

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

ACTION REFERRAL

TO	DATE
<i>Forkner</i>	<i>10/14/08</i>

DIRECTOR'S USE ONLY	ACTION REQUESTED
1. LOG NUMBER <i>000204</i>	<input type="checkbox"/> Prepare reply for the Director's signature DATE DUE _____
2. DATE SIGNED BY DIRECTOR <i>cc: Single for, Stensland</i> <i>Cleared 10/23/08, after</i> <i>attack</i>	<input checked="" type="checkbox"/> FOIA DATE DUE _____ <input type="checkbox"/> Necessary Action DATE DUE <i>10-28-08</i>

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

MCNAIR LAW FIRM, P.A.
ATTORNEYS AND COUNSELORS AT LAW

Sara S. Rogers
srogers@mcnair.net

www.mcnair.net

BANK OF AMERICA TOWER
1301 GERVAIS STREET
COLUMBIA, SOUTH CAROLINA 29201

POST OFFICE BOX 11390
COLUMBIA, SOUTH CAROLINA 29211
TELEPHONE (803) 798-8800
FACSIMILE (803) 378-2278

October 14, 2008

**VIA ELECTRONIC MAIL AND
U. S. POSTAL SERVICE**

Jeffrey G. Stensland
Public Information Division
South Carolina Department of Health
and Human Services
Post Office Box 8206
Columbia, South Carolina 29202-8206

Re: Request for Information Pursuant to the South Carolina
Freedom of Information Act

Dear Mr. Stensland:

Pursuant to the South Carolina Freedom of Information Act, S.C. Code Ann. §§ 30-4-10, *et seq.* (1976), I am writing to request a copy of correspondence sent by the Department of Health and Human Services ("HHS") to the Governor's Office regarding options for cutting HHS' budget by 10%.

We would be pleased to reimburse the Department for any costs associated with providing a copy of this letter.

Should you have any questions regarding this request, please do not hesitate to contact me.

Sincerely,



Sara S. Rogers

SSR/rwm

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October 14, 2008

VIA ELECTRONIC MAIL AND
U. S. POSTAL SERVICE

RECEIVED

OCT 16 2008

Department of Health & Human Services
OFFICE OF THE DIRECTOR

Jeffrey G. Stensland
Public Information Division
South Carolina Department of Health
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Post Office Box 8206
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Sincerely,



Sara S. Rogers

SSR/twm

From: Jeff Stensland
To: Polatty, Jan
Date: 10/14/2008 12:10 PM
Subject: Fwd: FOIA Request to HHS
Attachments: 1505_001.pdf

FOIA request

Jeff Stensland
SC DHHS
(803) 898-2584

>>> "Rogers, Sally" <SRogers@MCMCNAIR.NET> 10/14/2008 12:08 PM >>>
Jeff, attached is an FOIA request for a copy of HHS' letter to the Governor's office on the list of possible cuts to its budget.
Thank you for your time yesterday and for the helpful information. Sally Rogers

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

From: Martin, Becky
Sent: Tuesday, October 14, 2008 11:27 AM
To: Rogers, Sally
Subject: FOIA Request to HHS

Becky Martin
Assistant to S. S. Rogers, M. M. Fox & P. A. Baker
McNair Law Firm, P. A.
P. O. Box 11390 (29211)
1301 Gervais Street (29201)
Columbia, South Carolina
bmartin@mcnair.net
Telephone: 803-799-9800
Fax: 803-753-3219

CIRCULAR 230 DISCLOSURE

TO ENSURE COMPLIANCE WITH REQUIREMENTS IMPOSED BY THE IRS, WE INFORM YOU THAT ANY U.S. FEDERAL TAX ADVICE CONTAINED IN THIS COMMUNICATION (INCLUDING ANY ATTACHMENTS) IS NOT INTENDED OR WRITTEN TO BE USED, AND CANNOT BE USED, FOR THE PURPOSE OF (1) AVOIDING PENALTIES UNDER THE INTERNAL REVENUE CODE OR (11) PROMOTING, MARKETING OR RECOMMENDING TO ANOTHER PARTY ANY TRANSACTION OR MATTER ADDRESSED HEREIN. THIS ADVICE MAY NOT BE FORWARDED (OTHER THAN WITHIN THE TAXPAYER TO WHICH IT HAS BEEN SENT) WITHOUT OUR EXPRESS WRITTEN CONSENT. TO READ MORE ABOUT THIS DISCLOSURE, PLEASE SEE <http://www.mcnair.net/230.pdf>



