DEPARTMENT OF HEALTH AND HUMAN SERVICES
OFFICE OF DIRECTOR

ACTION REFERRAL

TO	DATE
Bowling	12-11-06

DIRECTOR'S USE ONLY	ACTION REQUESTED
1. LOG NUMBER 000395	[ ] Prepare reply for the Director's signature DATE DUE _____
2. DATE SIGNED BY DIRECTOR _____	[ ] Prepare reply for appropriate signature DATE DUE _____
	[ ] FOIA DATE DUE _____
	[X] 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
61 Forsyth St., Suite 4T20
Atlanta, Georgia 30303-8909

CMS
CENTERS for MEDICARE & MEDICAID SERVICES

Log - Bowling
"Rec. Action"

December 7, 2006

Robert M. Kerr, Director
Department of Health and Human Services
Post Office Box 8206
Columbia, SC 29202-8206

Dear Mr. Kerr:

Enclosed is the final compliance report for South Carolina's Home and Community Based Waiver for Ventilator Dependent Individuals (#40181.90.R1). The review of the program was based upon evidentiary-based information provided by your staff. Your letter, dated November 29, 2006, indicates that you concur with the draft report findings.

We wish you continued success in your Home and Community Based Waiver (HCBW) program and look forward to working with you in the future. If you have any questions or need assistance, please contact Kenni Howard at (404) 562-7413.

Sincerely,

Renard L. Murray

Renard L. Murray, D.M.
Associate Regional Administrator
Division of Medicaid & Children's Health

cc: Susie Boykin

Enclosure

U.S. Department of Health and Human Services

Centers for Medicare & Medicaid Services
Region IV

Final Report

Home and Community-Based Services Waiver Assessment for South Carolina's Ventilator Dependent Waiver Control # 40181.90.R1

CMS
CENTERS for MEDICARE & MEDICAID SERVICES

South Carolina Home and Community Based Waiver for Ventilator Dependent Individuals (# 40181.90.R1) Assessment Report

Introduction:

Pursuant to section 1915(c) of the Social Security Act, the Secretary of the Department of Health and Human Services has the authority to waive certain Medicaid statutory requirements to enable a State to provide a broad array of home and community-based services (HCBS) as an alternative to institutionalization. The Centers for Medicare and Medicaid Services (CMS) has been delegated the responsibility and authority to approve State HCBS waiver programs. CMS must assess each home and community-based waiver program in order to determine that State assurances are met. This assessment also serves to inform CMS in its review of the State's request to renew the waiver.

This review was conducted in accordance with the Interim Procedural Guidance for Assessing HCBS Waivers. Therefore, Regional Office staff did not conduct an on-site visit; review actual case records or conduct interviews with clients, caregivers or providers. Conclusions in this report are based on information submitted by the State to the Regional Office.

Operating Agency:	South Carolina Department of Health & Human Services (SCDHHS)
State Waiver Contact:	Susie Boykin, Community Long Term Care
Target Population:	Individuals, age 21 and older, who are dependent of mechanical ventilation a minimum of six hours per day
Level of Care:	Nursing Facility
# of Participants Approved for Year 4 of the Waiver:	90 (December 1, 2005 – November 30, 2006)
# of Participants reported on the most recent 372 Report (dated):	42 (December, 1, 2004 – November 30, 2005)
Effective Dates of Waiver:	**From:** December 1, 2002 **To:** November 30, 2007
Approved Waiver Services:	Personal Care (Levels I and II), Nursing (LPN and RN), Respite (In-home and Institution), Attendant Care, Environmental Modifications, Special Medical Supplies, Personal Emergency Response Systems, and 2 Additional Prescriptions beyond State Plan Coverage.
CMS RO Contact:	Kenni L. Howard, RN
Date Report Issued:	December 7, 2006

Background and Description of the Waiver:

South Carolina was granted a waiver of Section 1902(a)(10)(B), "amount, duration, and scope of services," requirements of the Social Security Act in order to provide home and community based services to individuals, age 21 or older, who are dependent on mechanical ventilation a minimum of six hours per day; who would otherwise require the level of care provided in a nursing facility; and for whom the cost of waiver services does not exceed the cost of traditional institutional care. The waiver program operates statewide.

