

DEPARTMENT OF HEALTH AND HUMAN SERVICES  
OFFICE OF DIRECTOR

ACTION REFERRAL

|                               |                       |
|-------------------------------|-----------------------|
| TO<br><i>Singleton/Chavis</i> | DATE<br><i>3-5-14</i> |
|-------------------------------|-----------------------|

| DIRECTOR'S USE ONLY                                                                                                 | ACTION REQUESTED                                                                                                                                                                                              |
|---------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 1. LOG NUMBER<br><i>000303</i>                                                                                      | <input type="checkbox"/> Prepare reply for the Director's signature<br>DATE DUE _____                                                                                                                         |
| 2. DATE SIGNED BY DIRECTOR<br><i>cc: Mr Keck, Post, Deps,<br/>CMS file<br/>Cleared 3/6/14, letter<br/>attached.</i> | <input checked="" type="checkbox"/> Prepare reply for appropriate signature<br>DATE DUE <i>4-7-14</i><br><br><input type="checkbox"/> FOIA<br>DATE DUE _____<br><br><input type="checkbox"/> Necessary Action |

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

DEPARTMENT OF HEALTH & HUMAN SERVICES  
Centers for Medicare & Medicaid Services  
7500 Security Boulevard, Mail Stop S2-14-26  
Baltimore, Maryland 21244-1850



**Disabled & Elderly Health Programs Group**

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MAR 04 2014

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

**RECEIVED**

MAR 10 2014

Department of Health & Human Services  
**OFFICE OF THE DIRECTOR**

Dear Mr. Keck:

We have reviewed South Carolina State Plan Amendment (SPA) 13-009 received in the Atlanta Regional Office on December 4, 2013. Under this SPA, the state proposes to revise the existing National Medicaid Pooling Initiative (NMPI) Supplemental Rebate Agreement. This SPA is effective October 1, 2013.

Before we can continue processing this SPA, we need additional information as indicated below. Therefore, we are formally requesting additional information pursuant to Section 1915(f) of the Social Security Act (the Act). Please respond to the following questions so that we may determine whether this SPA meets the requirements for approval.

**Form CMS-179**

1. **CMS Question:** In Box 7, the state displays that the Federal Budget Impact is \$0 for Federal Fiscal Years 2014 and 2015. Please explain how the state projected \$0 federal budget impact for South Carolina SPA 13-009.

**Paragraph 3.14 & Schedule 3 of the Agreement**

2. **CMS Question:** Please indicate why "Discount per Unit" and the word "Discount" is replacing "Net Price per Unit" and the word "Net Price".

**Paragraph 8.6 of the Agreement:**

3. **CMS Question:** Please explain the rationale for changing the language from "to decrease the net price" to "to enhance discount of its" Supplemental Covered Products etc.

**Attachment A-1: Participating State's Non-Medicaid Programs Approved by CMS in the Medicaid State Plan(s)**

4. Please enter South Carolina as the participating state name.

5. In addition, please enter "None" on line #1 for non-Medicaid programs approved by CMS in the Medicaid State Plan(s).

**Attachment A-2:**

6. **CMS Question:** For our records, does the State of South Carolina plan to include MCO utilization data for supplemental rebate collection or exclude MCO utilization?

This request for additional information is made pursuant to Section 1915(f) of the Social Security Act and will stop the 90-day period for CMS' review and approval of a SPA. Upon receipt of your additional information, a new 90-day period will begin. In accordance with our guidelines to all State Medicaid Directors, dated January 2, 2001, we request that you provide a formal response to this request for additional information no later than 90-days from the date of this letter. If you do not provide us with a formal response by that date, we will conclude that the state has not established that the proposed SPA is consistent with all statutory and regulatory requirements and will initiate disapproval action on the amendment.

Because this Amendment was submitted after January 2, 2001 and is effective on or after January 1, 2001, please be advised that we will defer Federal Financial Participation (FFP) for state payments made in accordance with this Amendment until it is approved. Upon approval, FFP will be available for the period beginning with the effective date through the date of actual approval.

We ask that you respond to this request for additional information via the Atlanta Regional Office SPA/Waiver mailbox at [SPA\\_Waivers\\_Atlanta\\_R04@cms.hhs.gov](mailto:SPA_Waivers_Atlanta_R04@cms.hhs.gov) with a copy to me at [kimberly.howell@cms.hhs.gov](mailto:kimberly.howell@cms.hhs.gov), Bernadette Leeds of the Division of Pharmacy at [bernadette.leeds@cms.hhs.gov](mailto:bernadette.leeds@cms.hhs.gov) and Maria Drake of the Atlanta Regional Office at [maria.drake@cms.hhs.gov](mailto:maria.drake@cms.hhs.gov).

If you have any questions regarding this request, please contact Bernadette Leeds at (410) 786-9463.

