

DEPARTMENT OF HEALTH AND HUMAN SERVICES  
OFFICE OF DIRECTOR

**ACTION REFERRAL**

TO <i>Singleton</i>	DATE <i>12-31-09</i>
------------------------	-------------------------

DIRECTOR'S USE ONLY	ACTION REQUESTED
1. LOG NUMBER <i>100281</i>	<input type="checkbox"/> Prepare reply for the Director's signature DATE DUE _____
2. DATE SIGNED BY DIRECTOR  <i>Ref log # D1103 (attached) Cleared 1/8/10, letter attached</i>	<input checked="" type="checkbox"/> Prepare reply for appropriate signature DATE DUE <i>1-18-10</i>  <input type="checkbox"/> FOIA DATE DUE _____  <input 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.			

MICHAEL F. TALLEY, LLC

RECEIVED

Attorney At Law

206 Green Avenue

Across From Greenville High School

Greenville, South Carolina 29601

Talleylaw@aol.com

DEC 3 ◆ 2009

Department of Health & Human Services

OFFICE OF THE DIRECTOR

Phone: 864-233-6229

Fax: 864-370-0071

Post Office Box 10081

Federal Station

December 22, 2009

Ms. Emma Forkner,

Director

South Carolina Department of Health & Human Services

P. O. Box 8206

Columbia, S. C. 29202-8206

RE: My Client - Ms. Lizzie Wright  
1494 Gregson Court  
Rock Hill, S. C. 29732

Dear Ms. Forkner:

I sent you a copy of the enclosed letter I wrote Ms. Allison Mackey of your Rock Hill Office on October 6, 2009 in which I complained about the racial discriminatory manner in which my above wife's mother's Application was being processed for Medicaid long term care Services by your Rock Hill Office.

Although my wife's sister, Ms. Betty Wright Sims, now says that she feels a little better about how her mother's application is being processed subsequently to my letter of October 6, 2009, she recently received the enclosed request from a Ms. Melanie Hoover of your Rock Hill Office requesting the exact amounts for deposits in a joint Savings Account with Right of Survivorship that my wife's brother, Mr. B. J. Wright, established in 1987 to cover burial expenses for him and their mother. However, since apparently your Rock Hill Office does not accept her son's statements that almost 90 to 95% of the monies deposited therein belonged to him although his mother has been unemployed since the early 1990's, Ms. Hoover is demanding verification of whom made all the deposits to this account.

Although this request by Ms. Hoover is not only impossible but it is totally irrational considering that my wife's brother's bank is not going to be able to give Ms. Hoover or your Department any verification as to whom made the deposits into this Savings Account.

Also, I sincerely doubt that a White Applicant and his/her family would have been asked by your Department to supply such impossible information.

Apparently, your Rock Hill Office has already decided that it was not going to fairly process and approve my wife's mother's Application.

Since I really don't really have any great desire to file a lawsuit against your Department for improperly processing my wife's mother's Application, I would appreciate it if your Columbia Office would review and process her Application and render a prompt and just decision.

Your Department's prompt attention to a just and proper review of my wife's mother's Application would be greatly appreciated.

Yours truly,



Michael F. Talley

MFT/

Enclosures;

cc: Ms. Melanie Hoover

Ms. Betty Wright Simms

**MEDICAID CHECKLIST FOR  
NURSING HOME ASSISTANCE, GENERAL HOSPITAL,  
HOME AND COMMUNITY BASED WAIVER SERVICE**

Date: 11/24/09

Applicant/Beneficiary: LIZZIE WRIGHT Authorized Representative: BETTY SIMS

We are currently working on your application/review for Medicaid long-term care services. To complete the eligibility process, some additional information will be needed concerning you, and if married, your spouse. Please see the items  checked below:

