

DEPARTMENT OF HEALTH AND HUMAN SERVICES
OFFICE OF DIRECTOR

ACTION REFERRAL

TO <i>Robert/Mullis/FOIA</i>	DATE <i>3-15-13</i>
---------------------------------	------------------------

DIRECTOR'S USE ONLY	ACTION REQUESTED
1. LOG NUMBER 000290	<input type="checkbox"/> Prepare reply for the Director's signature DATE DUE _____
2. DATE SIGNED BY DIRECTOR <i>cc: Mr. Beck, Conf, COS, 4 post Cleared 3/29/13, letter attached</i>	<input type="checkbox"/> Prepare reply for appropriate signature DATE DUE _____
	<input checked="" type="checkbox"/> FOIA DATE DUE <i>3-29-13</i>
	<input type="checkbox"/> Necessary Action

APPROVALS (Only when prepared for director's signature)	APPROVE	* DISAPPROVE (Note reason for disapproval and return to preparer.)	COMMENT
1.			
2.			
3.			
4.			

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Brenda James

From: Kim Cox
Sent: Thursday, March 14, 2013 5:41 PM
To: Brenda James
Subject: FW: The Nerve - Request
Attachments: FOIA Request from Nerve 3-11-13.pdf

RECEIVED

MAR 15 2013

Department of Health & Human Services
OFFICE OF THE DIRECTOR

Brenda,
Please log this FOIA request and process to legal. Colleen Mullis in my office will be the one responsible for submitting the final information to Mr. Bundrett in my absence.

Thank you,
Kim

From: Colleen Mullis
Sent: Thursday, March 14, 2013 5:37 PM
To: Kim Cox
Subject: The Nerve - Request

We received this letter addressed to you today regarding a Freedom of Information Act request from The Nerve.

Do I need to submit this to Byron in legal as well? Can you advise as to how I proceed.

Thank you.

Colleen Mullis
Office of Communications
South Carolina Health and Human Services
803.898.2452 direct
803.665.0203 cell
colleen.mullis@scdhhs.gov

THE NERVE

Where government gets exposed.

South Carolina Policy Council | 1323 Pendleton Street | Columbia, SC 29201 | 803-254-4411 | theNerve.org

March 11, 2013

Kim Cox
Communications Director
S.C. Department of Health and Human Services
1801 Main St.
Columbia, SC 29201

Ms. Cox:

The following request is made under the S.C. Freedom of Information Act.

Please provide me with copies of all emails and any other form of written correspondence to or from Director Keck regarding the proposed Medicaid expansion in South Carolina under the federal Patient Protection and Affordable Care Act. My request covers the time period from Jan. 1, 2013, through the present date.

I would like to request a waiver of any fees for this request. Disclosure of the requested information is in the public interest because it is likely to contribute significantly to public understanding of the operations and activities of state government.

However, if there is any anticipated cost, please provide an estimate prior to providing the requested records; and please provide the methodology used to determine the anticipated fees.

Thank you very much for your prompt attention to this matter. If you have any questions, I can be reached at my office at (803) 254-4411, cell at (803) 394-8273, or email at rick@thenerve.org.

Sincerely,



Rick Brundrett

Editor

The Nerve (www.thenerve.org)



TO:

FROM:

SUBJECT: Cost of Processing FOIA Request #

The South Carolina Department of Health and Human Services has received and processed your FOIA request. The cost for processing this information is as follows:

Staff processing time at \$10.00 per hour	_____ Hours	\$_____
Pages copied at \$.10 per page	_____ Pages	\$_____
Pages faxed at \$.20 per page	_____ Pages	\$_____
Shipping and Handling Costs		\$_____
Other costs associated with the FOIA request:	_____	\$_____
Total Amount Due SCDHHS:		\$_____

Please remit the above amount to the following address:

Bureau of Fiscal Affairs
South Carolina Department of Health and Human Services
Post Office Box 8297
Columbia, South Carolina 29202-8297

Please contact _____ should you have any questions.

Signature

Date:



March 28, 2013 per Colleen - 4/10/13

Mr. Rick Bundrett
South Carolina Policy Council
1323 Pendleton St.
Columbia, SC 20201

Re: FOIA Request of March 11, 2013

Dear Mr. Brundrett:

Thank you for your FOIA request regarding Mr. Keck's communication on Medicaid expansion. We tried sweeping to and from e-mails from the beginning of the year as you asked. We are still getting used to the program we use to do these searches, but we believe we can get all the relevant information and load it onto a disc. There will also be hard copy documents.