State of South Carolina
Department of Health and Human Services

Mark Sanford
Governor

Emma Forkner
Director

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:	_____	\$ _____
Total Amount Due SCDHHS:		\$ _____

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: _____



State of South Carolina
Department of Health and Human Services

Mark Sanford
Governor

Emma Forkner
Director

October 23, 2008

Sara S. Rogers
McNair Law Firm, P.A.
Post Office Box 11390
Columbia, South Carolina 29211

Dear Ms. Rogers:

This is a response to your Freedom of Information Act request received by the SC Department of Health and Human Services (SCDHHS) on October 14, 2008. Attached is a copy of the letter and list submitted to Governor Mark Sanford's office by SCDHHS upon their request. All state agencies were asked to submit similar lists outlining potential cuts if it became necessary to reduce 10 percent of state appropriations from their respective budgets during the current fiscal year. Please contact the agency if you have additional questions.

Sincerely,

A handwritten signature in black ink, appearing to read "Emma Forkner".

Emma Forkner
Director

EF:jp

Enclosures

Log 204
to close ✓



State of South Carolina
Department of Health and Human Services

Mark Sanford
Governor

Emma Fortner
Director

October 7, 2008

The Honorable Mark Sanford
Governor, State of South Carolina
Post Office Box 12267
Columbia, South Carolina 29211

Dear Governor Sanford:

As a result of a projected state budget deficit, all state agencies have been instructed to develop a plan for eliminating 10% in general revenue funds from their respective budgets. For the SC Department of Health and Human Services, this translates to a \$95 million reduction (including the \$28.5 million we eliminated as a result of the across-the-board cut ordered by the Budget and Control Board on August 12, 2008). When the federal Medicaid match is included, the net result of a 10% reduction on the state's health care industry totals more than \$300 million.

The agency arrived at the initial 3% reduction largely by adjusting rates to medical providers. It is our belief that further reductions to core providers would adversely affect access to care for Medicaid beneficiaries. Therefore, in order to reduce our base budget further it would be necessary to instead make significant programmatic and eligibility changes. On the attached list you will find these items ranked in approximate order of importance, with the final items being the most essential to our mission. It should be noted that several items on the attached list would require legislative action to remove budget provisos, which limit the agency's ability to manage reductions of this magnitude. We are asking legislative leaders for their assistance in removing these barriers, in order to prevent some of the reductions in higher priority optional eligibility groups and services.

The federal Centers for Medicare and Medicaid Services (CMS) requires state Medicaid programs to cover certain eligibility categories and make available specific services for those populations (Pregnant Women and Infants, Children, Low Income Families, Supplemental Security recipients). These federally mandated groups and corresponding expenditures make up the bulk of our agency's budget. Therefore, to meet a 10% reduction it would require the elimination of several "state optional" eligibility categories and services. There is little doubt that many of these changes would be severely detrimental to medically vulnerable beneficiaries and to health care providers.

The Honorable Mark Sanford
October 7, 2008
Page 2

Because we must adhere to federal regulations that specify procedures to be followed in order to eliminate a Medicaid program, cost savings from elimination would not be immediate. This may make it necessary in State Fiscal Year 2009 for the agency to request approval from the Budget and Control Board to withdraw a portion of the \$31 million balance in the Medicaid Reserve Fund to cover potential shortages.

