

DEPARTMENT OF HEALTH AND HUMAN SERVICES  
OFFICE OF DIRECTOR

**ACTION REFERRAL**

TO <i>Hutto</i>	DATE <i>9-11-13</i>
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DIRECTOR'S USE ONLY	ACTION REQUESTED
1. LOG NUMBER <i>000104</i>	<input type="checkbox"/> Prepare reply for the Director's signature DATE DUE _____
2. DATE SIGNED BY DIRECTOR <i>CC: Mr. Keck, Kost, Deps, CMS file</i>	<input type="checkbox"/> Prepare reply for appropriate signature DATE DUE _____
<i>* Internal Mtg: (10:30-11:30AM)</i>	<input type="checkbox"/> FOIA DATE DUE _____
	<input checked="" 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.			

DEPARTMENT OF HEALTH & HUMAN SERVICES  
Centers for Medicare & Medicaid Services  
Atlanta Regional Office  
61 Forsyth Street, Suite 4T20  
Atlanta, Georgia 30303



DIVISION OF MEDICAID & CHILDREN'S HEALTH OPERATIONS

Certified Mail - Return Receipt Requested

September 06, 2013

Mr. Anthony E. Keck, Director  
South Carolina Department of Health & Human Services  
P O Box 8206  
Columbia, SC 29202-8206

Re: Disallowance Control Number SC/2013/01/MAP

Dear Mr. Keck:

This letter constitutes your notice of a disallowance in the amount of \$17,416,373 in federal financial participation (FFP) for claimed Title XIX (Medicaid) expenditures on Line 9D of the CMS-64 Quarterly Statement of Medicaid Expenditures Report for the quarter ending June 30, 2012. The South Carolina Department of Health and Human Services (SCDHHS) was issued an initial deferral letter on November 16, 2012 in the amount of \$17,416,373 FFP. Specifically, SCDHHS attempted to correct accounting errors made in federal fiscal years 2007, 2008, and 2009 for drug rebates, program integrity, and receivables over 60 days old that were previously over-reported in prior years. By reducing collections, the state increased the amount of expenditures claimed in FFP on the quarter ending June 30, 2012 CMS-64.

The claimed expenditures do not comport with requirements at section 1132 (a) of the Social Security Act (the Act) 42 U.S.C. §1320b-2(a) and Title 45 of the Code of Federal Regulations (C.F.R.) §95.7 regarding the time limit for claiming payment for expenditures. Title 45 C.F.R. §95.7 states: "Under the program listed in 95.1, we will pay a State for a State agency expenditure made after September 30, 1979, only if the State files a claim with us for that expenditure within 2 years after the calendar quarter in which the State agency made the expenditure." The state filed the claim for the \$17,416,373 FFP on the CMS-64 after the two-year period which begins on the first day of the calendar quarter immediately following the calendar quarter in which the original state expenditure was made. Therefore, we consider the claims to be time-barred.

Regulations at 45 C.F.R. §95.19 establish four exceptions to the timely filing limits as follows:

- (a) Any claim for an adjustment to prior year costs;
- (b) Any claim resulting from an audit exception;

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- (c) Any claim resulting from a court-ordered retroactive payment;
- (d) Any claim for which the Secretary decides there was good cause for the State's not filing within the time limit.

Regulations at 45 C.F.R. §95.22 define good cause as follows:

- (a) Good cause for late filing of a claim is lateness due to circumstances beyond the State's control.
- (b) Examples of circumstances beyond the State's control include:
  - (1) Acts of God;
  - (2) Documented action or inaction of the Federal government.
- (c) Circumstances beyond the State's control do not include neglect or administrative inadequacy on the part of the State, State agencies, the State legislature or any of their offices, officers, or employees

The circumstances surrounding this claim do not warrant an exception to the timely claims filing rules. Based on the above reasons, this letter constitutes your notice of disallowance in the amount of \$17,416,373 FFP. Please make a decreasing adjustment in the amount of \$17,416,373 FFP on Line 10B of your next quarterly expenditure report (Form CMS-64) and reference the Disallowance Control Number SC/2013/01/MAP in the Footnotes section.

This disallowance is the final decision of the CMS Associate Regional Administrator for Region IV. Under section 1116(e) of the Social Security Act, 42 U.S.C. §1316(e), the state has the opportunity either to request reconsideration of this disallowance from the Secretary or to appeal this disallowance to the Departmental Appeals Board. This decision shall be the final decision of the Department of Health and Human Services unless, within 60 calendar days after the state receives this decision, the state delivers or mails (the state should use registered or certified mail to establish the date) a written request of reconsideration to the Secretary or a written notice of appeal to the Departmental Appeals Board.

Requests for reconsideration by the Secretary should include all information the state believes is necessary for the reconsideration including a copy of this letter, a statement of the amount in dispute, a brief statement of why the disallowance should be reversed or revised, any information to support the state's position with respect to each issue, and any additional information regarding factual matters or policy considerations.

Written requests for reconsideration should be delivered or mailed to me:

Charna R. Pettaway, CMS Acting Associate Regional Administrator  
Department of Health & Human Services,  
Centers for Medicare & Medicaid Service,  
61 Forsyth St, SW, Suite 4T20  
Atlanta, Georgia 30303-8909.

Mr. Anthony Keck  
September 06, 2013  
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If the state requests reconsideration from the Secretary and receives an unfavorable reconsideration of the disallowance from the Secretary, it may appeal the disallowance to the Departmental Appeals Board within 60 calendar days after the date that the state receives the unfavorable reconsideration.

If you appeal to the Departmental Appeals Board, you must provide a note of intent to appeal, attach to the notice a copy of this decision, state the amount in dispute, and briefly state why you think this decision is wrong. If the state requested reconsideration from the Secretary, it must also provide a copy of the reconsideration decision. In addition, please reference Disallowance Control Number SC/2013/01/MAP in your appeal. The Board will notify you of further procedures. Please send a copy of your notice of appeal to me.

Written requests for appeal should be delivered or mailed to:

U.S. Department of Health and Human Services  
Departmental Appeals Board  
MS 6127, Appellate Division  
330 Independence Avenue  
SW, Cohen Building, Room G-644  
Washington, D.C. 20201

Should you require further details regarding this matter, please contact Rolan Small, Branch Manager, Financial Management Branch 1, at (404) 562-7313 or Michelle White, Financial Analyst, at (404) 562-7328.

Sincerely,



Charma R. Pettaway  
Acting Associate Regional Administrator  
Division of Medicaid & Children's Health Operations

Original Copy

DEPARTMENT OF HEALTH & HUMAN SERVICES  
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