

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

**ACTION REFERRAL**

TO <i>Myers/Waldrep</i>	DATE <i>8-16-08</i>
----------------------------	------------------------

<b>DIRECTOR'S USE ONLY</b>	<b>ACTION REQUESTED</b>
1. LOG NUMBER <i>000071</i>	<input type="checkbox"/> Prepare reply for the Director's signature DATE DUE _____
2. DATE SIGNED BY DIRECTOR <i>cc: Ms. Forlner</i>	<input type="checkbox"/> Prepare reply for appropriate signature DATE DUE _____
<i>Letter sent 10/29/08, letter attached.</i>	<input type="checkbox"/> FOIA DATE DUE _____
	<input checked="" type="checkbox"/> Necessary Action

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.			

Log: Myers  
N/A  
cc: Ms. Forkner



August 5, 2008

RECEIVED

Mrs. Emma Forkner

Director

AUG 06 2008

South Carolina Department of Health and Human Services

P.O. Box 8206

Department of Health & Human Services

Columbia, SC 29202

OFFICE OF THE DIRECTOR

Dear Mrs. Forkner,

Throughout my service on the Money Follows the Person Task Force, I have been puzzled by the direction the group has taken regarding the implementation of the grant. South Carolinians, like those in most other states, are struggling with the changes in the long term care continuum and has, in my opinion, adapted fairly well. The study, commissioned by your agency, shows that we are a leader in home and community based services although we still have much to accomplish.

The strategy employed to this point is biased against institutional settings although they are and will continue to be a major part of the continuum. It appears that the committee (especially the chair) believes that the only way to promote home and community based services is to tear down or degrade the institutional services in the state. This is reflected in the resolution proposed by the legislative committee.

The resolution mandates to the General Assembly how they will allocate resources and at what levels they will fund home and community based services versus institutional settings. At the same time, it leads one to believe that institutional services are inherently wrong and have no standing in the continuum. I have opposed this resolution from the beginning and will continue to do so. Home and community based programs must stand on their own merits and cannot be deemed to be better or more effective simply because they are non-institutional.

I urge your agency to not move forward on this resolution and to take more of a leadership position with the committee as I believe they have lost their focus on the ultimate goal which is making sure that the MFP grant is successful.

Sincerely,

J. Randal Lee  
President

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

**ACTION REFERRAL**

TO <i>Myers/Waldrep</i>	DATE <i>8-16-08</i>
----------------------------	------------------------

DIRECTOR'S USE ONLY	ACTION REQUESTED
1. LOG NUMBER <b>000071</b>	<input type="checkbox"/> Prepare reply for the Director's signature DATE DUE _____
2. DATE SIGNED BY DIRECTOR <i>cc: Ms. Farkner</i> <i>[Signature]</i>	<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.			

*Log. Myers  
N/A  
cc: Ms. Forkner*



**RECEIVED**

AUG 06 2008

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

August 5, 2008

Mrs. Emma Forkner

Director

South Carolina Department of Health and Human Services

P.O. Box 8206

Columbia, SC 29202

Dear Mrs. Forkner,

Throughout my service on the Money Follows the Person Task Force, I have been puzzled by the direction the group has taken regarding the implementation of the grant. South Carolinians, like those in most other states, are struggling with the changes in the long term care continuum and has, in my opinion, adapted fairly well. The study, commissioned by your agency, shows that we are a leader in home and community based services although we still have much to accomplish.

The strategy employed to this point is biased against institutional settings although they are and will continue to be a major part of the continuum. It appears that the committee (especially the chair) believes that the only way to promote home and community based services is to tear down or degrade the institutional services in the state. This is reflected in the resolution proposed by the legislative committee.

The resolution mandates to the General Assembly how they will allocate resources and at what levels they will fund home and community based services versus institutional settings. At the same time, it leads one to believe that institutional services are inherently wrong and have no standing in the continuum. I have opposed this resolution from the beginning and will continue to do so. Home and community based programs must stand on their own merits and cannot be deemed to be better or more effective simply because they are non-institutional.