We estimate the staff time we can charge you for producing this information will be about two (2) hours. We charge \$10/hour in staff time for these requests and 10 cents per hard copy page. In addition, we charge \$1.25 for the disc and add the postage. Therefore, we anticipate the total charge will be less than fifty dollars (\$50.00).

Please let us know how you would like us to proceed, and if there are any questions, please feel free to contact me at (803) 898-2452.

Sincerely,

Colleen Mullis
Office of Communications

Robert/Mullis/FOIA

3-15-13

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Office of Communications
South Carolina Health and Human Services
803.898.2452 direct
803.665.0203 cell
colleen.mullis@scdhhs.gov

Kim Cox
Communications Director
S.C. Department of Health and Human Services
1801 Main St.
Columbia, SC 29201

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Sincerely,



Rick Brundrett

Editor

The Nerve (www.thenerve.org)

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Post Office Box 8297
Columbia, South Carolina 29202-8297

Please contact _____ should you have any questions.

Signature _____ Date: _____

Re: FOIA Request of March 11, 2013

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Please let us know how you would like us to proceed, and if there are any questions, please feel free to contact me at (803) 898-2452.

Sincerely,

Colleen Mullis
Office of Communications

August 30, 2006

Director

J. Michael Jernigan
President & CEO
Select Health of SC, Inc.
PO Box 40849
Charleston, South Carolina 29423

Dear Mike:

Thank you for your inquiry regarding whether repackaged pharmaceuticals are eligible for reimbursement under the South Carolina Medicaid Program, and whether doctors can dispense them from their office and bill a Managed Care Organization for payment.

Typically the traditional fee-for service program requires a manufacturer to enter into and have in effect a rebate agreement with the Secretary of the U.S. Department of Health and Human Services. A manufacturer is defined in Section 1927K(5)(B) of the Act as any entity, which is engaged in the packaging, repackaging, labeling, relabeling, or distribution of prescription drug products. Unless a repackager has entered into a rebate agreement with the Secretary, reimbursement for covered out patient drugs is not available under the fee-for-service program.

However, the federal regulations are silent with regards to whether payment to a Managed Care Organization (MCO) by the Medicaid program for repackaged non-rebated drugs is allowable. Since the Medicaid program pays a MCO a capitated rate net of rebates and allows the MCO to develop its own formulary and acquisition cost, it is our opinion that the MCO can enter into its own arrangements for the purchase of drugs for its enrollees, and that doctors participating in the program could dispense and bill the MCO for payment.

Thank you for continued support of the Medicaid Program. If you have any questions or wish to discuss this further, please contact me at (803) 898-2504

Sincerely,

Robert M. Kerr
Director

RMK/sb

Office of the Director
P.O. Box 8206 • Columbia, South Carolina 29202-8206
(803) 898-2504 • Fax (803) 898-4515

Re: FOIA Request of January 23, 2013

Dear Mr. Brundrett:

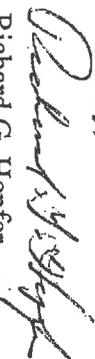
Thank you for your second follow-up of March 11, 2013. It appears that a separate file on the matter of your inquiry was not established. However, we believe agency staff was able to extract the information you requested from several individual executive correspondence and tracked response files. Please let us know if we have misunderstood your request or if you would like us to expand the search.

Our expense for extracting, reproducing, and mailing this information totals twenty-two and 72/100ths dollars (\$22.72). If you care to include the previous costs (\$11.25), the total amount would be thirty-three and 97/100ths dollars (\$33.97). Either way, please make the check payable to the Department of Health and Human Services and send it to:

Department of Health and Human Services
Department of Receivables
Post Office Box 8297
Columbia, SC 29202-8297

If there are any questions, please feel free to contact me at the address below or at my direct line: (803) 898-2791.

Sincerely,



Richard G. Hepfer
Deputy General Counsel

Enclosures

cc: Lynette Wilson, Receivables (w/o enclosures)

(803) 898-2584

>>> "O'Connor, John" <jocconnor@thestate.com> 6/3/2008 11:46 AM >>>

Jeff, attached is an FOI request. Please contact me if you have any questions. Thanks for the help.

