

DEPARTMENT OF HEALTH AND HUMAN SERVICES
OFFICE OF DIRECTOR

ACTION REFERRAL

| | |
|---------------------------|------------------------|
| TO <i>Roberts/FOIA</i> | DATE <i>8-16-12</i> |
|---------------------------|------------------------|

| DIRECTOR'S USE ONLY | ACTION REQUESTED |
|--|--|
| 1. LOG NUMBER <i>100050</i> | <input type="checkbox"/> Prepare reply for the Director's signature DATE DUE _____ |
| 2. DATE SIGNED BY DIRECTOR <i>CC: Mr. Keck, Singleton</i> <i>Cleared 8/6/12, letter attached</i> | <input checked="" type="checkbox"/> Prepare reply for appropriate signature DATE DUE _____ <input checked="" type="checkbox"/> FOIA DATE DUE <i>8-30-12</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. | | | |

Pls log FOIA -

Roberts

C: Director
COS

FAX (803) 256-2213

PATRICIA L. HARRISON
ATTORNEY AT LAW
611 HOLLY STREET
COLUMBIA, SOUTH CAROLINA 29205

TELEPHONE (803) 256-2017

August 13, 2012

HAND DELIVERED
URGENT - REQUIRES IMMEDIATE ATTENTION

Mr. Anthony Keck
South Carolina Department of Health and Human Services
Main and Laurel Streets
Columbia, South Carolina

RECEIVED

AUG 13 2012

Re: Tammy Morris

Department of Health & Human Services
OFFICE OF THE DIRECTOR

Dear Mr. Keck:

I am writing this letter to give you and your agency the opportunity to make corrections which, if not corrected, may lead to the improper use of legal process for purposes of retaliation against a state employee. **Time is of the essence to prevent the mother of four school aged children from being arrested based on erroneous information and analysis provided by your agency.** Also, I write to formally inform DHHS of what appears to me to be gross overbilling by one of your managed care providers, First Choice. This overpayment was not discovered by your internal audit staff when they faxed the detailed claims reports of Tammy Morris and her children to the Attorney General.

The attached detailed claims reports were presented to Tammy Morris when the South Carolina Attorney General's Office demanded payment of \$23,428.68 in one lump sum payment. The investigator informed me that they intend to arrest her based entirely on information provided to him by your office. The information that DHHS provided to the Attorney General's Office presented to Ms. Morris contains the following errors:

1. Neither Ms. Morris nor her children received any Medicaid benefits during 2009, 2010, 2011 or 2012. Ms. Morris is unfamiliar with Kimberly Seymore, Farrion Lee Seymore, Bobby Rivers, Starta Crystal Owens or Chyenney Lewis, whose detailed claims reports were delivered to Ms. Waddle with the demand for payment to HHS. Exhibit 1. (I will leave it to you to address the HIPAA violations incurred thereby and to notify these individuals that their health care information was released to Ms. Morris.) After I called this error to the investigator's attention, he did drop the claims against Ms. Morris for claims your agency paid for these unrelated persons' care.
2. Someone made an anonymous report to your office that Ms. Morris has been married "for about 13-14 years" to Michael Woodle. She is not married to Mr. Woodle. We have

reason to believe that this false report may have been provided by a former deputy at DSS or another supervisory employee there in retaliation. Your agency provided this information to the Attorney General, who made the false allegation on the affidavit he provided to the Court stating that Mr. Woodle was Ms. Morris' "common law spouse." Based on the information your agency provided, this investigator falsely informed the Court that "the estimated total loss (as of the date of this document) to SCDHHS-Medicaid is approximately \$21,000.00."

