyer, relative, friend, or other spokesman.

The agency must grant the opportunity for a fair hearing to any:

- Applicant/beneficiary who requests it because his claim for medical assistance is denied or is not acted upon with reasonable promptness;
- Applicant/beneficiary who requests it because he/she believes that the agency has taken an action erroneously; and
- Applicant/beneficiary who requests it because he/she believes a nursing facility has erroneously determined that he/she needed to be transferred or discharged.

The agency will not grant a hearing when the sole issue is a federal or state law requiring an automatic change which adversely affects some or all beneficiaries.

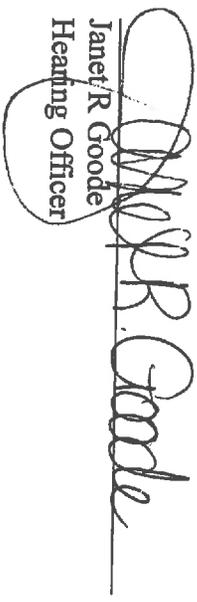
**Procedure to Request a Fair Hearing:**

- The request of the applicant/beneficiary for a hearing must be made in writing and signed by the applicant/beneficiary or his authorized representative.
- The request must be made within 30 calendar days from the date on the Notice of Adverse Action. If the request is received after 30 days, the eligibility worker should still follow the steps listed below for an appeal, and include a request to dismiss the appeal for failing to meet the time frame. The hearing officer will decide if the appeal should continue (such as for good cause), or if it should be denied.
- The written request for a hearing consists of the DHHS Form 3260 ME, Request for Fair Hearing for Medicaid Applicant/Beneficiary, or a letter from the applicant/beneficiary stating his wish for a hearing and the reason(s) for requesting a hearing.
- Should the applicant/beneficiary request an appeal by letter, the Medicaid eligibility worker should complete Part I of the DHHS Form 3260 ME for submission to the DHHS Division of Appeals along with the letter.
- If the applicant/beneficiary orally requests an appeal, the eligibility worker should complete Part I of the DHHS Form 3260 ME and instruct the applicant/beneficiary to complete Part II, sign, date, and return it to the eligibility worker for submission to the DHHS Division of Appeals.
- If by chance the applicant/beneficiary appeals directly to the Division of Appeals, the division will notify the eligibility worker to submit the DHHS Form 3260 ME and prepare an appeals summary. The eligibility worker will submit the DHHS Form 3260 ME for all appeals, even if the client decides to submit the DHHS Form 3260 ME to the DHHS Division of Appeals.
- If the request for a hearing is based on a disability decision, the eligibility worker will submit the disability decision along with the hearing request.

-----*Conclusion of Law: This matter is dismissed as the Petition has failed furnish good cause in not being timely.*

DECISION

This matter is **DISMISSED.**  
**AND IT IS SO ORDERED.**

  
Janet/R Goode  
Hearing Officer

DATED AT COLUMBIA,  
South Carolina

  
Janet R. Goode, 2009