

DEPARTMENT OF HEALTH AND HUMAN SERVICES  
OFFICE OF DIRECTOR

ACTION REFERRAL

TO <i>Singleton</i>	DATE  <i>3-23-07</i>
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DIRECTOR'S USE ONLY	ACTION REQUESTED
1. LOG NUMBER  <i>000605</i>	<input type="checkbox"/> Prepare reply for the Director's signature DATE DUE _____
2. DATE SIGNED BY DIRECTOR  <i>CC: Bowling, Mr. Kerr</i> <i>Cleared 4/23/07 letter</i> <i>attached.</i>	<input checked="" type="checkbox"/> Prepare reply for appropriate signature DATE DUE <i>4-3-07</i>  <input type="checkbox"/> FOIA DATE DUE _____  <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.			



Lower Savannah  
Council of Governments

P.O. Box 850, Aiken, South Carolina, 29802  
Tel. (803) 640-7981 - Fax (803) 640-2248  
www.lscog.org

March 21, 2007

Mr. Bryon Roberts  
Ms. Shirley W. Carrington  
S. C. Department of Health and Human Services  
P.O. Box 8206  
Columbia, SC 29202

*Res. Singleton  
"Approved. Sign"  
cc: Bowling  
Kern*

**RECEIVED**  
MAR 22 2007  
Department of Health & Human Services  
OFFICE OF THE DIRECTOR

Dear Mr. Roberts and Ms. Carrington:

On March 6, 2007, a letter was sent to our office from Logisticare, and copied to both of you, implying that the Lower Savannah Council of Governments and the transit providers of this region who have joined together as a group or consortium with the sole intent of maintaining coordination of transit services within the region, are in some manner violating state and federal anti-trust laws.

We felt it important to set the record straight and to receive input from your office concerning this matter. The current Medicaid providers in counties served by the Lower Savannah Council of Governments region, which includes Aiken, Allendale, Barnberg, Barnwell, Calhoun, Edgefield and Orangeburg, recently joined together for the purpose of maintaining their years of coordination efforts for provision of transit services between county lines. Included in this consortium are Aiken Area Council on Aging, Allendale County Office on Aging, Barnberg County Office on Aging, Edgefield County Agency for Senior Citizens, Generations Unlimited, Lowcountry RTA, and Santee Waterre RTA. All of these agencies have been coordinating services for public transit and Medicaid since 2000. Obviously, they are concerned about the change in the Medicaid contracting structure and want to be sure that the efforts of coordination are not hampered by the new brokerage system.

None of these providers has a problem providing services for Logisticare. However, it is their intent to meet as a group to discuss how the services will work, hopefully somewhat consistently, within the region, whether coordination will continue, and they obviously want to be sure that they are presenting competitive service costs when they negotiate with Logisticare. We see nothing listed or mentioned in the RFP that would restrict the broker from negotiating with a group of affiliated providers. Furthermore, Legal Council for the providers is of the opinion that there is not a conflict with fair trade practices as the providers are considered sub-contractors.

Repeated questions by providers concerning how coordination would work with there system have yet to be satisfactorily addressed or answered by Logisticare. For instance, a major issue in coordination is the need to share funding source passengers on vehicles, particularly passengers traveling in the same direction to the same facilities. Obviously the Lower Savannah area is extremely rural and coordination of riders only makes sense if providers are to deliver efficient services for all funding sources. Answers to providers simple questions such as how assignments for drop off and pick up times will be arranged to allow for other passengers to ride on common vehicles remain unanswered. If these issues are not addressed, Medicaid would in effect be commandeering one seat on a large vehicle and never allowing other passengers on those vehicles because there will not be time to load other passengers, particularly those with wheelchairs, and meet Logisticare's required schedules. The providers of this region, if they tried to provide efficient service, would then be fined by Logisticare for inappropriate service delivery. Obviously, the funding agencies who originally provided the federal and state funds for purchase of these vehicles will begin to disallow this type of vehicle usage and there will be fewer vehicles available for Medicaid passengers.