3. I am not familiar with any legal basis for attempting to attribute income of Michael Woodle to determine Medicaid eligibility for Brandon Morris, who is not his child, but your agency's detailed claims report for Brandon Morris shows that First Choice billed South Carolina Medicaid for \$1,791 for Doxycycline and \$6,112.00 for Enalapril Maleate in December 2006, the first month they received Medicaid benefits. These charges are marked up 100 times the actual cost (based on the amount paid for these drugs in later months).
4. The payment of \$9,181 for Omnicef for Benjamin Morris - also during the month of December, 2006 - appears to be one hundred to two hundred times the retail cost of this drug. The South Carolina Attorney General was not interested in investigating these overpayments when I tried to bring them to his attention. Since your agency is attempting to collect these amounts from my client, we are requesting information on any overpayments by DHHS managed care companies of which your agency is aware. This request is made pursuant to FOIA. Has DHHS adjusted its detailed claims reports for individuals when you have discovered overpayments to providers, like the \$10.5 million overpayment to the managed care company where Ms. Felicity Myers was working when she left your agency?
5. For purposes of my analysis, I have not included any costs attributable to Brandon Morris, since Michael Woodle did not have any liability for the cost of his medical care.
6. During 2006, this family received Medicaid benefits for only one month, December. Ms. Morris and Mr. Woodle purchased a home at 111 Oak Cove Drive in Columbia, S.C. in October, 2006. During the last quarter of 2006, Mr. Woodle made one house payment, Ms. Morris became pregnant (with a child who was delivered in August the following year) and Mr. Woodle was arrested soon after the conception of this child. Ms. Morris did not know his whereabouts after his arrest and reported him missing to the Richland County Sheriff's Department. He was not present in the home when Ms. Morris completed the December 7, 2006 annual review form.

Even if Mr. Woodle had been in the home the entire fourth quarter of 2006, his income of \$2,924.96 (\$2,824.96 with the income disregard) per month did not exceed the income limit for the Partners for Healthy Children program for that quarter. All of the charges for the children were incurred during December, 2006, when they were clearly eligible, even considering Mr. Woodle's income. Although Ms. Morris did not know of Mr. Woodle's whereabouts during December, 2006, it is believed that his income was considerably

below this average monthly amount for the fourth quarter due to his incarceration.

Your agency simply took Mr. Woodle's average income for the year and attributed that amount to Ms. Morris for the month of December, in order to make it appear that she lied on the application for Medicaid benefits. There is no statute nor rule which would allow DHHS to attribute income earned by the children's father between January and November to the month of December.

7. There are three reasons why the Omnicef charge in Benjamin Woodle's detailed claims report is in error. First, Benjamin is allergic to this drug and his medical chart at Dr. Wessinger's office contains a warning not to prescribe Omnicef. Secondly, the price for this drug appears to have been inflated at least 100 times the retail price. Thirdly, as discussed above, the agency based its determination of his eligibility on income earned in earlier months by a nonrelated party who had no duty to support Brandon. We hope that your agency will investigate why this excessive payment was made to First Choice.
8. During 2007, Ms. Morris was pregnant with her fourth child, Myles, who was born in August. She lived at various places, as the home at 111 Oak Cove Drive was by that time in foreclosure. Even if Mr. Woodle had been present in the home the entire year, his monthly income for the first, third and fourth quarter was less than the allowable income limit. Those quarters should not be at issue. It is very difficult to read the copies the detailed claims reports the AG's Office provided to me, which were apparently faxed to them by your internal audit division. But, even if Mr. Woodle's income was countable during the second quarter, it appears that only **\$694.40** in benefits would have been improperly billed to Medicaid for services provided to his children during that quarter if he was in the home. We are gathering evidence to document that Mr. Woodle was not in the home during the second quarter. (Ms. Morris did not receive any Medicaid benefits during the second quarter.)
9. There are no costs reported on the claims forms for Ms. Morris' children during 2008. She received Medicaid benefits in the amount of \$214.20 during the first quarter of that year. But, the combined income of Ms. Morris and Mr. Woodle (had he been in the home) was less than the income limit during the time when these benefits were received.