<<SelectHealthFOI.doc>>

John O'Connor
Staff Writer
The State
Columbia, S.C.
803-771-8358 (w)
803-771-8430 (f)

Jeff Stensland
Public Affairs Officer
South Carolina Department of Health and Human Services
P.O. Box 8206
Columbia, SC 29202-8206

June 3, 2008

Dear Mr. Stensland,

Pursuant to state freedom of information laws, I request the following:

- 1) Any correspondence, written or electronic, between DHHS and the Center for Medicaid Services requesting guidance about changes to Medicaid contracts or how services are delivered in calendar year 2007 and 2008. In particular, I am interested in any requests about the repackaging of pharmaceuticals for sale in doctors' offices.
- 2) Any contract addendums or changes between DHHS and Select Health of South Carolina during calendar year 2007 and 2008.

According to state law you have 15 days to respond, which by my count would mean a response is due on or before June 18, 2008. Because this request is in the public interest, I ask that you waive all fees associated with the search. Feel free to contact me about the best way to make these records available or any questions you might have. I can be reached at the office at 803-771-8358, cell phone at 803-240-9108 or e-mail at jocconnor@thestate.com.

Thank you for your timely response to this request.

Sincerely,

John O'Connor

We are expanding our PCP contract to include distribution of prepackaged generic drugs at the PCP office, so are submitting attached Word document for DHHS approval. We have a number of practices that are interested in this program, so are requesting an expedited review if possible. =20

Would you please let me know that you've received this e-mail and provide an expected review date?

thanks
Cindy

Message containing double extensions/CLSID exploit.
This message contained attachments that have been blocked by Guinevere. Please see your system administrator for more details

_____, 2007 by and among Select Health of South Carolina, Inc. ("Plan"), [] day of ("Provider") and AmeriHealth Mercy Health Plan db/a PerformRx ("PerformRx").

WHEREAS, Plan and Provider are parties to a Provider Participation Agreement ("Provider Agreement"), pursuant to which Provider renders Covered Services to Plan Members; and

WHEREAS, Plan and Provider mutually desire to expand the scope of Covered Services rendered by Provider, to include dispensing of certain prepackaged pharmaceutical products (the "Physician Dispensing Program"); and

WHEREAS, PerformRx provides pharmacy benefit management services, including but not limited to arranging for the processing and payment of claims for pharmaceutical products; and

WHEREAS, the parties desire to set forth their collective agreement with respect to Provider's participation in, and compensation for, the Physician Dispensing Program.

NOW, THEREFORE, in consideration of the foregoing, and of the mutual promises set forth hereinafter, and intending to be legally bound hereby, the parties agree as follows:

1. **Definitions.** Capitalized terms used in this Addendum, and not defined herein, shall have the meaning ascribed to them in the Provider Agreement. The following terms have the following meanings:

a. **Covered Medications.** Those prescription drugs, in generic form, that are identified by Plan to be included in the Preferred Drug List for the Physician Dispensing Program.

b. **Preferred Drug List ("PDL").** The list of preferred drug items which may be dispensed to Members under the Physician Dispensing Program, which are developed, published and periodically revised by Plan.

c. **On-Line Claims Processing System ("OCCPS").** The electronic system through which Provider enters Member-specific prescription order information and through which claims are submitted to PerformRx's claims processor for adjudication, in connection with the provision of Covered Medications to Members under this Addendum.

2. **Provider Obligations.**

Covered Medications to be processed and for compensation to be paid to Provider's claims for Addendum. Provider shall provide Plan with its NCPDP identification number.

c. Provider is solely responsible for arranging for the acquisition of Covered Medications from a South Carolina-licensed drug distributor ("Distributor"), including payment therefor. Covered medications may only be acquired from an appropriately licensed facility, and Provider shall be solely responsible for determining the Distributor's license or permit status with the South Carolina Board of Pharmacy.

d. Prior to dispensing any Covered Medication, Provider shall verify the Member's eligibility through the State eligibility verification system and through the OCPS. Provider agrees to dispense Covered Medications in accordance with the authorization issued by the OCPS. In dispensing a Covered Medication, Provider shall: (i) provide appropriate drug product consultation and counseling; (ii) respond as necessary to all processing messages; (iii) consider all drug utilization (DUR) messages, PDL information and other Plan benefit information, using his/her independent professional judgment in the evaluation of such messages and the dispensing of Covered Medications to Members; and (iv) affix appropriate label(s) to containers to be dispensed to Members, in accordance with the labeling requirements of state and federal laws and regulations.

