

DEPARTMENT OF HEALTH AND HUMAN SERVICES
OFFICE OF DIRECTOR

ACTION REFERRAL

| | |
|---------------|----------------|
| TO | DATE |
| <i>Single</i> | <i>8-18-08</i> |

| DIRECTOR'S USE ONLY | | ACTION REQUESTED | |
|----------------------------|--|---|------------------------|
| 1. LOG NUMBER | <i>100096</i> | <input type="checkbox"/> Prepare reply for the Director's signature | DATE DUE _____ |
| 2. DATE SIGNED BY DIRECTOR | <i>C. Standland</i> <i>Cleared 9/9/08 letter</i> <i>attached</i> | <input type="checkbox"/> Prepare reply for appropriate signature | DATE DUE _____ |
| | | <input checked="" type="checkbox"/> FOIA | DATE DUE <i>9-2-08</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. | | | |

Nelson Mullins

Nelson Mullins Riley & Scarborough LLP
Attorneys and Counselors at Law
151 Meeting Street / Sixth Floor / Charleston, SC 29401-2239
Post Office Box 1806 / Charleston, SC 29402-1806
Tel: 843.853.5200 Fax: 843.722.8700
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AUG 18 2008

Department of Health & Human Services
OFFICE OF THE DIRECTOR

Facsimile Cover Sheet

OFFICE OF GENERAL COUNSEL

FAX No. 803 255 8210

COMPANY: SC Dept of Health & Human Services

PHONE No.

LOCATION: COLUMBIA

PAGES: 4 including cover sheet

ORIGINAL WILL FOLLOW VIA US MAIL

FROM:

Matthew E. Brown

DID No. 843.534.4258

RETURN TO:

Francine Ratzman

FAX No. 843.722.8700

DATE/TIME:

August 18, 2008 at 3:30 PM

FILE No. 03448.01520

COMMENTS:

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FAX Page 1

08/18/2008 03:57PM

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Tel: 843.534.4258

matt.brown@nelsonmullins.com

August 18, 2008

RECEIVED

AUG 18 2008

Via Facsimile and First Class Mail

South Carolina Department of Health and Human Services
Office of General Counsel
P.O. Box 8206
Columbia, South Carolina 29202

Department of Health & Human Services
OFFICE OF THE DIRECTOR

Dear Sir or Madam:

Please allow this to serve as a formal request made pursuant to the South Carolina Freedom of Information Act, S.C. CODE ANN. § 30-4-10 *et. seq.* for the following:

1. Organizational charts for the following entities, for the period 1996 to date: South Carolina Department of Health and Human Services ("SCDHHS"), South Carolina Department of Mental Health ("SCDMH"), South Carolina Budget and Control Board ("SCBCB"), Drug Utilization Review Board ("DUR Board"), any South Carolina Pharmacy & Therapeutics Committee ("P&T Committee").
2. Minutes of any P&T Committee, Drug Utilization Review Board or other equivalent body that address the prescription drugs clozapine (Clozaril), olanzapine (Zyprexa), risperidone (Risperdal), aripiprazole (Abilify), quetiapine (Seroquel), and/or ziprasidone (Geodon).
3. Copies of all documents related to presentations by any consultant or pharmacy benefits manager, including without limitation, First Health Services Corporation ("First Health"), Provider Synergies, Medco Health Solutions ("Medco"), and Health Information Designs ("HID") to P&T Committee, Drug Utilization Review Board or other equivalent body that address the prescription drugs clozapine (Clozaril), olanzapine (Zyprexa), risperidone (Risperdal), aripiprazole (Abilify), quetiapine (Seroquel), and/or ziprasidone (Geodon).
4. Reports, meeting minutes, analyses or documents prepared by, or submitted to SCDHHS, SCDMH, SCBCB, any P&T Committee, or Drug Utilization Review Board that relate to South Carolina Medicaid ("Medicaid") reimbursements or South Carolina State Employee Health Plan ("SHP") reimbursements for the prescription drugs clozapine

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08/18/2008 03:57PM

Office of the General Counsel
August 18, 2008
Page 2

(Clozaril), olanzapine (Zyprexa), risperidone (Risperdal), aripiprazole (Abilify), quetiapine (Seroquel), and/or ziprasidone (Geodon).

5. Documents reflecting any restrictions on, or criteria for denying, Medicaid or SHP reimbursements for the prescription drugs clozapine (Clozaril), olanzapine (Zyprexa), risperidone (Risperdal), aripiprazole (Abilify), quetiapine (Seroquel), and/or ziprasidone (Geodon), whether proposed or adopted.

6. Documents setting forth or describing specific uses, indications, diagnoses, ICD-9 codes, or disease states for which Medicaid or SHP will reimburse, or refuse to reimburse, for the prescription of clozapine (Clozaril), olanzapine (Zyprexa), risperidone (Risperdal), aripiprazole (Abilify), quetiapine (Seroquel), and/or ziprasidone (Geodon).

7. Documents setting forth any evaluations, analyses or policies of SCBCB, SCDHHS, SCDMH, any DUR Board, or P&T Committee regarding coverage of, and reimbursement for, uses of clozapine (Clozaril), olanzapine (Zyprexa), risperidone (Risperdal), aripiprazole (Abilify), quetiapine (Seroquel), and/or ziprasidone (Geodon) that are not approved by the United States Food and Drug Administration.