The allegations of Medicaid fraud brought against my client, which are based solely on information and eligibility analysis provided by HHS, have caused harm, including extreme emotional distress, to Tammy Morris. This injury will only be exacerbated if she is arrested based on the referral by HHS to the Attorney General alleging Medicaid fraud. **We are respectfully asking you to notify Investigator Stuart Andrews and Prosecutor Camille Guthrie of the Office of the Attorney General of these errors today so as to avoid further injury due to this scheme which involves the abuse of legal process against my client.** In hopes of preventing further violation of my client's civil rights, I am delivering a copy of this letter to Mr. Keck's attorneys, Byron Roberts and Roy Laney.

While we are gathering evidence to support Ms. Morris' defense that Mr. Woodle was not present in the home during the second quarter of 2007, she is willing to tender payment of \$694.00 pending resolution of your agency's claim. This is simply an offer to prevent the arrest of this mother of four, who is likely to lose her job if she is arrested pursuant to information your agency provided the Attorney General. It is not an admission that these children were not eligible for these benefits. We will be happy to share the information we collect to show that he was not living in the home at that time and request a meeting to discuss this case.

Sincerely,



Patricia L. Harrison

cc: Tammy Morris (via hand delivery)
Attorney General MWilson (via fax and hand delivery)
Camille Guthrie (via fax and hand delivery)
Stuart Register, (via fax and hand delivery)
Lillian Kellar, DSS (via fax and mail)
Roy Laney, Esq. (via email, fax and hand delivery)
Byron Roberts, Esq. (via email, fax and hand delivery)



ALAN WILSON
ATTORNEY GENERAL

May 9, 2012

Ms. Tammy R. Morris
308 S. Shields Road
Columbia, South Carolina 29223

Ms. Morris,

Per our conversation I mailing to you a copy of the "Detailed Claims Report" that shows an itemized listing of the charges that Medicaid paid for during the period from 2006 forward. During our investigation we have established probable cause to believe you were ineligible for Medicaid benefits and further that you unlawfully provided false and/or misleading information to Medicaid in order to acquire certain benefits. The total loss to the victim (Medicaid) is approximately **\$23,428.68**. During our discussion I pointed out several options to you and you indicated that you would prefer to voluntarily pay back the victim (Medicaid) if possible. If you choose to do this it must be purely voluntary on your part. In cases where an individual in your situation chooses to reimburse Medicaid, you must do so in a single "lump sum" payment. Normally this payment is made within thirty (30) to sixty (60) days and I can again explain to you the details of how the funds are transferred from you to Medicaid. I also realize that you may need to seek out the advice of lawyer or to possibly involve family members to guide you and assist you in the acquisition of a bank loan. We certainly understand this but we urge you to act quickly in this matter and remain in constant contact with us during these activities. Please contact me weekly as you know more about how you would like to proceed. If we do not hear from you it certainly limits our options in this matter.

Please feel free to contact me at (803) 223-3733 and I will answer any questions you may have to the best of my ability.

Sincerely,

W. Stuart Register
Special Investigator
S.C. Attorney General's Office
Post Office Box 11549
Columbia, South Carolina 29211
Email: sregister@scag.gov



ALAN WILSON
ATTORNEY GENERAL

Date: July 5, 2012

Ms. Patricia Harrison, Esquire
611 Holly Street
Columbia, South Carolina 29205

Dear Ms. Harrison,

Per our discussion on 06-12-12 at the SCAGO, I have voluntarily provided you with a full copy of our SCAGO case file and therefore no discovery motion will be necessary. You will see that I have obtained a corrected "Detailed Claims Report" (DCR) and I have made some highlighted notes (in yellow) that I hope will help you more fully understand this matter and assist your client. If you have Medicaid eligibility questions you should contact SCDHHS directly. In the enclosed packet I have included names and numbers of those who may assist you at SCDHHS or you are welcome to speak with anyone there of your own choosing. Since this is a criminal investigation you indicated that you might refer Ms. Morris to another attorney. If this occurs please let me know.