I. State Conducts Level of Care Need Determinations Consistent with the Need for Institutionalization

The State must demonstrate that it implements the processes and instrument(s) specified in its approved waiver for evaluating / reevaluating an applicant's/waiver participant's level of care (LOC) need consistent with care provided in a hospital, nursing facility or ICF/MR.

Authority: 42 CFR 441.301; 42 CFR 441.302; 42 CFR 441.303; SMM 4442.5; SMM 4442.6

The approved assessment instrument is part of the automated Case Management System (CMS) program. The CMS ensures that the approval assessment form is used for 100% of applicants. All waiver referrals go through an intake process. In-take criteria are applied by a Nurse Consultant and the case is assigned to a Nurse Consultant for assessment. Assessments are keyed into the DHHS's Case Management System. Individuals that meet the eligibility requirements may enroll for the Ventilator Dependent Waiver Program. A Nurse Consultant verifies that the participant is Medicaid eligible, meets level of care (LOC) and wants to participate. Justification for level of care determination is documented in the case narrative and on the assessment form.

The State substantially meets this assurance

(The State's system to assure appropriate level of care determinations is adequate and effective, and the State demonstrates ongoing, systemic oversight of the level of care determination process.)

Our review of information submitted by the South Carolina Department of Health & Human Services (SCDHHS) found the State has appropriately applied evaluative methods consistent with regulatory requirements. Further, the evidence demonstrates the State has effective mechanisms in place to oversee the level of care determination and re-determination process.

Based on the data provided, it appears waiver participants selected through the described LOC process are comparable to individuals receiving services through a nursing facility. South Carolina's Nurse Consultants review evaluations / reevaluations as part of the State's ongoing quality assurance monitoring.

The CMS generated report tracking re-evaluations on Vent clients over an 11 year period, show 80% were complete timely, 9% were completed within the month due and none are currently outstanding. An approximate 86% sample of Vent clients was included in ongoing chart reviews covering 2001 through 2006. Charts reviewed during 2003 through 2006 indicate the appropriate process for LOC is being followed 100% of the time. The sample chart reviews indicate that 100% of LOC decisions were appropriate and to date, there have been no appeals in the Vent waiver.

Evidence Supporting Conclusions:
(Evidence that supports the finding that the State substantially meets this assurance.)

- CMS Reports
- Chart Review Reports
- Appeals Summary

II. Plans of Care Responsive to Waiver Participant Needs

The State must demonstrate that it has designed and implemented a system to assure that plans of care for waiver participants are adequate and services are delivered and are meeting their needs.
Authority: 42 CFR 441.301; 42 CFR 441.302; 42 CFR 441.303; SMM 4442.6; SMM 4442.7; Section 1915(c) Waiver Format, Item Number 13

The plan of care (POC) is the fundamental tool by which the State ensures the health and welfare of individuals participating in the Vent Dependent Waiver. The State's process for developing an individual's plan of care requires the plan to be based on a comprehensive assessment used to assess the needs, goals, interventions, and outcomes necessary to maintain the recipient in his/her residence. The approved waiver specifies that a Registered Nurse (RN) is responsible for plan of care development.

The waiver requires that, at a minimum, an annual review of the POC be conducted to determine the appropriateness and adequacy of the services and to ensure that the services furnished are consistent with the nature and severity of the individual's disability.

The State substantially meets this assurance

(The State has an adequate and effective system to assure that all aspects of Plan of Care requirements are addressed; has an adequate and effective system for monitoring Plans of Care; has a system for assuring that participants are afforded choice between/among waiver services and providers; and demonstrates ongoing, systemic oversight of POCs.)