I urge your agency to not move forward on this resolution and to take more of a leadership position with the committee as I believe they have lost their focus on the ultimate goal which is making sure that the MFP grant is successful.

Sincerely,

A handwritten signature in black ink, appearing to read "J. Randal Lee".

J. Randal Lee  
President

Ref Log #71

August 13, 2008

Emma Forkner, State Director  
SC Department of Health and Human Services.  
P. O. Box 8206  
Columbia, SC 29202

Dear Emma:

When you addressed the Money Follows the Person Blue Ribbon Panel (MFPBRP) on November 6, 2007, we discussed with you the work that the Panel's Legislative Committee was undertaking to draft a joint resolution to be introduced in the South Carolina General Assembly.

This resolution is a commitment by the State to re-direct resources into home and community based services. Our legislators and the South Carolina Department of Health and Human Services have done a wonderful job in the last two years to reflect this priority of adding resources that allow our citizens to remain at home. This resolution continues to chart a course towards both a fiscally and compassionately sound public policy.

This resolution was formally adopted by the MFPBRP on March 26, 2008 with the understanding that the Legislative Committee would make some minor changes in the wording. That was completed on June 2, 2008.

At the MFPBRP meeting on July 29, 2008, it was agreed to transmit this resolution to you for consideration. The Panel also voted to name this resolution in honor of the late Harriet Johnson, the primary author of this document. Also enclosed are comments from Panel member Randy Lee who cast the only vote in opposition to this resolution. Please let me know if you would like to discuss this further.

Sincerely,



Teresa Arnold, Chairperson

Enclosures (2)

Cc: William Wells  
Bryan Kost



August 5, 2008

**RECEIVED**

AUG 06 2008

Department of Health & Human Services  
OFFICE OF THE DIRECTOR

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

Dear Mrs. Forkner,

Throughout my service on the Money Follows the Person Task Force, I have been puzzled by the direction the group has taken regarding the implementation of the grant. South Carolinians, like those in most other states, are struggling with the changes in the long term care continuum and has, in my opinion, adapted fairly well. The study, commissioned by your agency, shows that we are a leader in home and community based services although we still have much to accomplish.

The strategy employed to this point is biased against institutional settings although they are and will continue to be a major part of the continuum. It appears that the committee (especially the chair) believes that the only way to promote home and community based services is to tear down or degrade the institutional services in the state. This is reflected in the resolution proposed by the legislative committee.

The resolution mandates to the General Assembly how they will allocate resources and at what levels they will fund home and community based services versus institutional settings. At the same time, it leads one to believe that institutional services are inherently wrong and have no standing in the continuum. I have opposed this resolution from the beginning and will continue to do so. Home and community based programs must stand on their own merits and cannot be deemed to be better or more effective simply because they are non-institutional.

I urge your agency to not move forward on this resolution and to take more of a leadership position with the committee as I believe they have lost their focus on the ultimate goal which is making sure that the MFP grant is successful.

Sincerely,

J. Randal Lee  
President

**State of South Carolina**  
**Money Follows the Person Rebalancing Demonstration Grant**

**PROPOSED HARRIETT McBRYPDE JOHNSON JOINT RESOLUTION**

WHEREAS, It is the policy of this State:

To respect the rights and integrity of families, including families with members who need longterm care and/or assistance with daily life activities because of physical or mental disability;

To encourage independence, responsibility, and self-determination of individuals and families in all matters affecting their personal lives, including individuals who need long-term care and/or assistance with daily life activities and their families;

To develop decentralized, choice-based solutions that meet individual needs;

To encourage each individual to build and maintain connections with community, participating to the maximum extent possible in all aspects of community life; and

To strive to deliver necessary services effectively, efficiently, and fairly, and in ways that strengthen individuals, families, and communities and empower them to develop their own resources to help themselves and contribute to others.

AND WHEREAS, Historically, in the delivery of long-term care services in South Carolina and throughout the nation, there has been a pronounced bias in favor of institutional services as opposed to home and community-based services. This bias is manifested, among other ways, in the fact that federal law requires all states to fund institutional services but makes community based services optional and in the fact that in South Carolina and throughout the nation public funding has disproportionately gone to institutional services as opposed to community-based alternatives.