With kind regards, I am

Sincerely,

W. Stuart Register
Special Investigator
SCAGO – Medicaid Recipient Fraud Unit



State of South Carolina
Department of Health and Human Services

Mark Sanford
Governor

Emma Forkner
Director

FAX COVER SHEET

"CONFIDENTIAL INFORMATION ENCLOSED"

DATE: _____

TO: Stewart Register

TELEPHONE #: (803) 223-3733

FAX #: 966 359-2001

FROM: Caprise Graham

Total Number of Pages Transmitted: _____ (Including Cover Sheet) *Myra*

COMMENTS:

_____ *Shivers*
_____ *(803) 785-2930*
_____ *WSP*

Confidentiality Note

This message is intended for the use of the person or entity to which it is addressed and may contain information, including health information, that is privileged, confidential, and the disclosure of which is governed by applicable law. If the reader of this message is not the intended recipient, or the employee or agent responsible to deliver it to the intended recipient, you are hereby notified that any dissemination, distribution or copying of this information is **STRICTLY PROHIBITED**. If you have received this in error, please notify us immediately and destroy the related message. Thank you.

Division of Program Integrity
P. O. Box 100210 • Columbia, South Carolina 29202-3210
(803) 898-2640 • Fax (803) 255-8224

MORRIS, BRANDON E Medical: 02-550224902 DOB: 4/25/1991 Gender: Male

[illegible]

Database: p15621

Medstat

Run Date: Wed, May 09 2012 12:48:55 PM

Author: b21cyoun

Record Listing Filename: /medstat/advantage/advop621/home/b21cyoun/templLegal DCR 2012-05-09 12:48:05.rtf

Description: A listing of records from all facility, professional, nh, and drug claims data. Includes U claims to net voids. E claims excluded by record type. Omitted deleted and rejected lines. Omitted header lines noted as 0 in the database. Omitted J claims.

Subset: /Capitol Georgetown NEW STANDARD SUBSET

((Claim Type = DENTAL,HIC,MANUAL-XOVER-B,MED-TRANS,MEDICARE-B And Status Line <=> Delete Claim Deny Claim And Line Number <=> 0) Or Claim Type = BUY-IN,DRUG,MANUAL-XOVER-A,MEDICARE-A,NURSE-HOME-INV,UB92) And Record Type = Encounter HMO,Encounter PEP,FFS,Non Claim Financials And Last Claim Indicator = Y And (Service Date MMDDYYYY = 12/01/2006-08/01/2007 And Person ID Unencrypted = 3780226883,9530224902,9530224903)

Time Period: No Time Period Defined

Tables: Notes:

Database: p15621

Medstat

Run Date: Wed, May 09 2012 12:43:24 PM

Author: b21cyoun

Record Listing Filename:AMEDSTATADVANTAGEVOP621/home/b21cyoun/AMEDPLSQL DCR 2012-05-09 12:42:44.riv

Description: A listing of records from all facility, professional, nh, and drug claims data. Includes U claims to net voids. E claims excluded by record type. Omitted deleted and rejected lines. Omitted header lines noted as 0 in the database. Omitted J claims.

Subset: /Caprise Grahamcy NEW STANDARD SUBSET

((Claim Type = DENTAL,HIC,MANUAL-XOVER-B,MED-TRANS,MEDICARE-B And Status Line <=> Delete Claim,Deny Claim And Line Number <=> 0) Or Claim

Type = BUY-IN,DRUG,MANUAL-XOVER-A,MEDICARE-A,NURSE-HOME-INV,JB82) And Record Type = Encounter+HMO,Encounter PEP,FFS,Non Claim

Financials And Last Claim Indicator = Y And (Service Date MMDDYYYY = 11/01/2007-04/01/2008 And Person ID Unencrypted = 9530224901)

Time Period: No Time Period Defined

Tables: Notes:

Claim Count:

130

Medicaid Total Paid:

\$2,618.73

HMO Total Paid:

\$20,630.26

Medicaid and HMO Total Paid

\$23,248.99

— for the kids

+ 179.69 — for the client

\$ 23,428.68 — grand
total

SEYMORE, FARRON LEE Medication ID: 4780200078 DOB: 11/08/2007 Gender: Male

[illegible]