8. Documents created by, for, or that are in the possession of SCBCB, SCDHHS, SCDMH, any P&T Committee or DUR Board that address the creation, maintenance, or modification of any preferred drug list, with respect to clozapine (Clozaril), olanzapine (Zyprexa), risperidone (Risperdal), aripiprazole (Abilify), quetiapine (Seroquel), and/or ziprasidone (Geodon).

9. Documents created by, for, or that are in the possession of SCBCB, SCDHHS, SCDMH, any P&T Committee, or DUR Board that address potential risks or adverse events associated with use of clozapine (Clozaril), olanzapine (Zyprexa), risperidone (Risperdal), aripiprazole (Abilify), quetiapine (Seroquel), and/or ziprasidone (Geodon).

10. Documents created by, for, or that are in the possession of SCBCB, SCDHHS, SCDMH, any P&T Committee, or DUR Board that contain information about uses of clozapine (Clozaril), olanzapine (Zyprexa), risperidone (Risperdal), aripiprazole (Abilify), quetiapine (Seroquel), and/or ziprasidone (Geodon) within the State of South Carolina.

11. Documents created by, for, or that are in the possession of SCBCB, SCDHHS, SCDMH, any P&T Committee, or DUR Board that contain any analysis or evaluation of beneficiary drug utilization of clozapine (Clozaril), olanzapine (Zyprexa), risperidone (Risperdal), aripiprazole (Abilify), quetiapine (Seroquel), and/or ziprasidone (Geodon).

12. All documents sent by or on behalf of SCBCB, SCDHHS, SCDMH, any P&T Committee, or DUR Board to any South Carolina health care provider or patient regarding the risks, benefits, or costs of any atypical antipsychotic, including clozapine (Clozaril), olanzapine (Zyprexa), risperidone (Risperdal), aripiprazole (Abilify), quetiapine (Seroquel), and/or ziprasidone (Geodon).

Office of the General Counsel
August 18, 2008
Page 3

13. All materials prepared for, or presented to, SCBCB, SCDHHS, SCDMH, any P&T Committee, or DUR Board by HID, First Health, Provider Synergies, or Medco regarding potential risks of weight gain, diabetes, or impaired glucose tolerance associated with any atypical antipsychotic, including olanzapine (Zyprexa), clozapine (Clozaril), risperidone (Risperdal), quetiapine (Seroquel), aripiprazole (Abilify), and/or ziprasidone (Geodon).
14. All materials, letters, or documents distributed to, prepared for, or presented to South Carolina health care providers by SCBCB, SCDHHS, or SCDMH regarding potential risks of weight gain, diabetes, or impaired glucose tolerance associated with olanzapine (Zyprexa), clozapine (Clozaril), risperidone (Risperdal), quetiapine (Seroquel), aripiprazole (Abilify), and/or ziprasidone (Geodon).
15. Documents reflecting any interactions by SCBCB, SCDHHS, SCDMH, any P&T Committee, or DUR Board with members or staff of the South Carolina Legislature or Executive regarding the inclusion, exclusion, restriction (including prior authorization), or exemption from exclusion or restriction under SHP or Medicaid for atypical antipsychotics, including olanzapine (Zyprexa), risperidone (Risperdal), aripiprazole (Abilify), quetiapine (Seroquel), and/or ziprasidone (Geodon).
16. Documents reflecting any audit or investigation of any person or entity for submitting false claims to the State of South Carolina for reimbursement of prescriptions for olanzapine (Zyprexa).
17. Documents reflecting actions taken to deter or punish the submission of false claims to the State of South Carolina for reimbursement of prescriptions for olanzapine (Zyprexa), including communications with, or disciplinary action taken with respect to, health care providers.

We wish to receive the above information by September 1, 2008. If you should deny any or all of these requests, please cite the specific exemption that you believe justifies your refusal to release the information and identify the documents being excluded. We are happy to pay any research and copying costs associated with providing the requested documents. Thank you for your attention to this matter.

Sincerely,



Matthew E. Brown



State of South Carolina
Department of Health and Human Services

Mark Sanford
Governor

Emma Forkner
Director

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: _____

Finance and Administration
P. O. Box 8206 Columbia South Carolina 29202-8206
(803) 898-2503 Fax (803) 255-8235



State of South Carolina
Department of Health and Human Services

Mark Sanford
Governor

Emma Fortner
Director

September 9, 2008

Mr. Matthew E. Brown
NELSON MULLINS
Attorneys and Counselors at Law
151 Meeting St., Sixth Floor
Charleston, SC 29401-2239

Re: FOIA Request

Dear Mr. Brown:

Thank you for your request of August 18, 2008. Since the request appears to be related to litigation between the State of South Carolina and your client, the FOIA request was shared with the firm of Harrison, White, Smith, & Coggins, P.C. in Spartanburg for guidance. I believe that they have sent a letter to you about the request. In addition, they have asked, and, as their client, we have agreed to forward our responses to them for transmission to you as an adjunct to the normal discovery process.

I regret the inconvenience, but I hope that the few days' delay will not disadvantage you. For your information, we are not raising any exemptions. Please contact me if you have any questions about this letter. My direct is (803) 898-2791.

Sincerely,

Richard G. Hepfer
Deputy General Counsel

Henry D. McMaster, SC Attorney General
John B. White, Jr., Harrison, White, Smith, & Coggins, P.C.
Andrew F. Kirkendall, Bailey, Perrin, & Bailey

Office of General Counsel

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

803-# 96