Sincerely,



Emma Forkner
Director

EF:jp

Attachment

Mandatory Populations

(Subject to income limits)

- Pregnant Women and Infants
- Children (0-19)
- Low Income Families and Children
- Supplemental Security Income

Optional Populations

- Aged, Blind, & Disabled
- SSI-Medical Assistance only
- SCHIP
- TEFRA Children
- Optional State Supplement
- Working Disabled
- Breast and Cervical Cancer
- Family Planning Waiver
- GAPS
- Transitional Medicaid Assistance
(More than 12 months)

Mandatory Services

- Hospital Services (Inpatient; Outpatient)
- Nursing Homes
- Physician Services
- Home Health
- EPSDT
- Lab & X-Ray
- Family Planning Medical Services
- Clinical Services
- Coordinated Care
- Dental (For eligible children)
- Premium Payments (Medicare Supplemental Insurance)
- Transportation

Optional Services

(All state plan services are mandatory for eligible children)

- Pharmacy (non-institutional patients)
- Community Long Term Care
- Durable Medical Equipment
- Medical Professional
- Hospice
- Optional State Supplement (OSS)
- Integrated Personal Care (IPC)
- PACE
- Family Planning Education (MAPPS)
- Community Choices Waiver
- HIV/AIDS Waiver
- Ventilator Dependent Waiver
- Mental Retardation and Related Disabilities (MR/RD) Waiver
- Head and Spinal Cord Injury (HASCID) Waiver
- Pervasive Development Disorder (PDD) Waiver

Agency Code:	J02			
Agency Name:	Department of Health and Human Services			
	FY 2008-09 Base Budget		\$ 950,232,220	
	10% of FY 2008-09 Base Budget		\$ 95,023,222	

Reduction Priority	Program	Description of Reduction	Amount of Reduction	Cumulative Total of Reductions	Cumulative % of Base Budget	FTEs
1	Administrative - Other Operating and Personnel Services	Reduce non-essential contracts, reduce travel, implement paperless office initiatives, reduce rent and cell phone rates, maintain FTE vacancies between 5 and 10%, and reduce temporary and contract employees.	\$ 1,956,967	\$ 1,956,967	0.21%	
2	Medical Assistance - Multiple Lines	Program Integrity - Shorten timeframe for investigation and recoupment based on outlier identification.	\$ 1,000,000	\$ 2,956,967	0.31%	
3	Medical Assistance - Multiple Lines	Third Party Liability - Allow for increased recoveries and cost avoidance as a result of the DRA and subsequent changes in state law.	\$ 1,000,000	\$ 3,956,967	0.42%	
4	Medical Assistance - All Lines	Eligibility - Improve and ensure the accuracy and timeliness of eligibility determinations and reviews, maintaining compliance with Federal regulations.	\$ 1,000,000	\$ 4,956,967	0.52%	
5	Other Entities - GAPS Assistance Program	Reduce unused appropriation due to lower than expected utilization.	\$ 5,000,000	\$ 9,956,967	1.05%	
6	Medical Assistance - Family Planning Services	Phase out optional Medicaid Adolescent Pregnancy Prevention Services (MAPPS) contracts.	\$ 400,000	\$ 10,356,967	1.09%	

Agency Code:	J02			
Agency Name:	Department of Health and Human Services			
		FY 2008-09 Base Budget		\$ 950,232,220
		10% of FY 2008-09 Base Budget		\$ 95,023,222

Reduction Priority	Program	Description of Reduction	Amount of Reduction	Cumulative Total of Reductions	Cumulative % of Base Budget	FTEs
7	Medical Assistance - Pharmaceutical Services	Reduce unlimited overrides of the 4 prescription per month limit to 6 overrides. Reduce 34 day supply per prescription to 31 day supply.	\$ 3,000,000	\$ 13,356,967	1.41%	
8	Medical Assistance - Hospice Services	Initiate edit to bill Medicare as primary payor, reduce hospice room & board rate to 98% of nursing home rate.	\$ 1,000,000	\$ 14,356,967	1.51%	
9	Medical Assistance - Medical Professional Services	Rebase physical therapy, occupational therapy and speech therapy rates to 95% of 2008 Medicare fee schedule.	\$ 150,000	\$ 14,506,967	1.53%	
10	Medical Assistance - Lab & X-Ray Services	Rebase lab and x-ray rates to 84% of 2008 Medicare fee schedule.	\$ 130,000	\$ 14,636,967	1.54%	
11	Medical Assistance - Clinic Services	Include nutritional supplements as items in composite rate for End Stage Renal Disease (ESRD) instead of billing separately.	\$ 500,000	\$ 15,136,967	1.59%	
12	Medical Assistance - Dental Services	Rebase dental rates to a percent of Ingenix fee schedule based on proviso mandated increase. Rebase oral surgeon codes to 84% of 2008 Medicare fee schedule. Apply base general funds reduction; results in overall increase of 1% rather than 4%.	\$ 1,100,000	\$ 16,236,967	1.71%	