AND WHEREAS, In recent years, there has been increasing recognition of this bias and of the need to rebalance funding so that more resources are available to families and individuals who wish to avoid institutional placement and who would be able to live outside of an institution if such resources were available. Although South Carolina has made significant progress in developing home and community-based services to support individuals outside of institutions, progress is far from adequate. For example, there are long waiting lists for home and community based services and many individuals who could be served effectively in the community become institutionalized due to the delay in receiving community-based services and/or due to the lack of funding for a full range of services that could be tailored to meet the comprehensive needs of the individual.

AND WHEREAS, The experience in South Carolina and in other states as confirmed by numerous studies has been that home and community-based services as compared with institutional services result in greater consumer satisfaction, lower rates of morbidity and mortality, and lower cost per capita, in addition to furthering the policies set forth above.

AND WHEREAS, In response to this experience and the Supreme Court ruling in *Olmstead vs. LC*, which established the principle that institutionalization may constitute illegal segregation under the Americans with Disabilities Act, the federal government has launched several initiatives under the

Medicaid program that require states to rebalance long-term care toward home and community based services.

AND WHEREAS, The State of South Carolina has obtained a federal "Money Follows the Person" grant under which it has committed to make measurable progress in shifting the balance of South Carolina's long-term care funding toward a greater proportion of funding for home and community-based services.

AND WHEREAS, The State of South Carolina recognizes that, although continued funding of nursing homes and other institutions is needed at a level to ensure quality care for some of our most vulnerable citizens, investment in community-based services will over time realize savings by avoiding unnecessary institutional placement.

#### NOW THEREFORE BE IT RESOLVED

1. If the General Assembly considers funding any rate increase or other funding increase under Medicaid for nursing home and other institutional services, the Budget and Control Board shall report on the impact of such increase on the relative proportion of long-term care expenditures for institutional versus community-based services and on the state's commitments under the Money Follows the Person grant.
2. That beginning in fiscal year 2009, the proportion of South Carolina's combined Federal and State Medicaid that is allocated to home and community-based services as opposed to the institutional services shall be increased by 3.2% per year, with the expectation that South Carolina's proportion will reach the national average in five years using data compiled and reported by the Center for Medicare and Medicaid Services (CMS) in CMS 64 reports.
3. In implementing paragraph 2 of this Joint Resolution, any new slots that are added to the long-term care waivers and any funding required to process such new slots shall not be counted toward the required increase, so long as such slots are needed to equalize the numbers of people and/or the time spent on waiting lists for community-based services with the waiting lists for institutional services.
4. Nothing herein shall be construed to limit the General Assembly's authority or responsibility to go beyond the rebalancing provided for in paragraph 2.
5. This Joint Resolution is an interim measure until such time as the state shall accomplish an appropriate balance whereby all long-term care funding is available to serve all qualified and eligible individuals in the setting of their own choice and that meets their individual needs, whereby all individuals who choose and are able to live outside institutions will be able to take their funding with them when they leave institutions, and whereby the same range and level of service is offered in the community as is offered in institutions, subject only to aggregate cost restrictions as set forth in federal Medicaid law.

Approved by the Money Follows the Person Blue Ribbon Panel on March 26, 2008

*Ms. Wells*

DEPARTMENT OF HEALTH AND HUMAN SERVICES  
OFFICE OF DIRECTOR

ACTION REFERRAL

TO	DATE
<i>Myers/Waldrep</i>	<i>8-16-08</i>

DIRECTOR'S USE ONLY	ACTION REQUESTED
1. LOG NUMBER  <i>300071</i>	<input type="checkbox"/> I Prepare reply for the Director's signature DATE DUE _____
2. DATE SIGNED BY DIRECTOR  <i>cc: Ms. Farner</i>	<input type="checkbox"/> I Prepare reply for appropriate signature DATE DUE _____
	<input type="checkbox"/> I 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.			

August 13, 2008

Emma Forkner, State Director  
SC Department of Health and Human Services.  
P.O. Box 8206  
Columbia, SC 29202

Dear Emma:

When you addressed the Money Follows the Person Blue Ribbon Panel (MFPBRP) on November 6, 2007, we discussed with you the work that the Panel's Legislative Committee was undertaking to draft a joint resolution to be introduced in the South Carolina General Assembly.