e. Following verification of Member eligibility, Provider's claim for Covered Medication will be submitted through the OCPS. If approved for dispensing, the OCPS will generate an approval code and a label which Provider must affix to the container in which the drug product will be dispensed. If the claim is rejected, or if Provider is unable to transmit a claim through the OCPS, Provider shall attempt to resolve by contacting the appropriate system application supplier.

f. Provider shall be solely responsible for providing and maintaining, at its sole cost and expense, the equipment, software and communications network transmission capabilities necessary to submit orders and claims for Covered Medications via the OCPS, and to receive processing messages, drug utilization messages and PDL information.

g. It is hereby specifically acknowledged that Provider's dispensing activities hereunder are exempt from Pharmacy permit requirements pursuant to S.C. Code Ann. 40-43-60(1), which provides in relevant part that a licensed practitioner may dispense drugs that are the lawful property of the practitioner (or a partnership or corporate entity which is fully owned by licensed practitioners) without the need to obtain a Pharmacy permit. Notwithstanding such exemption, Provider agrees to comply with all relevant statutory and/or regulatory requirements that the South Carolina Board of Pharmacy has issued or may in the future issue with respect to the activities encompassed within the Physician Dispensing Program. Further notwithstanding the foregoing exemption, Provider shall maintain appropriate clinical documentation in Members' medical

of such registration to Plan. Provider hereby agrees to observe and abide by all federal and state statutory and regulatory requirements relating to the acquisition, maintenance and dispensing of controlled substances, including but not limited to all such requirements as are set out in S.C. Code Ann. 44-53-10 *et seq.*, S.C. Code Ann. Regs. 61-4, and 21 CFR Part 1301, all as may be amended from time to time.

h. Provider acknowledges and agrees that PerformRx and/or its authorized representatives may, upon reasonable notice, audit Provider's records pertaining to the provision of Covered Medications. Provider shall cooperate with PerformRx and/or its auditors and promptly provide access to all relevant information and documents requested in connection with such audits.

3. Compensation.

a. Provider Compensation. PerformRx shall pay Provider, or cause Provider to be paid, for Covered Medications dispensed to Members under the Physician Dispensing Program in accordance with the fee schedule set forth in Schedule 3.a, attached hereto and incorporated herein by reference. All claims for Covered Medications must be submitted via a switch or lease line compatible with the OCPS. Provider shall be solely responsible to pay the designated switch or lease line charges and processor service charges associated with all claims submitted under this Addendum. In the event that Provider submits a claim for a product that is subsequently not dispensed to a Member, Provider shall then submit a reversal of that claim through the OCPS.

Provider shall accept the payments described herein as payment in full for Covered Medications. Provider shall look only to PerformRx for payment, and shall hold Plan harmless from and against the lack of payment by PerformRx, except to the extent that such non-payment is the result of Plan's failure to fund the Disbursement Account as required in Section 3.b. Provider shall not be entitled to reimbursement by any other third party for Covered Medications. Any amount so collected by Provider shall be reported and paid over to PerformRx; provided, however, that PerformRx may, at its option, deduct any such amount from its payments to Provider.

All claims submitted via the OCPS must be accurate and verifiable. Any claims that are inaccurate and/or un-verifiable are subject to reversal and recovery by PerformRx up to the total amount of the claim. If PerformRx disputes any amount billed by Provider, or if any amounts previously paid to Provider are determined to have been paid in error, PerformRx may withhold payments due to Provider until the dispute is resolved or the amount owing to PerformRx is recovered.

b. [RESERVED]

4. Confidentiality. PerformRx agrees to safeguard information about Plan Members

paid:

$$(\text{PerformRx MAC}^*) + (\text{Dispensing Fee of } \$x.00)$$

For Covered Medications dispensed through the Physician Dispensing Program for which there is no MAC, Provider shall be paid:

$$(\text{AWP}^{**} - x\%) + (\text{Dispensing Fee of } \$x.00)$$

* MAC = the maximum unit ingredient cost allowed or reimbursed by PerformRx for specifically selected and identified multi-source drugs used by a Plan.

** AWP = Average Wholesale Price, or the price for a given drug product as published in a nationally recognized compendia of wholesale drug prices used by PerformRx in calculating payments for Covered Medications.

