

DEPARTMENT OF HEALTH AND HUMAN SERVICES  
OFFICE OF DIRECTOR

ACTION REFERRAL

TO <i>Wells</i>	DATE <i>2-15-11</i>
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DIRECTOR'S USE ONLY	ACTION REQUESTED
1. LOG NUMBER <i>100360</i>	<input type="checkbox"/> Prepare reply for the Director's signature DATE DUE _____
2. DATE SIGNED BY DIRECTOR <i>Cleared 2/16/11, see note per Wells.</i>	<input checked="" type="checkbox"/> Prepare reply for appropriate signature DATE DUE <i>2-25-11</i> <i>Cleared up by phone conversation with Tenn. State Bar 2/16/11. We have agreed and a process for how to bill for the funding</i>

APPROVALS (only when prepared for director's signature)	APPROVE	* DISAPPROVE (Note reason for disapproval and return to preparer.)	COMMENT
1.			<i>Shane</i>
2.			
3.			
4.			



SOUTH CAROLINA GENERAL ASSEMBLY  
**Legislative Audit Council**  
Independence, Reliability, Integrity



*Log to Wells*

PUBLIC MEMBERS

Philip F. Laughridge, CPA  
*Chairman*

Mallory Factor

Thomas F. Harnett

Jane P. Miller

S. Jahue Moore, Esq.

February 14, 2011

**RECEIVED**

Anthony E. Keck, Director  
SC Department of Health and Human Services

P.O. Box 8206

Columbia, SC 29202

FEB 15 2011

Department of Health & Human Services  
OFFICE OF THE DIRECTOR

Dear Mr. Keck:

■  
LEGISLATIVE MEMBERS  
Sencie

JUDICIARY COMMITTEE

Glenn F. McConnell, Chairman  
*President Pro Tempore*

Raymond E. Cleary, III, Designee

FINANCE COMMITTEE

Hugh K. Leatherman, Sr., Chairman  
Michael L. Fair, Designee

House of Representatives

JUDICIARY COMMITTEE

James H. Harrison, Chairman  
Walton J. McLeod, Designee

WAYS AND MEANS COMMITTEE

Daniel T. Cooper, Chairman  
J. Roland Smith, Designee

■

Thomas J. Bardin, Jr.  
*Director*

Congratulations on your appointment to lead the South Carolina Department of Health and Human Services. We look forward to working with you in any way possible. I wanted you to know that over the years, the General Assembly has asked us to conduct a number of reviews of Medicaid issues and we would be happy to discuss with you any of our previous findings and recommendations. Last week we were asked to determine the status of an issue concerning our recent audit of several large Medicaid contracts, and we informed your staff of the inquiry.

In addition, we need your assistance to resolve an issue affecting both of our agencies. Last week, your staff informed us that HHS would not reimburse the Audit Council for its share of Medicaid funds as required by proviso 70.26 of the current appropriations act. This proviso requires agencies to remit federal funds to the Legislative Audit Council as reimbursement for the costs of audits and reviews with the LAC providing the state matching funds. The Audit Council is currently conducting a performance review of a Medicaid-funded program administered by other state agencies which would qualify for reimbursement under the proviso. Let me provide a brief background of this issue and the process we have established with other agencies that have reimbursed the federal share of funds.

Last year, in accordance with S.C. Code §2-15-60(b), 15 members of the General Assembly requested that the Legislative Audit Council conduct a performance review of the state's BabyNet program, our early childhood intervention program. The program is now administered by First Steps, and is funded with \$9.6 million of Medicaid funds that flow through several state agencies. Additional Medicaid funds are expended for services provided by therapists, audiologists, and other professionals, but are billed directly to HHS.

One of the primary objectives of this legislative request is to determine the state's system for ensuring the efficient and proper administration of the BabyNet program, and ensuring that services are discontinued when appropriate and are not used for other agency programs. It is our understanding that neither internal nor external program monitoring for cost containment has existed, and we are examining whether internal controls to

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Mr. Anthony E. Keck  
February 14, 2011  
Page Two

prevent and detect Medicaid fraud, abuse, and overutilization of Medicaid services are in place. Our staff is examining Medicaid cost containment matters, work that we believe is vital and timely due to the significant budget deficit of state government and for the BabyNet program.