This resolution is a commitment by the State to re-direct resources into home and community based services. Our legislators and the South Carolina Department of Health and Human Services have done a wonderful job in the last two years to reflect this priority of adding resources that allow our citizens to remain at home. This resolution continues to chart a course towards both a fiscally and compassionately sound public policy.

This resolution was formally adopted by the MFPBRP on March 26, 2008 with the understanding that the Legislative Committee would make some minor changes in the wording. That was completed on June 2, 2008.

At the MFPBRP meeting on July 29, 2008, it was agreed to transmit this resolution to you for consideration. The Panel also voted to name this resolution in honor of the late Harriet Johnson, the primary author of this document. Also enclosed are comments from Panel member Randy Lee who cast the only vote in opposition to this resolution. Please let me know if you would like to discuss this further.

Sincerely,



Teresa Arnold, Chairperson

Enclosures (2)

Cc: William Wells  
Bryan Kost



August 5, 2008

**RECEIVED**

AUG 06 2008

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

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

Dear Mrs. Forkner,

Throughout my service on the Money Follows the Person Task Force, I have been puzzled by the direction the group has taken regarding the implementation of the grant. South Carolinians, like those in most other states, are struggling with the changes in the long term care continuum and has, in my opinion, adapted fairly well. The study, commissioned by your agency, shows that we are a leader in home and community based services although we still have much to accomplish.

The strategy employed to this point is biased against institutional settings although they are and will continue to be a major part of the continuum. It appears that the committee (especially the chair) believes that the only way to promote home and community based services is to tear down or degrade the institutional services in the state. This is reflected in the resolution proposed by the legislative committee.

The resolution mandates to the General Assembly how they will allocate resources and at what levels they will fund home and community based services versus institutional settings. At the same time, it leads one to believe that institutional services are inherently wrong and have no standing in the continuum. I have opposed this resolution from the beginning and will continue to do so. Home and community based programs must stand on their own merits and cannot be deemed to be better or more effective simply because they are non-institutional.

I urge your agency to not move forward on this resolution and to take more of a leadership position with the committee as I believe they have lost their focus on the ultimate goal which is making sure that the MFP grant is successful.

Sincerely,

A handwritten signature in black ink, appearing to read "Randy", is written over the typed name "J. Randal Lee".

J. Randal Lee  
President

**State of South Carolina**  
**Money Follows the Person Rebalancing Demonstration Grant**

**PROPOSED HARRIETT MCBRYDE JOHNSON JOINT RESOLUTION**

WHEREAS, It is the policy of this State:

To respect the rights and integrity of families, including families with members who need longterm care and/or assistance with daily life activities because of physical or mental disability;

To encourage independence, responsibility, and self-determination of individuals and families in all matters affecting their personal lives, including individuals who need long-term care and/or assistance with daily life activities and their families;

To develop decentralized, choice-based solutions that meet individual needs;

To encourage each individual to build and maintain connections with community, participating to the maximum extent possible in all aspects of community life; and

To strive to deliver necessary services effectively, efficiently, and fairly, and in ways that strengthen individuals, families, and communities and empower them to develop their own resources to help themselves and contribute to others.

AND WHEREAS, Historically, in the delivery of long-term care services in South Carolina and throughout the nation, there has been a pronounced bias in favor of institutional services as opposed to home and community-based services. This bias is manifested, among other ways, in the fact that federal law requires all states to fund institutional services but makes community based services optional and in the fact that in South Carolina and throughout the nation public funding has disproportionately gone to institutional services as opposed to community-based alternatives.

AND WHEREAS, In recent years, there has been increasing recognition of this bias and of the need to rebalance funding so that more resources are available to families and individuals who wish to avoid institutional placement and who would be able to live outside of an institution if such resources were available. Although South Carolina has made significant progress in developing home and community-based services to support individuals outside of institutions, progress is far from adequate. For example, there are long waiting lists for home and community based services and many individuals who could be served effectively in the community become institutionalized due to the delay in receiving community-based services and/or due to the lack of funding for a full range of services that could be tailored to meet the comprehensive needs of the individual.

