

DEPARTMENT OF HEALTH AND HUMAN SERVICES
OFFICE OF DIRECTOR

ACTION REFERRAL

TO <i>Johnson/Krause</i>	DATE <i>11-27-12</i>
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DIRECTOR'S USE ONLY	ACTION REQUESTED
1. LOG NUMBER <i>000155</i>	<input type="checkbox"/> Prepare reply for the Director's signature DATE DUE _____
2. DATE SIGNED BY DIRECTOR <i>cc: Mr. Heck, Singleton, Deps Roberts, CUS file cleared 1/11/13, letter attached.</i>	<input checked="" type="checkbox"/> Prepare reply for appropriate signature DATE DUE <i>12-31-12</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.			Necessary Action or do we need to respond
2.			Need to respond send to Lou/Byron Roberts
3.			cc: Deidra
4.			arrange call w/ Cynthia Mann Per R. Johnson

Johnson

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

RECEIVED

NOV 20 2012

Department of Health & Human Services
OFFICE OF THE DIRECTOR

November 16, 2012

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

Re: Deferral Control Number SC/2012/3/E/02/MAP

Dear Mr. Keck:

The Centers for Medicare & Medicaid Services (CMS) Regional Office recently completed a review of the quarterly statement of expenditures for medical assistance program (Form CMS-64) submitted by the South Carolina Department of Health & Human Services for the quarter ending June 30, 2012. As a result of our review, we have deferred medical assistance claims for federal financial participation (FFP) totaling \$17,416,373.

The deferred claim represents the state's attempt to correct accounting errors made in federal fiscal years 2007, 2008, and 2009 for drug rebates, program integrity, and accounts receivable over 60 days old previously over-reported in prior years. By reducing current quarter collections, the state has increased the amount of expenditures claimed in FFP for quarter 3-FFY 2012. This is not allowable according to Section 1132(a) of the Social Security Act (the Act) that requires a claim for FFP to be filed within a two-year period.

In accordance with Section 1132 (a) and (b) of the Act, for FFP, a claim for expenditures must be made "... within the two-year period which begins on the first day of the calendar quarter immediately following such calendar quarter; and payment shall not be made under this Act on account of any such expenditure if claim therefore is not made within such two-year period."

Regulations at 45 CFR 95.7 establish the federal criteria for timely filing of expenditures and states that "... [W]e 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." Regulations at 45 CFR 95.19 also allow for exceptions to the time limit in 45 CFR 95.7 as follows:

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

In accordance with the provisions of 42 Code of Federal Regulations 430.40(c), South Carolina has 60 days, commencing with the date of receipt of this letter, to provide additional documentation to support the claim. In the absence of any documentation, the state should include a decreasing adjustment on the next CMS-64 to remove the claim and close this deferral. If additional time is needed to resolve the claim, you may request an extension of up to 60 days. Your request should be sent to the Atlanta regional Office.

If you have questions or need additional information, please contact Stanley Fields, Acting Financial Branch Manager, at (502) 223-5332, or Michelle White, Financial Analyst, at (404) 562-7328.

Sincerely,

A handwritten signature in black ink, appearing to read "Jackie Glaze".

Jackie Glaze
Associate Regional Administrator
Division of Medicaid & Children's Health Operations



January 11, 2013

Jackie Glaze
Associate Regional Administrator
Division of Medicaid & Children's Health Operations
U.S. Department of Health & Human Services
Centers for Medicare & Medicaid Services
Atlanta Regional Office
61 Forsyth Street, Suite 4T20
Atlanta, Georgia 30303

Re: Deferral Control Number SC/2012/3/E/01/MAP

Dear Ms. Glaze:

This correspondence is in response to the deferral of \$16,761,260 in federal financial participation (FFP) claimed as corrections to earlier expenditure claims on the Form CMS 64 submitted by the South Carolina Department of Health & Human Services (DHHS) for the quarter ending June 30, 2012. The deferred amount represents expenditures made in federal fiscal years (FFY) 2007, 2008, and 2009. In the deferral letter, which DHHS received on November 20, 2012, you explained that FFP in these expenditures is not allowable because the State did not file the claims within two years of the expenditures being made, as is generally required, *see* 42 U.S.C. § 1320b-2; 45 C.F.R. § 95.7.

In accordance with the provisions of 42 Code of Federal Regulations 430.40(c), DHHS hereby requests an extension of 60 days to provide a response to the deferral letter.

DHHS appreciates your attention to this request. If you have any questions about DHHS's request, please contact Louis Krause at 803-898-0348 or KrauseL@scdhhs.gov.

Sincerely,



Anthony E. Keck
Director

Brenda James

Log #155 ✓

From: Lauren Young
Sent: Tuesday, January 08, 2013 12:30 PM
To: Brenda James
Subject: FW: Log Letters 155 & 156 - Extension Request

FYI

From: Brenda James
Sent: Wednesday, December 19, 2012 4:53 PM
To: Louis Krause
Cc: Ruth Johnson; Lauren Young; Byron Roberts; Kathy Bass
Subject: RE: Log Letters 155 & 156 - Extension Request

This is OK with me as long as Ruth and Director Keck is aware of this. Thx, bj

Brenda G. James
Administrative Assistant
Office of the Director
SC Department of Health and Human Services
Columbia, SC 29201
jamesbr@scdhhs.gov
(803) 898-2580
Fax: (803) 255-8235

From: Louis Krause
Sent: Wednesday, December 19, 2012 4:24 PM
To: Brenda James
Cc: Ruth Johnson; Lauren Young; Byron Roberts; Kathy Bass
Subject: RE: Log Letters 155 & 156 - Extension Request

Brenda-

I just spoke to Lauren and realized we did not give you a specific date. I would propose that the date on the log letter report be 10 January 2013. That would give Director Keck 5 business days to review and submit the response. The date of the initial letter was 16 November and we should submit the response to CMS by 15 January (assuming 60 calendar days). If we determine that we need more time, we can request an additional 60 day extension for our response to CMS which would extend the deadline to 15 March. Please let me know if you need additional information.

Best regards,
Lou

Lauren -- Thanks for the call on the date!

From: Louis Krause
Sent: Wednesday, December 19, 2012 1:12 PM
To: Brenda James
Cc: Ruth Johnson; Lauren Young; Byron Roberts; Kathy Bass
Subject: Log Letters 155 & 156 - Extension Request

Brenda-

We would like to formally request an extension in the due date for Log Letters 155 & 156 past 31 December 2012. After meeting with Director Keck earlier this month, we now are working with the Team at Covington & Burling on a response. We plan to respond to CMS on this issue within their 60 day window. Please let me know if you need any additional information.

Best regards,

Lou

Louis J. Krause

South Carolina Department of Health & Human Services
Controller
P.O. Box 8206
1801 Main Street
Columbia, SC 29202

Office 803-898-0348
Cell 803-413-0416

KrauseL@scdhhs.gov