Agency Code:	J02			
Agency Name:	Department of Health and Human Services			
	FY 2008-09 Base Budget		\$ 950,232,220	
	10% of FY 2008-09 Base Budget		\$ 95,023,222	

Reduction Priority	Program	Description of Reduction	Amount of Reduction	Cumulative Total of Reductions	Cumulative % of Base Budget	FTEs
13	Medical Assistance - Physician Services	Rebase physician rates from 86% to 84% of 2008 Medicare fee schedule. Reduce OB delivery fee from \$1200 to \$1000. Rebase Pediatric Subspecialist to 117% and 98% of 2008 Medicare fee schedule. Adjust injectable drug schedule to AWP minus 18%.	\$ 4,800,000	\$ 21,036,967	2.21%	
14	Medical Assistance - Coordinated Care	Implement risk adjustment for MCO rates; adjust rates corresponding to FFS rate adjustments.	\$ 3,400,000	\$ 24,436,967	2.57%	
15	Medical Assistance - Hospital Services	Initiate hospital cost report audits. Expected savings to be realized through recoupments due to errors and overpayments in cost reports.	\$ 1,000,000	\$ 25,436,967	2.68%	
16	Medical Assistance - Durable Medical Equipment	Rebase DME rates to 97% of 2008 Medicare fee schedule for supplies and 87% for equipment.	\$ 750,000	\$ 26,186,967	2.76%	
17	Medical Assistance - Nursing Home Services	Delay 4.8% inflation factor nursing home rate increase effective date until December, 2008.	\$ 1,000,000	\$ 27,186,967	2.86%	
18	Medical Assistance - Community Long Term Care	Suspend adding 300 slots for this optional service. Reduce incontinence supply rates 3%.	\$ 1,320,000	\$ 28,506,967	3.00%	

Agency Code:	J02			
Agency Name:	Department of Health and Human Services			
		FY 2008-09 Base Budget		\$ 950,232,220
		10% of FY 2008-09 Base Budget		\$ 95,023,222

Reduction Priority	Program	Description of Reduction	Amount of Reduction	Cumulative Total of Reductions	Cumulative % of Base Budget	FTEs
19	Administrative - Other Operating	Eliminate administrative outreach contracts - Lieutenant Governor's Office on Aging Ombudsman Contract, Communicare and Family Connections contracts.	\$ 379,115	\$ 28,886,082	3.04%	
20	Medical Assistance - Community Long Term Care	Delete Proviso 21.40 Nursing Rate Increase for specialized nursing services. This requires legislative action.	\$ 100,000	\$ 28,986,082	3.05%	
21	Medical Assistance - Pharmaceutical Services	Delete Proviso 21.20 to allow the agency to increase the discount on drug prices to the Average Wholesale Price (AWP) minus 12%. This requires legislative action.	\$ 2,300,000	\$ 31,286,082	3.29%	
22	Medical Assistance - Pharmaceutical Services	Delete Proviso 21.26 to allow increased management of mental health drugs. This requires legislative action.	\$ 1,000,000	\$ 32,286,082	3.40%	
23	Medical Assistance - Professional Services	Delete Proviso 21.12 to allow increased management of an optional chiropractic service. This requires legislative action	\$ 300,000	\$ 32,586,082	3.43%	
24	Other Entities - Prevention Partnership Grants	Eliminate funding for Prevention Partnership Grants.	\$ 1,000,000	\$ 33,586,082	3.53%	

