

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

**ACTION REFERRAL**

|              |         |
|--------------|---------|
| TO           | DATE    |
| Waldrop/FOIA | 11-4-11 |

|  |  |
|--|--|
| <b>DIRECTOR'S USE ONLY</b>   | <b>ACTION REQUESTED</b>  |
| 1. LOG NUMBER<br><br>100191  | <input type="checkbox"/> Prepare reply for the Director's signature<br>DATE DUE _____  |
| 2. DATE SIGNED BY DIRECTOR<br><br>cc: Singleton, Stensland<br>Cleared 11/30/11, see attached response. | <input type="checkbox"/> Prepare reply for appropriate signature<br>DATE DUE _____<br><input checked="" type="checkbox"/> FOIA<br>DATE DUE 11-21-11<br><input type="checkbox"/> Necessary Action |

| APPROVALS<br>(Only when prepared for director's signature) | APPROVE | * DISAPPROVE<br>(Note reason for disapproval and return to preparer.) | COMMENT |
|--|---------|---|---------|
| 1.   |         |   |         |
| 2.   |         |   |         |
| 3.   |         |   |         |
| 4.   |         |   |         |

**From:** Jan Polatty  
**To:** Brenda James  
**CC:** Sam waldrep; Teeshla Curtis  
**Date:** 11/03/2011 3:49 PM  
**Subject:** LOG: Fwd: FOIA Request ref. Incontinence Supplies

Please log to Waldrep/FOIA - copy Singleton and Stensland. Please make sure that Marie shows this to Deirdra as we were told at one time that all Lait correspondence would be handled by Byron.... thanks, Jan.

>>> "Alan and Susan Lait" <[aslsccusa@directv.net](mailto:aslsccusa@directv.net)> 10/31/2011 9:29 AM >>>  
Date: October 30, 2011

To: Mr. Anthony Keck, Director  
South Carolina Department of Health & Human Services (SCDHHS)

c/o: Jan Polatty  
Executive Assistant to Anthony Keck, Director

From: Susan Lait - Parent/Guardian of Leah E. Lait

REF: Freedom of Information Act (FOIA) Request - Incontinence Supplies

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I am requesting that any and all documents in the possession of SCDHHS regarding incontinence supplies for consumers on Medicaid Waivers, be available for inspection and copying.

This request for public information includes all manuals, reports, studies, internal communications between any SCDHHS staff members, other state agencies including SCDDSN, and external communication between any agency staff members and any other person, including, but not limited to, any state legislatures, SCDDSN and any service providers of incontinence supplies.

Please include any documents identifying the legal, economic and/or public policy bases for the agency's decisions including a decision to fail to make available incontinence supplies that have been deemed "medically necessary" by a physician.

Please provide a list of approved SC Medicaid incontinence supplies providers.

I would like to request that the agency redact any confidential information in any documents containing both confidential information and public information.

Susan Lait  
308 Turkey Run  
Pickens, SC 29671  
(864)878-4567

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: | _____       | \$ _____        |
| <b>Total Amount Due SCDHHS:</b>               |             | <b>\$ _____</b> |

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: \_\_\_\_\_

**From:** Jan Polatty  
**To:** Brenda James; Byron Roberts; Deirdra Singleton; Sam Waldrep  
**CC:** Marie Brown; Teeshia Curtis  
**Date:** 11/07/2011 1:40 PM  
**Subject:** Fwd: Fw: Narrowed FOIA Request ref. Incontinence Supplies

Bren, Please refer to original log and this supercedes 1st request...thanks, Jan.

>>> "Alan and Susan Lait" <[aslsusa@directv.net](mailto:aslsusa@directv.net)> 11/7/2011 1:23 PM >>>  
Date: November 7, 2011

To: Mr. Anthony Keck, Director  
Mr. Byron Roberts, General Counsel  
South Carolina Department of Health & Human Services (SCDHHS)

c/o: Jan Polatty  
Executive Assistant to Anthony Keck, Director

From: Susan Lait - Parent/Guardian of Leah E. Lait

REF: 1) Narrowed Freedom of Information Act (FOIA) Request ref. Incontinence Supplies; 2) Time Frame to respond?; 3) Estimate of Costs Associated with FOIA Request?; 4) Request to Redact

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Attached is my 10/30/11 FOIA request. On 11/2/2011, Mr. Roberts asked if I might narrow my FOIA request. I am happy to narrow my request. I have organized my requests by category, hopefully to assist your search.

