

**DEPARTMENT OF HEALTH AND HUMAN SERVICES
OFFICE OF DIRECTOR**

ACTION REFERRAL

TO	DATE
Myers	10-22-10

DIRECTOR'S USE ONLY	ACTION REQUESTED
1. LOC NUMBER 100193	<input type="checkbox"/> Prepare reply for the Director's signature DATE DUE _____
2. DATE SIGNED BY DIRECTOR cc: Ms. Forkun, Deps, CMS file	<input type="checkbox"/> Prepare reply for appropriate signature DATE DUE _____
	<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
Division of Medicaid & Children's Health Operations
61 Forsyth St., Suite 4T20
Atlanta, Georgia 30303-8909



October 20, 2010

RECEIVED

Ms. Emma Forkner, Director
Department of Health and Human Services
P.O. Box 8206
Columbia, South Carolina 29202-8206

Department of Health & Human Services
OFFICE OF THE DIRECTOR

Dear Ms. Forkner:

This letter is in response to the State's request dated September 16, 2010 to reclassify the South Carolina Department of Disabilities and Special Needs (SCDDSN) Organized Health Care Delivery System (OHCDS) administrative expenses from Medicaid allowable service costs to Medicaid allowable administrative expenses for 1915(c) waiver services. CMS believes that its initial assessment is correct, that the regional and central office administrative expenses cannot be incorporated into the rate claimed to Medicaid as waiver costs. It is our contention that these costs are in fact administrative costs and should be treated as such and reimbursed at the administrative match rate of 50%.

The methodology the State employed to determine the administrative costs that should be excluded from the rate is based on the premise that SCDDSN is solely a service provider and not an administrative agency. The activities of SCDDSN's regional offices and central office are not direct service costs to the beneficiaries, and are administrative in nature. When providers are organized as an OHCDS, it cannot be constructed in a way that administrative expenses are claimed as service costs.

CMS' position is based on the CMS publication, *Application for a 1915(c) Home and Community-Based Waiver, Instructions, Technical Guide, and Review Criteria, Version 3.5, Appendix 1: Financial Accountability, Page 261* which states, "When an OHCDS arrangement is employed, it may not be structured in a fashion that has the effect of claiming administrative expenses as service expenses. In other words, the amount that the OHCDS is paid for the provision of waiver services may not be diverted to administrative activities."

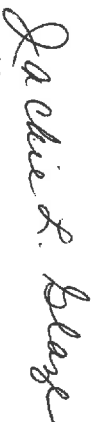
Additionally, CMS acknowledges the \$2,020,052 in Federal funds that were returned for cost settlements of prior years' cost reports. We will verify this amount on September's CMS-64 report, and request that documentation be sent to the Regional Office to support this reporting.

Ms. Emma Forkner, Director

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If you have any questions, or need further assistance, please do not hesitate to contact Michelle White at 404-562-7328.

Sincerely,

A handwritten signature in cursive script that reads "Jackie L. Glaze".

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