Our review of information submitted by the South Carolina Division of Long Term Care within South Carolina's Department of Health & Human Services (SCDHHS) found the State has implemented an effective system to assure that all aspects of POC requirements are met. As part of its ongoing quality assurance monitoring, waiver Case Managers review POCs and individual cases to ensure that all services are provided in accordance with the approved POC; participants are involved in the care planning process; and activities provided meet service definitions of the approved waiver.

Evidence Supporting Conclusions:
(Evidence that supports the finding that the State substantially meets this assurance.)

- Sample Care Call Client Activity Report
- Chart Review Reports
- Consumer Experience Reports
- Actual Complaint Log with Resolution
- E-mail Review

III. Qualified Providers Serve Waiver Participants

The State must demonstrate that it has designed and implemented an adequate system for assuring that all waiver services are provided by qualified providers.
Authority: 42 CFR 441.302; SMM 4442.4

The approved waiver specifies licensure and / or certification requirements for providers of waiver services. These requirements address the organizational / administrative structure, personnel and other provider policies, qualifications of direct care staff, maintenance of clinical and other records, supervision, treatment planning and evaluation of the provision of service. Further, the State verifies that providers meet required licensing and/or certification standards and adhere to other State standards.

The State substantially meets this assurance

(The State has an adequate and effective system for qualifying and monitoring providers, and demonstrates ongoing, systemic oversight of providers.)

Our review of evidence submitted by the South Carolina DHHS found the State has implemented an effective system to assure services are provided through quality providers. The State employees a licensed Registered Nurse to conduct on-site reviews on an annual basis of certain providers. The review consists of three components: staffing review, administrative review and participant review. The staffing review samples staff members at different levels to ensure they meet all training and certification requirements, tuberculin skin test requirements, ongoing training requirements and any other requirements as outlined in the contract. The administrative review determines that all agency administrative requirements (liability insurance, list of officers, written by-laws, emergency backup plans, etc.) have been met. The participant review verifies that all requirements relating to the actual conduct of service have been met.

For services monitored by the compliance registered nurse, a report is generated listing all deficiencies identified. Based upon the severity and number of the deficiencies and results of prior reviews, sanctions may take place. These range from requiring a corrective action plan to recoupment, to suspending new referrals or termination of the contract.

Environmental modification providers must submit a current contractor license at the time of enrollment. The State employs a reviewer who conducts on-site reviews as a sample of modifications and is available upon request

For environmental modification services, identified deficiencies result in requests to correct the deficiencies. If these are not done timely, this may result in recoupment of funds.

Evidence Supporting Conclusions:
(Evidence that supports the finding that the State substantially meets this assurance.)

- Copies of reviews for services
- Copies of complaints that have resulted in follow-up compliance activities
- Provider enrollment application
- Copies of Corrective action resulting from reviews
- Copies of termination notices based on reviews
- Copies of letters sent to environmental modification providers
- Complaints and follow-up actions related to personal assistants

IV. Health and Welfare of Waiver Participants

The State must demonstrate that it assures the health and welfare of waiver participants including identification, remediation and prevention of abuse, neglect and exploitation.
Authority: 42 CFR 441.302; 42 CFR 441.303; 42 CFR 447.200; SMM 4442.4; SMM 4442.9

The State has methods in place to safeguard the health and welfare of waiver participants. DHHS has mandated reporting for all providers and requires providers to train all staff in the prevention, identification and reporting of abuse, neglect and exploitation. The State provides new staff orientation every four to six months. Part of the agenda includes training on Adult Protective Services (APS). The State Law, mandatory reporting, importance of referral and narration are stressed. DHHS also has a Memorandum of Agreement with the SC Department of Social Services (DSS) for the provision of receiving and investigating reports of alleged abuse, neglect, and exploitation occurrence to vulnerable adults receiving services. Changes to the APS reporting form was approved and effective July 1, 2005. DSS will begin capturing and forwarding data related to Community Long Term Care (CLTC) clients. CLTC workers are required to complete complaint log forms and submit them to the CLTC Central Office monthly. Central Office compiles forms into a complaint grid, follows-up on unresolved issues and shares summary data with areas annually.