PerformRx shall cause payment to be made to Providers for amounts due for each Financial Cycle. Plan shall authorize PerformRx's designated claims processor to pay Providers in accordance with this Addendum. For purposes of this paragraph, "Financial Cycles" shall occur tri-monthly, ending on the 10th, 20th and last day of each month.



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- Pharmacist-supported drug dispensing programs for medical offices
- Modern facility using state-of-the-art robotics and inventory management systems
- Access to vast selection of generic and branded medications including controlled substances
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- Username:
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- Register to receive press releases in your Inbox...
- View the trade shows PerformRx will be participating in
- Visit AmeriHealth Mercy

Clients

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PerformRx, a division of [AmeriHealth Mercy](#), provides "Generation" of pharmacy benefit management services a distinctive approach for Managed care plans nationwide unique expertise in Medicaid and Medicare Part D. PerformRx is headquartered in Philadelphia, Pennsylvania.

PerformRx

Attention [AmeriHealth 65 Basic](#), [AmeriHealth Ac](#) and [Keystone 65 Complete members/providers](#). Click on the plan name below to access prior authorization forms, formulary and other pharmacy benefit information.

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BZ

M. Melanie "Bz" Giese, RN
Bureau Director, Health Services
SC DHHS
PO Box 8206
180 I Main Street, J-1224
Columbia, SC 29202
803-898-2868
803-255-8353 (fax)

>>> Bryan Kost 9/19/2007 2:27 PM >>>

Hi:

Speaker Harrell said he has a company that does pharmacy repackaging. He has a contract with Select Health and he says the company has recently sent us a three page addendum that will need to be approved for Select to implement this effort with their physicians. He said Select drop the ball and was supposed to send it weeks ago. He was asking for expedited approval, if possible.

Can someone please update Col. Forkner on that (me, too, please.)

Bryan Kost
DHHS Public Information
803.898.2865
cell- 429.3201
kostbr@scdhhs.gov

Looking at our FQHC proviso (below), I guess Rep. Crawford would essentially be trying to offer the same dispensing capabilities that our proviso ensures FQHCs.

Just a heads up.

8.34. (DHHS: Federally Qualified Health Centers-Pharmacies) (A) Federally qualified health centers are suspended from provisions of Chapter 43, Title 40 of the 1976 Code that require:

(1) all facilities distributing or dispensing prescription drugs to be permitted by the Board of Pharmacy;

(2) each pharmacy to have a pharmacist-in-charge;

(3) a pharmacist to be physically present in the pharmacy or health center delivery site in order to serve as the pharmacist-in-charge;

(4) a pharmacist to serve as a pharmacist-in-charge for only one pharmacy at a time.

(B) A federally qualified health center must be recognized as a covered entity under Section 40-43-60(1) of the 1976 Code allowing licensed practitioners, as defined by Section 40-43-30(45), to dispense drugs or devices that are the lawful property of the practitioner or the corporation.

(C) A federally qualified health center may transport medications in the same manner as allowed by laws for free clinics and/or private physician practices.

Bryan Kost
DHHS Public Information
803.898.2865

Bryan Kost
DHHS Public Information
803.898.2865
cell - 429.3201
kostbr@scdhhs.gov

requested we do a timely review of this contract Addendum. Jan, I spoke with Robby and he tells me there is a letter in the files that he wrote Speaker Harrell about this issue. It would be good to find it if possible.

2nd issue deals with Select Health and the contractual issues with the hospital(s) and their contingency plan.

Sorry to interrupt everyone's schedule. Thanks for being responsive.

Emma

Emma Forkner
Director

Department of Health and Human Services
1801 Main Street
Columbia, South Carolina 29201
(803) 898-2504
(803) 255-8235 fax

Deirdra T. Singleton
Deputy Director/General Counsel
Department of Health and Human Services
1801 Main Street
Columbia, South Carolina 29201
(803)898-2795
(803)255-8210 fax

>>> Emma Forkner 10/8/2007 8:34 AM >>>
Any update on CMS review of the contract addition for Select Health? I never know when we will get a call from Bobby Harrell.
Thanks for letting me know.

Emma

Emma Forkner
Director
Department of Health and Human Services
1801 Main Street
Columbia, South Carolina 29201
(803) 898-2504
(803) 255-8235 fax