We were offered several reasons for HHS not complying with proviso 70.26; the most pertinent reason, as I understand it, is that a contract was not signed in advance. By law, our audits are conducted at the request of the General Assembly and not through contract. No other agency has required us to enter into a contract to obtain reimbursement, including agencies that have reimbursed us for federal funds provided by the US Department of Health and Human Services. In addition, your agency would be the first agency to decline to reimburse us for our expenses.

It is our understanding that your staff cited 42 CFR 433.15(b)(7) as an additional reason for not reimbursing our agency. However, this section does not prohibit reimbursement, noting that federal reimbursement is permitted for:

All other activities the Secretary finds necessary for the proper and efficient administration of the State plan: 50 percent [federal matching rate].

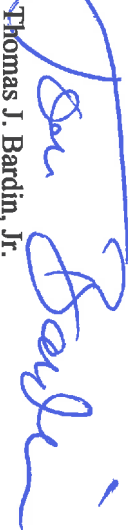
Our staff counsel has found no other sections of federal regulations that would prohibit or limit our reimbursement and, that the work we are performing meets the objective of this regulation.

Before we began this review, we informed the Director of First Steps and her staff at the entry conference of proviso 70.26 of the FY 2010-11 appropriations act. This proviso is similar to the statute and proviso that require your agency to pay the Medicaid share of nursing home audits billed by the State Auditor each month. At the entry conference, a former director of the South Carolina Department of Health and Human Services was consulting with First Steps, and the Director of First Steps informed us that she would discuss the billing process with him. Subsequently we sent the attached letter concerning our billing processes when federal funds are involved. We were not provided further instructions, so we followed our normal processes with the understanding that we would receive our funds.

We would be happy to provide more information or documentation to facilitate the reimbursement process. Please let us know of additional information that you need and we will promptly provide it; the federal share of our services for which we are seeking reimbursement is about \$70,000. We are required to provide the 50% state match of \$70,000. We document our time and effort and expenses for each review and would provide supporting records to you or federal auditors if necessary. We would also assume responsibility for any federal audit exceptions that might arise concerning our work.

Thank you for your assistance in this matter. Feel free to call me if you have any questions or would like to discuss additional aspects of this issue.

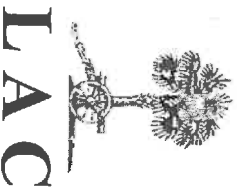
Sincerely,

  
Thomas J. Bardin, Jr.  
Director

/s/

enclosures

cc: Philip Laughridge, CPA, Chairman



SOUTH CAROLINA GENERAL ASSEMBLY  
**Legislative Audit Council**  
Independence, Reliability, Integrity



PUBLIC MEMBERS

Philip F. Laughridge, CPA  
*Chairman*  
Mallory Factor  
Thomas F. Harnett  
Jane P. Miller  
S. Jabne Moore, Esq.

November 30, 2010

Ms. Susan DeVenny, Executive Director  
SC First Steps  
1300 Sumter St., Suite 100  
Columbia, SC 29201

Dear Ms. DeVenny:

As we recently discussed, Proviso 70.26 of the FY 2010-11 State Appropriations Act authorizes the Legislative Audit Council to bill agencies for federal funds when we review programs supported with federal funds. The cost of our professional services incurred for our review of the BabyNet program qualifies the Audit Council to bill Medicaid for our costs, because one of the primary objectives of our study examines Medicaid payments and services provided by the Department of Disabilities and Special Needs (DDSN) for BabyNet.

In accordance with this proviso, the Audit Council will use its state appropriation for the necessary Medicaid match of 50%. As a result, agencies providing BabyNet services will not lose any program or administrative funding.

We would appreciate your assistance in arranging the proper process to submit our invoices for reimbursement. Our staff keep detailed records concerning their time and efforts on each audit, and we can provide you with cost estimates for this project.