Mr. Roberts and Ms. Carrington

March 21, 2007

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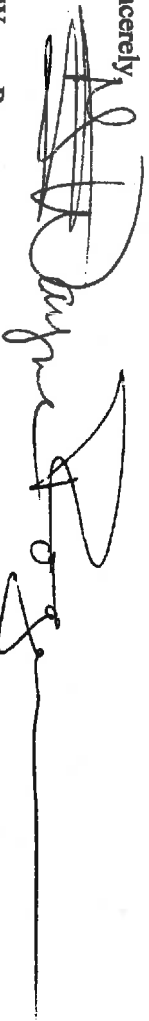
The mention of infringement of free trade has far reaching implications. Obviously, the S. C. Department of Transportation has been joining forces with Councils of Government statewide for several years to provide planning and coordinated transit services. The RTAs of South Carolina have, since inception, been an association of several county agencies. Even some of the provider agencies, such as councils on aging or disability and special needs boards are consortiums of more than one county. It is difficult for us to understand how a group of provider agencies forming a consortium for the purpose of providing coordinated transit services is an infringement of free trade.

The intent of the brokerage system in South Carolina, according to the original Request for Proposal, was strongly dependent on coordination. A heavily weighted section of the Request for Proposal required each broker to describe their coordination plan for each region. It did not state that the coordination plan was only for Medicaid customers. By Logisticare's refusal to work with agencies promoting coordination, it appears that Logisticare would be undermining existing coordination practices in South Carolina. This is obviously against the intent of national United We Ride legislation and all state and national models that currently use coordination as their model for sharing transit rides among all funding source and properly allocating cost - a savings to all programs.

The intent of the Lower Savannah Council of Governments RTMA consortium members is not to impede any type of free trade but is instead a concerted effort to attempt to make transit service delivery statewide more efficient and effective. It is an effort to assure that the efforts of the past years to include all members of the general public on the limited transit resources available (vehicles and drivers) continues so that those passengers in the very rural areas of South Carolina who are not Medicaid recipients can still access necessary health and employment services continues. By limiting the use of a vehicle for only Medicaid recipients, the strides that have been made in this region and statewide to keep as many persons healthy and in their own homes will end and the cost of ancillary services in emergency rooms and nursing homes will increase. I am sure that this was not the intent of the new brokerage system.

We would appreciate a response from your office concerning the letter from Logisticare and its information concerning free trade infringement before our providers move forward with any further discussions with Logisticare regarding service contracts and service delivery. I look forward to hearing from you as soon as possible.

Sincerely,

A handwritten signature in black ink, appearing to read 'F. Wayne Rogers', written over a horizontal line.

F. Wayne Rogers  
Executive Director

CC: Representative Joseph H. Neal  
Representative Walton J. McLeod  
Representative Dennis C. Moss  
Mr. Robert Kerr ✓



State of South Carolina  
Department of Health and Human Services

Mark Sanford  
Governor

Robert M. Kerr  
Director

April 23, 2007

Mr. F. Wayne Rogers  
Executive Director  
Lower Savannah Council of Governments  
P.O. Box 850  
Aiken, South Carolina 29802

Dear Mr. Rogers:

This is in response to your letter to Shirley Carrington and me regarding a letter that the Lower Savannah Council of Governments received from Logisticare, Inc. (Logisticare). As you are aware, Ms. Carrington and I were provided a courtesy copy of the letter from Logisticare and we have had a chance to review its contents.

Logisticare's letter appears to be in response to a request for Logisticare to negotiate with a "Consortium" of Region IV transportation providers. Our reading of Logisticare's letter is simply that Logisticare intends to negotiate with transportation providers individually instead of as a group. As you note in your letter, the RFP does not "restrict the broker from negotiating with a group of affiliated providers." Likewise, the RFP does not require Logisticare to negotiate with such a group. While it is up to Logisticare and each provider to negotiate the terms and conditions of each specific contract, all parties are cautioned against doing anything that might have the appearance of violating fair trade practices.

I am confident that this and any other issues can be worked through as we move forward during this transition. DHHS and Logisticare are committed to ensuring that the transition from the current system for Medicaid transportation to the Broker system is as seamless as possible for Medicaid beneficiaries.

Please call me at the number below if you have any questions.

Sincerely,

A handwritten signature in dark ink, appearing to read "Byron R. Roberts", is written over a horizontal line.

Byron R. Roberts  
Assistant General Counsel

BRR/b

Cc: Shirley W. Carrington, DHHS  
Kirk Gonzales, Logisticare

Office of General Counsel  
P. O. Box 8206 Columbia South Carolina 29202-8206  
(803) 898-2795 Fax (803) 255-8210

Log # 605  
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