Agency Code: J02						
Agency Name: Department of Health and Human Services						
		FY 2008-09 Base Budget		\$ 950,232,220		
		10% of FY 2008-09 Base Budget		\$ 95,023,222		
Reduction Priority	Program	Description of Reduction	Amount of Reduction	Cumulative Total of Reductions	Cumulative % of Base Budget	FTEs
25	Medical Assistance - Multiple Lines	Delete Proviso 21.33 The purpose of the proviso, the establishment of the Child Abuse Response Program has been met and these funds are unmatched. This requires legislative action.	\$ 1,300,000	\$ 34,886,082	3.67%	
26	Medical Assistance - Hospital Services	Discontinue the optional Supplemental Teaching Payments to Teaching Hospitals.	\$ 6,500,000	\$ 41,386,082	4.36%	
27	Medical Assistance - Children's Health Insurance Program	Healthy Connections Kids- Cap enrollment in this optional program at 10,000 children. The SCHIP State Plan authorizes 12 months of continuous coverage for enrolled children so coverage cannot be discontinued for those already enrolled.	13,500,000	\$ 54,886,082	5.78%	
28	Medical Assistance - Hospital Services	Adjust hospital rates and cost settlements to 97% of estimated costs.	\$ 5,437,140	\$ 60,323,222	6.35%	
29	Medical Assistance - Pharmaceutical Services	As a second step to reduction priority 23, make an additional reduction of reimbursement for drugs to AWP minus 15%.	\$ 3,000,000	\$ 63,323,222	6.66%	
30	Medical Assistance - Nursing Home Services	Reduce 4.8% inflation factor rate increase for nursing homes to 0% as allowed by Proviso 21.2.	\$ 3,000,000	\$ 66,323,222	6.98%	

Agency Code:	J02				
Agency Name:	Department of Health and Human Services				
		FY 2008-09 Base Budget		\$ 950,232,220	
		10% of FY 2008-09 Base Budget		\$ 95,023,222	

Reduction Priority	Program	Description of Reduction	Amount of Reduction	Cumulative Total of Reductions	Cumulative % of Base Budget	FTEs
31	Medical Assistance - Nursing Home Services	Reduce nursing home permit days by 1.28%. Requires legislative action.	\$ 2,000,000	\$ 68,323,222	7.19%	
32	Medical Assistance - Community Long Term Care	Discontinue the optional HIV Waiver program.	\$ 1,500,000	\$ 69,823,222	7.35%	
33	Other Entities - GAPS Assistance Program	Discontinue this state funded, non-Medicaid GAPS program which provides supplemental pharmacy coverage to Medicare Part D. This requires legislative action.	\$ 5,000,000	\$ 74,823,222	7.87%	
34	Medical Assistance - Multiple Lines	Reduce optional Transitional Medicaid Assistance coverage from 24 months to the Federal minimum mandatory coverage of 12 months.	\$ 6,000,000	\$ 80,823,222	8.51%	
35	Medical Assistance - Multiple Lines	Delete Proviso 89.31 and eliminate the optional TEFRA program. This optional program provides Medicaid coverage for children with significant health-related conditions but whose family income excludes them from Medicaid. This requires legislative action.	\$ 6,000,000	\$ 86,823,222	9.14%	
36	Medical Assistance - Multiple Lines	Eliminate the optional Medically Fragile Children's Program. This program offers optional enhanced services to children with complex medical conditions. Those children who are Medicaid eligible will still have access to State Plan services.	\$ 2,200,000	\$ 89,023,222	9.37%	

Agency Code: J02						
Agency Name: Department of Health and Human Services						
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		10% of FY 2008-09 Base Budget		\$ 95,023,222		
Reduction Priority	Program	Description of Reduction	Amount of Reduction	Cumulative Total of Reductions	Cumulative % of Base Budget	FTEs
37	Medical Assistance - Multiple Lines	Eliminate the optional Breast and Cervical Cancer eligibility category. This does not affect breast and cervical cancer treatment for women who meet the regular Medicaid income limits.	\$ 6,000,000	\$ 95,023,222	10.00%	
				\$ 95,023,222	10.00%	
				\$ 95,023,222	10.00%	
		GRAND TOTAL	\$ 95,023,222			0.00