Category 1 - In a 9/1/2010 Center for Medicaid Services (CMS) letter, CMS notified SCDHHS that CMS had approved a waiver amendment for a competitive bidding process to procure incontinence supplies (control Number 0237.R04.01). SCDHHS announced a competitive bidding process for one single incontinence supplies provider. SCDHHS announced that a contract would be awarded to Long Pharmacy. Providers filed a protest. The bidding award was suspended. I request copies of the following documentation:

- > SCDHHS request sent to CMS asking for a waiver amendment to utilize a competitive bidding process for incontinence supplies.
- > 9/21/2010 letter from CMS announcing approval of the amendment.
- > Documentation of the public notice opportunities SCDHHS provided as part of the waiver amendment process.
- > Notices SCDHHS made announcing a bidding process for one single incontinence supplies provider.
- > Notices made by SCDHHS announcing the award of a contract to Long Pharmacy as the single provider of incontinence supplies.
- > Copy of protest filed by Providers.
- > Copy of agreement between SCDHHS and Providers concerning protest.

Category 2 - In a 5/2/2011 CMS letter, CMS notified SCDHHS that CMS had approved an amendment to the MR/RD Waiver to update the waiver's Quality Improvement Sections. I request the following documentation:

- > SCDHHS request to CMS to amend the MR/RD Waiver by updating the waiver's Quality Improvement Sections.
- > 5/2/2011 letter from CMS announcing approval of an amendment to update the waiver's Quality Improvement Sections.
- > Public notice opportunities SCDHHS provided as part of the waiver amendment process.
- > SCDHHS notices made to consumers, providers and SCDHHS about quality improvement changes

affecting incontinence supplies.

Category 3 - In 2011 SCDHHS announced a 3 percent reduction to incontinence supplies providers. I request the following:

- > Notices SCDHHS sent to consumers, SCDDSN and providers in reference to a 3 percent reduction in incontinence supplies.

Category 4 - In June 2011, SCDDSN announced percentage cuts to Medicaid for providers. These cuts included incontinence supplies. I request the following:

- > Notices SCDHHS sent to consumers, providers and SCDDSN announcing percentage cuts for incontinence supplies.
- > Follow-up notices SCDHHS sent to consumers, providers and SCDDSN with actual percentage/product breakdowns for incontinence supplies; how incontinence supplies should be priced by case/unit, what products would be excluded.

Category 5 - SCDHHS advised SCDDSN that all consumers receiving incontinence supplies were required to have new authorization forms on file with providers by October 1, 2011 in order for the provider to receive reimbursement for incontinence supplies. I request the following:

- > SCDHHS policy requiring new and separate authorization forms for incontinence supplies.
- > SCDHHS notices to consumers, providers and SCDDSN about the new, incontinence supply authorization forms to be effective October 1, 2011.
- > Documentation used by SCDHHS to establish that medical necessity is not a criteria in reference to incontinence supplies.
- > Documentation used by SCDHHS to establish incontinence supplies as an optional Medicaid Service.

Category 6 Miscellaneous -

- > Documentation used by SCDHHS to establish which services are mandatory and which services are optional Medicaid Services.
- > List of approved SC Medicaid Providers who offer incontinence supplies.
- > Documentation used by SCDHHS to establish that medical necessity is not a criteria for adult individuals with disabilities.
- > Documentation used by SCDHHS to establish if there are provisions exceptions or alternative services to allow for individualized services to reduce the risk of harm, institutionalization or segregation based on individual supports needed for community integration.
- > Documentation used by SCDHHS to establish if there is a standard which establishes actual harm, institutionalization or segregation as a criteria to grant a Fair Hearing.

Please redact any confidential information in documents containing both confidential information and public information. If requested policy or documentation does not exist, please advise. You can choose to respond by electronic means in a Word 2003 PDF Format to save costs.

Please advise of the time frame in which you will respond, and provide an estimate of costs associated with my request.

Thank you in advance.