- Complete the Attached Review Form
- Power of Attorney, Guardianship, or Conservator Papers
- Verification of  Citizenship  Identity  Original Documents Required. The applicant's
- The income limit for institutional care is \$\_\_\_\_\_ for \_\_\_\_\_ The applicant's income is over this amount. To possibly qualify for Medicaid assistance for long-term care services, an income trust must be established. You will find the forms needed to complete this process attached. This may be a copy of an itemized
- Proof of gross income received by \_\_\_\_\_ or statement on letterhead from the company or agency; check-stub, award letter, PRINTOUT, or statement on letterhead for the company or agency.
- For all accounts, copies of entire bank statements, not account summaries, for February 2006, February 2007, February 2008, February 2009 and the following month(s): \_\_\_\_\_
- Designate or establish a bank account for income to flow through. Return verification of this account. \_\_\_\_\_
- Proof of assets sold, transferred, or given away on or after February 8, 2006 to the present. \_\_\_\_\_ benefits on the applicant's behalf.
- Verification you have applied for \_\_\_\_\_
- Burial Assets: Copies of the applicant/spouse's  Pre-need burial contract(s)  burial plot deed(s) or other verification of ownership such as a statement on letterhead. If the contract or plot is not paid for, we also need verification of the payoff amount.
- Copies of all life insurance policies owned by the applicant/spouse. If the policy is not on hand, a letter from the agent showing the policy number, name of owner, face value, and current cash value of the policy can be provided. If this is not possible, give the name and address of the insurance company, and the policy number for each policy. The owner of the policy needs to sign and date DHHS Form 1280 ME, Verification of Insurance Value, to let us verify current cash values directly from the insurance company.
- Copy of annuity for \_\_\_\_\_
- Please sign and return the form(s) indicated:
  - DHHS 943, Release of Information
  - DHHS 1212 ME, Verification of Veterans Information
  - DHHS 1786-A, Burial Exclusion
  - DHHS 1253 ME, Request for Financial Investigation
  - DHHS 1280 ME, Verification of Insurance Value
  - DHHS 1296 ER, Estate Recovery Notification
  - DHHS 1282, Authorized Representatives Acknowledgement of Responsibilities
- All medical insurance policies or cards and proof of premiums
- Other: REBUTAL FORMS (2) MUST BE FILLED OUT AGAIN BY LIZZIE AND BJ. WE MUST HAVE EXACT AMOUNTS FOR QUESTION #3, AND WE ALSO HAVE TO HAVE VERIFICATION OF WHO MADE ALL THE DEPOSITS TO THE ACCOUNT. IF THIS CANNOT BE PROVIDED THERE WILL BE A TRANSFER PENALTY.

Other: \_\_\_\_\_ 12/18/09 Delivered 11/24/09 If you have any questions or you need additional time to secure requested information, please call your worker listed below. Thank you for your cooperation.

Worker: MELANIE HOOVER Telephone: 803-366-1900 EXT. 432  
 Address: PO BOX 710 Fax: \_\_\_\_\_  
ROCK HILL, SC 29731

**MICHAEL F. TALLEY, LLC**  
**Attorney At Law**

206 Green Avenue  
Across From Greenville High School  
Greenville, South Carolina 29601  
Talleylaw@aol.com

Post Office Box 10081  
Federal Station

Phone: 864-233-6229  
Fax: 864-370-0071

October 6, 2009

Ms. Allison Mackey  
York County DHHS  
P. O. Box 710  
Rock Hill, S. C. 29731

RE: My Client - Ms. Lizzie Wright  
1464 Gregson Court  
Rock Hill, S. C. 29732

Dear Ms. Mackey:

I have instructed my wife's sister, Ms. Betty Sims, to reapply for your Department Nursing Home Care for my wife's and her siblings' mother, Ms. Lizzie Wright who, incidentally is my client, and as her Legal Representative, your S. C. Department of Health and Human Services is legally obligated to discuss Ms. Lizzie Wright's case with me along with any one of her Attorneys-in-Fact, Ms. Betty Sims, and/or Mr. B. J. Wright and/or my wife, Ms. Dianne W. Talley.

Also, should your Department refuse to discuss Ms. Lizzie Wright's case with me and my office, this could be considered tortious interference with my Attorney-client relationship which could possibly make the S. C. Department of Health and Human Services liable to me and my office for possible monetary damages.