The State substantially meets this assurance

(The State's system to assure health and welfare is adequate and effective, and the State demonstrates ongoing, systemic oversight of health and welfare.)

Evidence submitted by the South Carolina DHHS indicates the State has implemented an effective system to assure participant health and welfare. DHHS monitoring staff conduct on-site reviews to ensure adherence with policies and procedures.

Evidence Supporting Conclusions:
(Evidence that supports the finding that the State substantially meets this assurance.)

- MOA between SCDHHS and Department of Social Services
- Current APS Reporting Form
- Orientation Agenda
- Actual of Complaint Forms

V. State Medicaid Agency Retains Administrative Authority over the Waiver Program

The State must demonstrate that it retains administrative authority over the waiver program and that its administration of the waiver program is consistent with its approved waiver application.
Authority: 42 CFR 441.303; 42 CFR 431; SMM 4442.6; SMM 4442.7

The waiver for ventilator dependent individuals is administered and operated directly by the Medicaid Agency's, Bureau of Long Term Care within the South Carolina Department of Health & Human Services. The State has developed a quality assurance plan. All quality assurance data is collected and shared on an annual basis with Area Office Staff. Discussions are instrumental in policy changes, computer program enhancements (i.e. CMS triggers for service planning), and training.

The State substantially meets this assurance

(The State Medicaid agency has an adequate and effective system for administrative oversight of the waiver, and the administration of the waiver program is consistent with the approved waiver.)

Our review of information submitted by the SCDHHS found the Bureau of Long Term Care has effectively administered and operated the waiver program in accordance with federal requirements.

Evidence Supporting Conclusions:

(Evidence that supports the finding that the State substantially meets this assurance.)

- Quality Assurance Plan
- Area Offices QA Report and Corrective Action Response

VI. State Provides Financial Accountability for the Waiver

The State must demonstrate that it has designed and implemented an adequate system for assuring financial accountability of the waiver program.

Authority: 42 CFR 441.302; 42 CFR 441.303; 42 CFR 441.308; 42 CFR 447.200; 45 CFR 74; SMM 2500; SMM 4442.8; SMM 4442.10

South Carolina DHHS staff monitors waiver providers for fiscal accountability through post payment audits of paid claims. The audits are conducted as part of the overall monitoring of the waiver. State staff reviews CMS-372 reports for accuracy prior to submission. The state periodically reviews edits / audits of the Medicaid Management Information System (MMIS) for program compliance and as policies are revised to ensure accurate payment of claims.

The State substantially meets this assurance

(The State's system for assuring financial accountability is adequate and the State demonstrates ongoing, systemic oversight of waiver finances.)

Evidence submitted by the SCDHHS indicates the State has implemented an effective system to assure financial accountability. The State conducts ongoing training and technical assistance for waiver providers to assure understanding and adherence with policy manuals and reimbursement methodology specified in the approved waiver.

For most services, including Medicaid nursing, attendant, and personal care services, in the Vent Dependent Waiver are paid using the Care Call system. This system allows providers to make a call to a toll-free number to document service delivery. The claim is recorded and compared against the service authorizations on file for that participant. Service authorizations include the type of service, the authorized provider, the amount or units of service authorized, the procedure code to bill and the timeframe in which the service must be provided. Claims must meet all applicable criteria to be submitted to MMIS for payment at which time the billing code determines the rate of reimbursement.

For other services, South Carolina has developed a system which checks to ensure that the participant was enrolled in the waiver and Medicaid eligible at the time of service. Case managers review service delivery with participants on a monthly basis and check to see that claims are appropriate.

Evidence Supporting Conclusions:
(Evidence that supports the finding that the State substantially meets this assurance.)

- CMS-372 report