Susan Lait  
308 Turkey Run  
Pickens, SC 29671  
(864)878-4567

----- Original Message -----

From: Alan and Susan Lait

To: Jan Polatty

Cc: Byron Roberts

Sent: Monday, October 31, 2011 8:29 AM

Subject: FOIA Request ref. Incontinence Supplies

Date: October 30, 2011

To: Mr. Anthony Keck, Director

South Carolina Department of Health & Human Services (SCDHHS)

c/o: Jan Polatty

Executive Assistant to Anthony Keck, Director

From: Susan Lait - Parent/Guardian of Leah E. Lait

REF: Freedom of Information Act (FOIA) Request - Incontinence Supplies

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I would like to request that the agency redact any confidential information in any documents containing both confidential information and public information.

Susan Lait  
308 Turkey Run  
Pickens, SC 29671  
(864)878-4567

**Brenda James - Fwd: Re: Ref Log 000191**

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**From:** Teeshla Curtis  
**To:** Brenda James  
**Date:** 11/18/2011 9:29 AM  
**Subject:** Fwd: Re: Ref Log 000191

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Update on Log 191

>>> Byron Roberts 11/18/2011 8:45 AM >>>  
I need to get with George and Jon and go through her 11/7 request and come up with an estimated cost. I'll schedule a meeting today for us to discuss that. I can then respond to Ms. Lait today via email informing her of an estimated cost. This should cover Log 191. The fifteen day FOIA timeframe for her 11/7 request narrowing the scope puts us at 12/1 for a response on that request.

>>> Sam waldrep 11/15/2011 8:38 PM >>>  
Byron- what the status of this? Ms. Lait sent an email response supposedly narrowing her focus. Are we to supply her with an estimate of the cost? She is still asking for considerable information that will require significant agency resources.

>>> George Maky 11/15/11 7:46 PM >>>  
I though this was logged to legal. they coordinated a conference call that several staff attended, and there has been a follow-up clarifying request.

>>> Teeshla Curtis 11/4/2011 4:30 PM >>>  
George,

Attached is reference log 191 - FOIA request related to incontinence supplies. The current due date is 11.21.11. Please let me know if you need more time and I will communicate with Brenda.

Teeshla

November 30, 2011

Ms. Susan Lait  
308 Turkey Run  
Pickens, South Carolina 29671

Re: FOIA Request

Dear Ms. Lait:

This is in response to your request for information from the South Carolina Department of Health and Human Services (DHHS) pursuant to the South Carolina Freedom of Information Act (FOIA) via e-mail dated November 7, 2011.

Your email requested a variety of documents primarily relating to incontinence supplies. Please find the enclosed documents in response to your request. With regard to the list of providers who offer incontinence supplies, we have included a list of providers who serve Anderson and Pickens Counties. If you would like a list of all providers in South Carolina, please let us know. In addition to the documents enclosed, we are also providing the following web addresses where (1) information regarding the Invitation for Bids for Incontinence Supplies may be accessed as well as (2) the Federal Regulations concerning Medicaid services, including optional and mandatory services, and (3) the Federal Regulations concerning fair hearings for Medicaid applicants and recipients:

- (1)  
<http://webprod.cio.sc.gov/SCSolicitationWeb/contractSearch.do?solicitationnumber=54000002270>
- (2)  
[http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?c=ecfr&sid=4312937ff76ac641ecd64a30a2f84eba&tpl=/ecfrbrowse/Title42/42cfr44\\_0\\_main\\_02.tpl](http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?c=ecfr&sid=4312937ff76ac641ecd64a30a2f84eba&tpl=/ecfrbrowse/Title42/42cfr44_0_main_02.tpl)
- (3)  
<http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?c=ecfr&sid=4312937ff76ac641ecd64a30a2f84eba&rgn=div6&view=text&node=42.4.0.1.1.2.5&idno=42>



Ms. Susan Lait  
November 30, 2011  
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Our expense for reproducing and mailing this information is Twenty-Three 90/100 Dollars (\$23.90). Please make the check payable to the Department of Health and Human Services and send it to:

Department of Health and Human Services  
Department of Receivables  
Post Office Box 8297  
Columbia, SC 29202-8297

Thank you for your request. If you have any questions, you may reach me directly at 803-898-0218.

Sincerely,



Byron R. Roberts  
Assistant General Counsel

BRR/b

cc: Lynette Wilson, DHHS

11/30/11  
Brenda,  
This letter is  
Additional information  
requested per log  
letter #000197.  
Thanks.  
Maui