I have also instructed my wife's Sister, Ms. Betty Sims, to deliver to you and your S. C. Department of Health and Human Services 1) An Affidavit from her brother, B. J. Wright; 2) An Affidavit from my wife and Ms. Sims' sister, Ms. Dianne W. Talley; 3) An Affidavit from her and my wife's brother, Mr. James F. Wright; and 4) Ms. Sims' own Affidavit which all conclusively show that their family home in Jonesville, S. C. is and was always their brother's home and that their mother's deed to her son, Mr. B. J. Wright, for the one-half interest she was holding in her name in trust for her son was only a reaffirmation of the attached 1992 unrecorded deed whereby she transferred the one-half (1/2) interest in which she was holding in trust for her son back to her son.

Also, in reviewing the Affidavits of Ms. Lizzie Wright's children and the attached Corrective Deed from Ms. Lizzie Wright to her son, Mr. B. J. Wright,

attesting that their family home always, beginning in 1973, was always owned by their brother, Mr. B. J. Wright, and that, in reality, their mother, Ms. Lizzie Wright, never owed any legal title or equitable interest in their family home in Jonesville, S.C. and was only holding a one-half (1/2) interest in said home for her son, Mr. B. J. Wright.

Since I am sure that Ms. Lizzie Wright's transfer to her son, Mr. B. J. Wright, conclusively shows without question that Ms. Lizzie Wright's Application for Home Care Nursing in the State's Medicaid Program should now be approved as Ms. Lizzie Wright received nothing in value from her son, Mr. B. J. Wright, for her transfer to him of a one-half (1/2) interest in his home in which she was always holding in trust for him.

Should Ms. Lizzie Wright's Application be denied, I am ready to file a Lawsuit against the S. C. Department of Health and Human Services for a Declaratory Judgment that Ms. Lizzie Wright's Application was improperly and unlawfully denied.

Also, since I am informed that my wife's sister, Ms. Betty Sims, tried to explain to you that their brother, Mr. B. J. Wright, really owned their family home and always took care of their family without receiving of value in return except the satisfaction that he was taking care of his family, I get the impression that Ms. Lizzie Wright was probably the victim of racial discrimination due to the fact that she is black because I am pretty sure that any reasonable amount of discovery in a lawsuit in Circuit Court would uncover the fact that there have been White People somewhere in the State of South Carolina who, unlike my Client, Ms. Lizzie Wright, made improper transfers of real estate, and was readily approved for your Department's Nursing Home Care Program.

By a copy of this letter to the State Office of the S. C. Department of Health and Human Service that, if Ms. Lizzie Wright's Application continues to be held to a different and racially discriminatory standard, I am ready to file a lawsuit against the S. C. Department of Health and Human Services for appropriate relief.

With kindest regards.

Yours truly,



Michael F. Talley

MFT/  
Enclosures:  
cc: Ms. Betty Wright Sims  
Mr. B. J. Wright  
Ms. Dianne W. Talley  
S. C. Department of Health and Human Services, Columbia Office

DEPARTMENT OF HEALTH AND HUMAN SERVICES  
OFFICE OF DIRECTOR

ACTION REFERRAL

TO	DATE
<i>Single fax</i>	<i>10-7-09</i>

DIRECTOR'S USE ONLY	ACTION REQUESTED
1. LOG NUMBER <i>1001163</i>	<input type="checkbox"/> I Prepare reply for the Director's signature DATE DUE _____
2. DATE SIGNED BY DIRECTOR <i>Cleaved 10/13/09, see attached email response and letter.</i>	<input checked="" type="checkbox"/> Prepare reply for appropriate signature DATE DUE <i>10-16-09</i> <input type="checkbox"/> I FOIA DATE DUE _____ <input type="checkbox"/> Necessary Action.

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**MICHAEL F. TALLEY, LLC**

**Attorney At Law**

206 Green Avenue  
Across From Greenville High School  
Greenville, South Carolina 29601  
Talleylaw@aol.com

Post Office Box 10081  
Federal Station

October 6, 2009

Phone: 864-233-6229  
Fax: 864-370-0071

**RECEIVED**

OCT 07 2009

Ms. Allison Mackey  
York County DHHS  
P. O. Box 710  
Rock Hill, S. C. 29731

RE: My Client - Ms. Lizzie Wright  
1464 Gregson Court  
Rock Hill, S. C. 29732

Department of Health & Human Services  
OFFICE OF THE DIRECTOR

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Also, should your Department refuse to discuss Ms. Lizzie Wright's case with me and my office, this could be considered tortious interference with my Attorney-client relationship which could possibly make the S. C. Department of Health and Human Services liable to me and my office for possible monetary damages.