Sincerely,



Kim Howell  
Acting Director  
Division of Pharmacy

cc: Jackie Glaze, ARA, Atlanta Regional Office  
Maria Drake, Atlanta Regional Office  
Sheila Chavis, South Carolina Department of Health and Human Services

DEPARTMENT OF HEALTH & HUMAN SERVICES  
Centers for Medicare & Medicaid Services  
7500 Security Boulevard, Mail Stop S2-14-26  
Baltimore, Maryland 21244-1850



**Disabled & Elderly Health Programs Group**

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MAR 04 2014

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

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**Form CMS-179**

1. **CMS Question:** In Box 7, the state displays that the Federal Budget Impact is \$0 for Federal Fiscal Years 2014 and 2015. Please explain how the state projected \$0 federal budget impact for South Carolina SPA 13-009.

**Paragraph 3.14 & Schedule 3 of the Agreement**

2. **CMS Question:** Please indicate why "Discount per Unit" and the word "Discount" is replacing "Net Price per Unit" and the word "Net Price".

**Paragraph 8.6 of the Agreement:**

3. **CMS Question:** Please explain the rationale for changing the language from "to decrease the net price" to "to enhance discount of its" Supplemental Covered Products etc.

**Attachment A-1: Participating State's Non-Medicaid Programs Approved by CMS in the Medicaid State Plan(s)**

4. Please enter South Carolina as the participating state name.

5. In addition, please enter "None" on line #1 for non-Medicaid programs approved by CMS in the Medicaid State Plan(s).

**Attachment A-2:**

6. **CMS Question:** For our records, does the State of South Carolina plan to include MCO utilization data for supplemental rebate collection or exclude MCO utilization?

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If you have any questions regarding this request, please contact Bernadette Leeds at (410) 786-9463.

Sincerely,



Kim Howell  
Acting Director  
Division of Pharmacy

cc: Jackie Glaze, ARA, Atlanta Regional Office  
Maria Drake, Atlanta Regional Office  
Sheila Chavis, South Carolina Department of Health and Human Services

DEPARTMENT OF HEALTH & HUMAN SERVICES  
Centers for Medicare & Medicaid Services  
7500 Security Boulevard, Mail Stop S2-14-26  
Baltimore, Maryland 21244-1850



**Disabled & Elderly Health Programs Group**

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March 4, 2014

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

**RECEIVED**

MAR 05 2014

Department of Health & Human Services  
OFFICE OF THE DIRECTOR

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**Form CMS-179**

1. **CMS Question:** In Box 7, the state displays that the Federal Budget Impact is \$0 for Federal Fiscal Years 2014 and 2015. Please explain how the state projected \$0 federal budget impact for South Carolina SPA 13-009.

**Paragraph 3.14 & Schedule 3 of the Agreement**

2. **CMS Question:** Please indicate why "Discount per Unit" and the word "Discount" is replacing "Net Price per Unit" and the word "Net Price".

**Paragraph 8.6 of the Agreement:**

3. **CMS Question:** Please explain the rationale for changing the language from "to decrease the net price" to "to enhance discount of its" Supplemental Covered Products etc.

**Attachment A-1: Participating State's Non-Medicaid Programs Approved by CMS in the Medicaid State Plan(s)**

4. Please enter South Carolina as the participating state name.

5. In addition, please enter "None" on line #1 for non-Medicaid programs approved by CMS in the Medicaid State Plan(s).

**Attachment A-2:**

6. **CMS Question:** For our records, does the State of South Carolina plan to include MCO utilization data for supplemental rebate collection or exclude MCO utilization?

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If you have any questions regarding this request, please contact Bernadette Leeds at (410) 786-9463.

Sincerely,

/s/

Kim Howell  
Acting Director  
Division of Pharmacy

cc: Jackie Glaze, ARA, Atlanta Regional Office  
Maria Drake, Atlanta Regional Office  
Sheila Chavis, South Carolina Department of Health and Human Services

## Brenda James

---

**From:** Sheila Chavis  
**Sent:** Wednesday, March 05, 2014 10:18 AM  
**To:** Brenda James  
**Cc:** Sheila Chavis  
**Subject:** FW: Formal RAI South Carolina SPA 13 -009  
**Attachments:** formal RAI south carolina 13 009 SRA NMPI MCO.doc  
  
**Importance:** High

Brenda,  
Can we go ahead and log this one? I received it yesterday and I'm currently working on getting it in circulation today. We need to immediately put this one back on the clock. Thanks!