AND WHEREAS, The experience in South Carolina and in other states as confirmed by numerous studies has been that home and community-based services as compared with institutional services result in greater consumer satisfaction, lower rates of morbidity and mortality, and lower cost per capita, in addition to furthering the policies set forth above.

AND WHEREAS, In response to this experience and the Supreme Court ruling in *Olmstead vs. LC*, which established the principle that institutionalization may constitute illegal segregation under the Americans with Disabilities Act, the federal government has launched several initiatives under the

Medicaid program that require states to rebalance long-term care toward home and community based services.

AND WHEREAS, The State of South Carolina has obtained a federal "Money Follows the Person" grant under which it has committed to make measurable progress in shifting the balance of South Carolina's long-term care funding toward a greater proportion of funding for home and community-based services.

AND WHEREAS, The State of South Carolina recognizes that, although continued funding of nursing homes and other institutions is needed at a level to ensure quality care for some of our most vulnerable citizens, investment in community-based services will over time realize savings by avoiding unnecessary institutional placement.

#### NOW THEREFORE BE IT RESOLVED

1. If the General Assembly considers funding any rate increase or other funding increase under Medicaid for nursing home and other institutional services, the Budget and Control Board shall report on the impact of such increase on the relative proportion of long-term care expenditures for institutional versus community-based services and on the state's commitments under the Money Follows the Person grant.
2. That beginning in fiscal year 2009, the proportion of South Carolina's combined Federal and State Medicaid that is allocated to home and community-based services as opposed to the institutional services shall be increased by 3.2% per year, with the expectation that South Carolina's proportion will reach the national average in five years using data compiled and reported by the Center for Medicare and Medicaid Services (CMS) in CMS 64 reports.
3. In implementing paragraph 2 of this Joint Resolution, any new slots that are added to the long-term care waivers and any funding required to process such new slots shall not be counted toward the required increase, so long as such slots are needed to equalize the numbers of people and/or the time spent on waiting lists for community-based services with the waiting lists for institutional services.
4. Nothing herein shall be construed to limit the General Assembly's authority or responsibility to go beyond the rebalancing provided for in paragraph 2.
5. This Joint Resolution is an interim measure until such time as the state shall accomplish an appropriate balance whereby all long-term care funding is available to serve all qualified and eligible individuals in the setting of their own choice and that meets their individual needs, whereby all individuals who choose and are able to live outside institutions will be able to take their funding with them when they leave institutions, and whereby the same range and level of service is offered in the community as is offered in institutions, subject only to aggregate cost restrictions as set forth in federal Medicaid law.

Approved by the Money Follows the Person Blue Ribbon Panel on March 26, 2008



*State of South Carolina*  
Department of Health and Human Services

Mark Sanford  
Governor

October 29, 2008

Emma Forkner  
Director

Teresa Arnold, Chairperson  
Money Follows the Person Blue Ribbon Panel  
1201 Main Street, Suite 1280  
Columbia, South Carolina 29201

Dear Ms. Arnold: *Teresa*

Thank you for giving us the opportunity to review the proposed Harriet McBryde Johnson Joint Resolution. We applaud the effort to honor Harriet, whose advocacy on behalf of those with disabilities will be greatly missed. The South Carolina Department of Health and Human Services has for many years been deeply committed to offering a full spectrum of long term care options for the state's senior and disabled populations. We are grateful for the work of stakeholders like the Blue Ribbon Panel in helping us make long term care issues central to our mission.

In reviewing the proposed resolution, we regrettably cannot support this initiative. While we strongly support rebalancing efforts, we are primarily concerned that the language in the resolution would limit the agency's flexibility in administering the Medicaid Long Term Care program. This is particularly relevant in the context of the current budget difficulties facing South Carolina, in which our options to mitigate a shortfall are limited by numerous legislative mandates.

If you would like to discuss this issue, please do not hesitate to contact me.

Sincerely,

Emma Forkner  
Director

EF/mwrk

Log 000071  
✓