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With kindest regards.

Yours truly,

  
Michael F. Talley

MFT/

Enclosures:

cc: Ms. Betty Wright Sims  
Mr. B. J. Wright  
Ms. Dianne W. Talley  
S. C. Department of Health and Human Services, Columbia Office

STATE OF SOUTH CAROLINA

CORRECTIVE DEED TO LIST CORRECT CONSIDERATION

COUNTY OF UNION

KNOW ALL MEN BY THESE PRESENTS, that I, LIZZIE WRIGHT

Grantee's Address  
266 Elsontown Road  
Jonesville, SC 29353

in consideration of TEN (\$10.00) DOLLARS LOVE AND AFFECTION FOR MY SON AND OTHER CONSIDERATION  
the receipt of which is hereby acknowledged, have granted, bargained, sold, and released, and by these presents do grant, bargain, sell  
and release unto B. J. WRIGHT, RESERVING A LIFE ESTATE IN THE GRANTOR, LIZZIE WRIGHT.

ALL OF MY UNDIVIDED ONE-HALF (1/2) INTEREST IN AND TO:

ALL of that certain piece, parcel or lot of land, with improvements thereon, lying,  
being and situate in Pinckney Township, Union County, South Carolina, on the  
northeastern side of S.C. Hwy. 44-55 (n/k/a EisonTown Road) and being shown on a  
Plat of lot deleted from the 187 acre tract of Henry V. Smith by Dan E. Collins,  
RLS., on February 18, 1973, Reference being made to Deed Book 80, at Page 306 in  
the Union County Office of the Clerk of Court. Said lot having the following metes  
and bounds, to-wit:

BEGINNING at an iron pin at the said S. C. Hwy 44-55 (n/k/a EisonTown Road  
and corner to property of Stewart), thence N. 78-00 E. for a distance of 250 feet to  
an iron pin ; thence S. 26-00 E. for a distance of 150 feet to an iron pin; thence S.  
78-00 W. for a distance of 250 feet to an iron pin; thence N. 26-00 W. for a distance  
of 150 feet to an iron pin, the point of beginning. Said lot is bounded on the North  
of property of Stewart, on the East and South by property of Henry V. Smith,  
reserved, and on the West by the said S. C. Hwy. 44-55, (n/k/a EisonTown Road).

(DESCRIPTION CONTINUED ON BACK PAGE)

They with all and singular the rights, members, hereditaments and appurtenances to said premises belonging or to any wise incident or ap-  
purling, to have and to hold all and singular the premises before mentioned unto the grantee(s), and the grantee(s)' heirs or assignors and af-  
ter, forever. And, the grantee(s) shall hereby bind the grantee(s) and the grantor(s)' heirs or successors, executors and administrators and  
at and and forever defend all and singular said premises unto the grantee(s) and the grantor(s)' heirs or successors and administrators  
whosoever lawfully claiming or to claim the same on any part hereof.

WITNESS the grantor(s)' hand(s) and seal(s) this 25th day of June

2009 Lizzie Wright

They sealed and delivered in the presence of:

Richard Beck

Lizzie Wright

Lizzie F. Tilly

USE OF SOUTH CAROLINA  
FILE OF UNION

PRIVATE

Notarially appeared the undersigned witnesses and made oath that (she saw the within named  
person) who executed the above described deed and that (she) is, with (her) other witness subscribed  
and delivered the execution thereof.