Since Proviso 70.26 was enacted last year, four federally funded programs have reimbursed the LAC for expenses we incurred for our professional services. Our Business Manager, Ms. Susan Long, can provide you with additional information concerning billing and transferring of funds.

Thanks for your cooperation in this matter. Please feel free to call Susan Long or me at 253-7612 if you have any questions.

Sincerely,

Thomas J. Bardin, Jr.  
Director  
/mrw

LEGISLATIVE MEMBERS

Senate

JUDICIARY COMMITTEE  
Glenn F. McConnell, Chairman  
*President Pro Tempore*  
Raymond E. Cleary, III, Designee

FINANCE COMMITTEE

Hugh K. Leatherman, Sr., Chairman  
Michael L. Fair, Designee

House of Representatives

JUDICIARY COMMITTEE

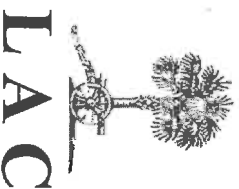
James H. Harrison, Chairman  
Walton J. McLeod, Designee

WAYS AND MEANS COMMITTEE

Daniel T. Cooper, Chairman  
Rex F. Rice, Designee

Thomas J. Bardin, Jr.  
*Director*

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Thomas J. Bardin, Jr.

*Director*

Sincerely,

Thomas J. Bardin, Jr.

Director

/mtw

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**LAC**  
South Carolina General Assembly  
Legislative Audit Council  
1331 Elmwood Ave., Suite 315  
Columbia, SC 29201

**RECEIVED**  
FEB 15 2011

Department of Health & Human Services  
OFFICE OF THE DIRECTOR

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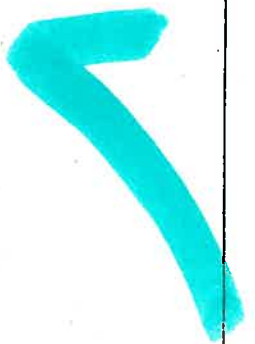
Anthony E. Keck, Director  
SC Department of Health and Human Services  
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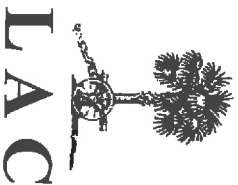
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TO  <i>Wells</i>	DATE  <i>2-15-11</i>
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2. DATE SIGNED BY DIRECTOR  	<input checked="" type="checkbox"/> Prepare reply for appropriate signature DATE DUE <i>2-25-11</i>  <input type="checkbox"/> FOIA DATE DUE _____  <input type="checkbox"/> Necessary Action

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Mr. Anthony E. Keck  
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Page Two

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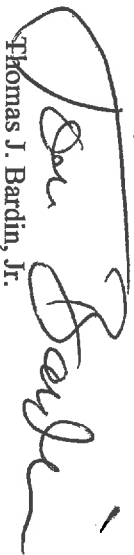
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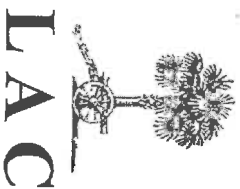


Thomas J. Bardin, Jr.  
Director

/sl

enclosures

cc: Philip Laughridge, CPA, Chairman



SOUTH CAROLINA GENERAL ASSEMBLY  
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Thanks for your cooperation in this matter. Please feel free to call Susan Long or me at 253-7612 if you have any questions.

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*Director*

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Director  
/mtw

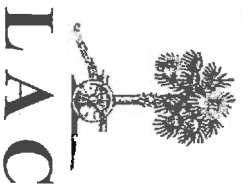
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1331 Elmwood Ave., Suite 315

▪ Columbia, SC 29201

▪ 803.253.7612 (VOICE)

▪ 803.253.7639 (FAX)



SOUTH CAROLINA GENERAL ASSEMBLY  
**Legislative Audit Council**  
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S. Jahnke Moore, Esq.

November 30, 2010

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SC First Steps  
1300 Sumter St., Suite 100  
Columbia, SC 29201

Dear Ms. DeVenny:

LEGISLATIVE MEMBERS

Senate

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Thomas J. Bardin, Jr.  
*Director*

Thomas J. Bardin, Jr.  
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/mrw

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