Claim Counts

Richard J. Papp

HHO Total Paid:

Medical and PHO Tobacco Products

REVERA, BOBBY - Missing MEXICAN ID: 5780326450 DOB: 04/12/2003 Gender: Male

**South Carolina Department of Health and Human Services
Detailed Claims Report**

Charm Counts
Medicaid Total Paid:
HMO Total Paid:
Medicaid and HMO Total Paid:

LEWIS, CHEYENNE S Medicaid ID: 878123616 DOB: 402622018 Gender: Female

**South Carolina Department of Health and Human Services
Detailed Claims Report**

[illegible]

Claim Counts

Medical Total Paid:

MMO Total Paid:

Medicaid and HMO Total Payers

8512

SCDHHS

5/2/2011

DUMENS, SIARIA CRYSTAL Medical ID: 023881902 DOB: 12/8/1980 Gender: Female

South Carolina Department of Health and Human Services Detailed Claims Report

[illegible]

Please give to Marc.

Finches

SCD-1HS

①

592072



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:

Law Office of Patricia L. Harrison

611 Holly Street
Columbia SC 29205
(803) 256-2017
Fax: (803) 256-2213

FAX TRANSMISSION COVER SHEET

Date: August 13, 2012
To: Byron Roberts, Esquire
Fax: 803-255-8210
Re: Anthony Keck
Sender: Patricia L. Harrison

YOU SHOULD RECEIVE 5 PAGE(S), INCLUDING THIS COVER SHEET. IF YOU DO
NOT RECEIVE ALL THE PAGES, PLEASE CALL (803) 256-2017

RECEIVED

AUG 13 2012

Department of Health & Human Services
OFFICE OF THE DIRECTOR

Log FOIA-
Roberts
c: COS
Director

The information contained in this facsimile message is confidential, protected by the attorney client privilege and intended for the use of only the individual or entity named above. If the reader of this message or information is not the intended recipient of the message or information transmitted herewith, you are hereby notified that any discrimination, distribution, or copying of this message or information is strictly prohibited. If you have received this communication in error, please immediately notify the sender by telephone and return the original message to us at the above address via U. S. Postal Service. Thank you.

PATRICIA L. HARRISON
ATTORNEY AT LAW
811 HOLLY STREET
COLUMBIA, SOUTH CAROLINA 29205

TELEPHONE (803) 258-2017

FAX (803) 258-2213

August 13, 2012

HAND DELIVERED
URGENT - REQUIRES IMMEDIATE ATTENTION

Mr. Anthony Keck
South Carolina Department of Health and Human Services
Main and Laurel Streets
Columbia, South Carolina

Re: Tammy Morris

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reason to believe that this false report may have been provided by a former deputy at DSS or another supervisory employee there in retaliation. Your agency provided this information to the Attorney General, who made the false allegation on the affidavit he provided to the Court stating that Mr. Woodle was Ms. Morris' "common law spouse." Based on the information your agency provided, this investigator falsely informed the Court that "the estimated total loss (as of the date of this document) to SCDHHS-Medicaid is approximately \$21,000.00."

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below this average monthly amount for the fourth quarter due to his incarceration.

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7. There are three reasons why the Omnicef charge in Benjamin Woodle's detailed claims report is in error. First, Benjamin is allergic to this drug and his medical chart at Dr. Wessinger's office contains a warning not to prescribe Omnicef. Secondly, the price for this drug appears to have been inflated at least 100 times the retail price. Thirdly, as discussed above, the agency based its determination of his eligibility on income earned in earlier months by a nonrelated party who had no duty to support Brandon. We hope that your agency will investigate why this excessive payment was made to First Choice.
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The allegations of Medicaid fraud brought against my client, which are based solely on information and eligibility analysis provided by HHS, have caused harm, including extreme emotional distress, to Tammy Morris. This injury will only be exacerbated if she is arrested based on the referral by HHS to the Attorney General alleging Medicaid fraud. We are respectfully asking you to notify Investigator Stuart Andrews and Prosecutor Camille Guthrie of the Office of the Attorney General of these errors today so as to avoid further injury due to this scheme which involves the abuse of legal process against my client. In hopes of preventing further violation of my client's civil rights, I am delivering a copy of this letter to Mr. Keck's attorneys, Byron Roberts and Roy Laney.