Subscribed and sworn to before me this 25th day of June

XX 2009

Richard Beck

Richard Beck

Witness my hand and seal this 1-17-2013

WITNESS this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_ at \_\_\_\_\_



STATE OF SOUTH CAROLINA  
COUNTY OF UNION

KNOW ALL MEN BY THESE PRESENTS, that I, LIZZIE WRIGHT

In consideration of TEN (\$10.00) DOLLARS and LOVE AND AFFECTION  
AND ASSUMPTION OF THE BELOW DESCRIBED MORTGAGE  
the receipt of which is hereby acknowledged, have granted, bargained, sold, and released, and by these presents do grant, bargain, sell and release unto  
B. J. WRIGHT, RESERVING A LIFE ESTATE IN THE GRANTOR, LIZZIE WRIGHT.

ALL OF MY UNDIVIDED ONE-HALF (1/2) INTEREST IN AND TO:

All of that certain piece, parcel or lot of land, with improvements thereon, lying, being and situate in Pinckney Township, Union County, South Carolina, on the northeastern side of S.C. Hwy. 44-55 and being shown on a Plat of lot being deleted from the 187 acre tract of Henry V. Smith by Dan E. Collins, RLS., on February 18, 1973, Reference being made to Deed Book 80, at Page 306 in the Union County Office of the Clerk of Court. Said lot having the following metes and bounds, to-wit:

BEGINNING at an iron pin at the said S. C. Hwy. 44-55 (corner to property of Stewart) thence N. 78-00 E. for a distance of 250 feet to an iron pin; thence S. 26-00 E. for a distance of 150 feet to an iron pin; thence S. 78-00 W. for a distance of 250 feet to an iron pin; thence N. 26-00 W. for a distance of 150 feet to an iron pin the point of beginning. Said lot is bounded on the North of property of Stewart, on the East and South by property of Henry V. Smith, reserved, and on the West by the said S.C. Hwy. 44-55.

BEING a portion of the same property conveyed to the Grantor, Lizzie Wright, and the Grantee herein, B. J. Wright by the Deed of Lofton A. Ivey, dated March 29, 1973, and recorded in the Union County Clerk of Court in Deed Book 183 at Page 238.

AS part of the consideration for this conveyance, the Grantee herein agrees to pay and assume that certain mortgage granted by B. J. Wright and Lizzie Wright, in favored of the United State of America, acting through the Farmers Home Administration, of March 29, 1973 in the original principal amount of \$15,360.00 which is recorded (CONTINUED BACK) together with all and singular the rights, members, hereditaments and appurtenances to said premises belonging or in any wise incident or pertaining; to have and to hold all and singular the premises before mentioned unto the grantee(s), and the grantee(s)' heirs or successors and assigns, forever. And, the grantor(s) do(es) hereby bind the grantor(s) and the grantor s(s)' heirs or successors, executors and administrators to warrant and forever defend all and singular said premises unto the grantee(s) and the grantee(s)' heirs or successors and against every person whomsoever lawfully claiming or to claim the same or any part thereof.

WITNESS the grantor(s)' hand(s) and seal(s) this 9<sup>th</sup> day of April, 1992  
LIZZIE WRIGHT (SEAL)

Boena O. Jolley (SEAL)  
Lizzie Wright (SEAL)

STATE OF SOUTH CAROLINA }  
COUNTY OF UNION }  
PROBATE

Personally appeared the undersigned witness and made oath that (s)he saw the within named grantor(s) sign, seal and as the grantor(s)' act and deed, deliver the within written deed and that (s)he, with the other witness subscribed above, witnessed the executing thereof

SWORN to before me this 9<sup>th</sup> day of April, 1992  
Boena O. Jolley (SEAL)  
Notary Public for South Carolina.

My commission expires 10/19/95  
RECORDED this 19 day of 19, at M., No.

Page # 000 163

**From:** George Burnett  
**To:** Marie Brown  
**Date:** 10/21/2009 2:02 PM  
**Subject:** Lizie ?? Log 163

This is the one I went to Rock Hill on last week. We took another application and will evaluate it. If anything else comes up the county knows to call me or refer someone to me.

George visit to Rock Hill was October 13, 2009.  
Maire



Log # 000 281

January 8, 2010

Michael F. Talley, Esquire  
Michael F. Talley, LLC  
PO Box 10081, Federal Station  
Greenville, South Carolina 29601

Re: Lizzie Wright

Dear Mr. Talley:

It was a pleasure talking with you about your mother-in law, Ms. Lizzie Wright. I wanted to restate in writing what we discussed.