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### Sheila Chavis

Public Information Director I

[CHAVISS@scdhhs.gov](mailto:CHAVISS@scdhhs.gov)

803.898.2707 / 803.898.2707

cell: 803.521.2903

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**From:** Leeds, Bernadette W. (CMS/CMCS) [<mailto:Bernadette.Leeds@cms.hhs.gov>]  
**Sent:** Tuesday, March 04, 2014 4:06 PM  
**To:** Sheila Chavis  
**Cc:** Howell, Kimberly M. (CMS/CMCS); Fine, Joseph L. (CMS/CMCS); Drake, Maria (CMS/CMCHO)  
**Subject:** Formal RAI South Carolina SPA 13 -009

Hi Sheila: Attached is the Formal Request for Additional Information (RAI) for South Carolina SPA 13-009. You should receive a hardcopy in the mail within the next few days. Please note that this RAI stops the 90-day clock. Once the RAI has been answered and the information is received, a new 90-day time frame takes place from that date. If you have any questions, please do not hesitate to contact me. Thanks Bernadette

Bernadette W. Leeds  
Pharmacy Division  
Disabled and Elderly Health Programs  
Center for Medicaid, CHIP and Survey & Certification (CMCS)



Centers for Medicare & Medicaid Services (CMS)  
7500 Security Blvd., S2 07 25  
Baltimore, MD 21244-1850  
Telephone Number: 410 786 9463  
Fax Number: 410 786 5943 (call to confirm pick-up)  
Email: [bernadette.leeds@cms.hhs.gov](mailto:bernadette.leeds@cms.hhs.gov)

\*\*\*\*\*

The decision in this response is limited to and based upon the facts described in this response and our understanding of the facts as described in the submission. This response cannot be considered an advisory opinion under section 1128D(b) of the Social Security Act, since only the Department's Inspector General has been authorized to issue advisory opinions relating to health care fraud and abuse under that section. This response is not a release of liability.



Nikki Haley GOVERNOR

Anthony Keck DIRECTOR

P.O. Box 8206 &gt; Columbia, SC 29202

www.scdhhs.gov

March 6, 2014

Ms. Jackie L. Glaze  
Associate Regional Administrator  
Division of Medicaid and Children's Health Operations  
Centers for Medicare and Medicaid Services  
61 Forsyth Street, Suite 4T20  
Atlanta, GA 30303-8909

**RE: Request for Additional Information (RAI) on South Carolina Title XIX State Plan Amendment (SPA), Transmittal # SC 13-009**

Dear Ms. Glaze:

This is in response to your Request for Additional Information (RAI) dated March 4, 2014 regarding the above-referenced SPA. Please find below the South Carolina Department of Health and Human Services' (SCDHHS) responses to your questions.

**Form CMS-179**

1. **CMS Question:** In Box 7, the state displays that the Federal Budget Impact is \$0 for Federal Fiscal Years 2014 and 2015. Please explain how the state projected \$0 federal budget impact for South Carolina SPA 13-009.

**SCDHHS Response:** This is an administrative change only and will not result in any change in the savings amount. SC Medicaid currently realizes savings, in the form of rebates, from participating in the NMPI pool. That will continue. This SPA only involves administrative changes to the contract used to execute the NMPI agreement. SCDHHS does not control the preferred drug list (PDL) for Managed Care Organizations (MCOs). Thus, supplemental rebates will be claimed only on fee-for-service (FFS) utilization, as is currently the case today.

**Paragraph 3.14 & Schedule 3 of the Agreement**

2. **CMS Question:** Please indicate why "Discount per Unit" and the word "Discount" is replacing "Net Price per Unit" and the word "Net Price".

**SCDHHS Response:** The term "Net Price" implies that rebate offers, or discounts, could only take one form (e.g. a dollar figure). The term of "Net Price" was replaced with "Discount" to provide for the flexibility to add different calculation types that may be, as yet, undetermined. The term "Discount" may reflect specific dollar amounts or percentage values. This will allow for additional flexibility in maximizing rebates. This is an administrative change that will have no impact on the supplemental rebate program at this time.



**Paragraph 8.6 of the Agreement:**

3. **CMS Question:** Please explain the rationale for changing the language from "to decrease the net price" to "to enhance discount of its" Supplemental Covered Products etc.

**SCDHHS Response:** Prior to the change in Paragraph 3.14 & Schedule 3, a decrease in "Net Price" would result in increased flexibility in contracting for supplemental rebates. Changing the language, "to enhance the discount of its", will have the same impact as a decrease in "Net Price", that is, an increase in flexibility in contracting for supplemental rebates.

**Attachment A-1: Participating State's Non-Medicaid Programs Approved by CMS in the Medicaid State Plan(s)**

4. Please enter South Carolina as the participating state name.

**SCDHHS Response:** South Carolina has been entered as the participating state on Attachment A-1.

5. In addition, please enter "None" on line #1 for non-Medicaid programs approved by CMS in the Medicaid State Plan(s).

**SCDHHS Response:** "None" has been entered on line #1 of Attachment A-1.

**Attachment A-2:**

6. **CMS Question:** For our records, does the State of South Carolina plan to include MCO utilization data for supplemental rebate collection or exclude MCO utilization

**SCDHHS Response:** South Carolina does not currently dictate the preferred drug list used for the MCO population. As such, South Carolina will NOT be including MCO utilization data for supplemental rebates.

If additional information is needed or if you have questions, please contact Bryan Amick at (803) 898-0212 or Sheila Chavis at (803) 898-2707.

Sincerely,



Anthony E. Keck  
Director

AEK/sashc  
Enclosures