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Sincerely,



Patricia L. Harrison

cc: Tammy Morris (via hand delivery)
Attorney General MWilson (via fax and hand delivery)
Camille Guthrie (via fax and hand delivery)
Stuart Register, (via fax and hand delivery)
Lillian Kellar, DSS (via fax and mail)
Roy Laney, Esq. (via email, fax and hand delivery)
Byron Roberts, Esq. (via email, fax and hand delivery)



Log 050

Anthony E. Keck, Director
Nikki R. Haley • Governor

September 6, 2012

Patricia L. Harrison
611 Holly Street
Columbia, South Carolina 29205

Re: Tammy Morris

Dear Ms. Harrison:

Your correspondence received by the South Carolina Department of Health and Human Services (SCDHHS) on August 13, 2012, was forwarded to me for response. With respect to your request for information pursuant to the Freedom of Information Act, you will receive a response under separate cover from the SCDHHS Office of General Counsel. Regarding Ms. Morris, SCDHHS staff have reviewed the details of her case and would like to reassure you and your client on several points.

Ms. Morris is not going to be arrested and the fraud case against her is being closed by the Medicaid Recipient Fraud Unit in the SC Attorney General's Office. Her case was initially referred to the Attorney General's office based on a SCDHHS fraud hotline complaint. When SCDHHS receives a Medicaid fraud complaint, Program Integrity staff conduct a preliminary investigation. If they confirm a credible allegation or suspicion of Medicaid fraud, the case is referred to the SC Attorney General's Office for a full investigation. That is our normal process.

In your client's case, the Attorney General's investigation may have established probable cause to believe she was ineligible for Medicaid benefits for certain periods of time. However, the amount of benefits paid during these periods in question was not correctly presented by Stuart Register, the AG investigator. The detailed claims reports from SCDHHS listed the services paid directly by SCDHHS, which would be the monthly managed care premiums plus any other services, such as dental or family planning, which were not covered by the managed care plan and thus were paid fee-for-service. The detailed claims reports also show the amounts paid by managed care organizations for services received by your client and her family. The overpayment by Medicaid, however, should have been based solely on the amount paid directly by SCDHHS. For the time frame under review, this amounted to \$2,798.42, not the \$23,428.68 that Mr. Register built his case on.

Because of this misunderstanding, the Attorney General's Office is closing the case and will send the case file back to us. Furthermore, we have since clearly instructed the Attorney General's office that beneficiary fraud overpayments should only be based upon the cost of services paid directly by SCDHHS.

Ms. Patricia Harrison
September 6, 2012
Page 2

Similarly, the First Choice payments you saw on the detailed claims report were transactions between First Choice and the various health care providers, and do not represent payments from SCDHHS to First Choice. First Choice is a capitated, full risk managed care organization, and is required to provide payment for the services needed by the beneficiary out of the premium payment made by SCDHHS. Because of the apparent outlier costs for some of these drugs, however, and your concern that the Omnicef drug should not have been prescribed or administered, the Division of Program Integrity is investigating these payments.

Thank you for informing us of the detailed claims reports involving recipients unrelated to Ms. Morris or Mr. Woodle. This matter has been referred to our Privacy Official, who will take the appropriate actions based on HIPAA and the Medicaid Confidentiality regulations.

Please do not hesitate to call me at (803) 898-1050 if you need any more information.

Sincerely,

A handwritten signature in black ink, appearing to read "Kathleen Snider".

Kathleen Snider, Bureau Chief
Compliance and Performance Review

KS/m