First, the York County DHHS Office is processing her application correctly. I am enclosing the policy that requires that joint accounts be verified before an application can be approved. Policy states that you may rebut the presumption that all the money in the account belongs to Ms. Wright by completing the required forms and furnishing the bank verification.

However, since this account is of long standing, I have obtained permission to offer you this solution. If you will furnish me with deposit information and the cancelled checks that were used to make the deposit into the account on a monthly basis for the 18 months immediately preceding Ms. Wright's initial application and we can determine that every deposit was made by Mr. B.J. Wright from his own funds, we will be able to establish a pattern sufficient to rebut the presumption.

In the alternative, you may purchase a pre-need burial contract for Ms Wright. This contract must be irrevocable from the onset of the contract. Since Ms. Wright must have no more than \$2000 in combined resources after the contract is purchased, you should use the entire account for the pre-need contract. The account with Ms Wright's name on it must then be closed. You should also pay her outstanding medical bills with her money and provide either a receipt or the canceled check so the Department can determine that this money was spent for her. The program she is applying for is the one of a very few programs we offer that is not retroactive and I was mistaken in telling you that it was.

All this must be done and provided the county office by February 3, 2010 so that Ms Wright's application will revert to a pending status. Once she has received 30 days of service, she will be placed on Medicaid.

Please call me direct if I can assist you in the future in this matter.

Sincerely,



George R. Burnett  
Assistant General Counsel

GRB

Enclosure

cc: Linda Roberts

York County DHHS

PO Box 710

Rock Hill, South Carolina 29731

Betty Moses

**302.26 Countable Resources**

(Eff. 10/01/05)

The value of countable resources is considered in determining eligibility. The following are considered countable resources.

**302.26.01 Cash**

(Eff. 10/01/05)

**POMS SI 01140.010**

Money on hand that is in the form of coin or currency.

Treatment	Verification
Countable	Accept allegation of cash on hand. If rare coin collection, obtain knowledgeable source statement. (Refer to Appendix C for definition of knowledgeable sources.)

**302.26.02 Checking/Savings Accounts**Table of Contents

(Eff. 10/01/05)

**POMS SI 01140.200**

Treatment	Verification
Unrestricted access: all funds are considered a resource.	Bank statements or bank book
Restricted access: only the portion the individual can withdraw is considered a resource.	

**302.26.03 Joint Checking/Savings Accounts**

(Eff. 10/01/05)

**POMS SI 01140.205**

Treatment	Verification
If one owner is an applicant/beneficiary and has unrestricted use, all funds are counted.	Statement from bank officials
If more than one owner is an applicant/beneficiary, divide the balance evenly between the owners, and count the individual's share toward his countable resources.	

**302.26.03A Rebuttal of Joint Checking/Savings Accounts**

(Eff. 10/01/05)

An applicant/beneficiary may rebut ownership of part or all of the funds in a jointly held account. He is responsible for providing verification to support this claim. If the rebuttal is successful, the applicant/beneficiary must be advised of responsibilities for record keeping and future treatment of the account.

**Procedure for Rebuttal**

If an applicant/beneficiary rebuts applicable ownership assumption, each of the joint account holders

must complete and sign the DHHS Form 904 ME, attaching necessary verifications, to document the following:

- Bank Name, account number, and the names of the account holders
- Ownership of the funds, including amounts if partial ownership is claimed
- Reasons for establishing a joint account;
- Who has made deposits to and withdrawals from the account. Verification of the deposits and withdrawals must be attached (for example; pay stub; award letter; cancelled checks.
- How withdrawals have been spent.

If a rebuttal is successful, the applicant/beneficiary must be advised of the following:

- If partial ownership is established, the applicant/beneficiary must keep records of all future deposits and withdrawals to provide at review to allow for proper determination of countable resources.
- If the applicant/beneficiary owns none of the funds (that is, the individual's name is on another person's account for emergency purposes only), they must not add any of their own funds to the account in the future.
- If full ownership is attributed to the applicant/beneficiary, any future deposits by the other account holder(s) will be considered income and/or a resource to the applicant/ beneficiary.