

DEPARTMENT OF HEALTH AND HUMAN SERVICES  
OFFICE OF DIRECTOR

ACTION REFERRAL

TO <i>Singleton</i>	DATE <i>12-21-11</i>
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DIRECTOR'S USE ONLY	ACTION REQUESTED
1. LOG NUMBER <i>101234</i>	<input type="checkbox"/> Prepare reply for the Director's signature DATE DUE _____
2. DATE SIGNED BY DIRECTOR <i>CC: Mr. Treck, Giese, Post</i> <i>Closed 1/12/12, see attached</i> <i>e-mail response.</i>	<input checked="" type="checkbox"/> Prepare reply for appropriate signature DATE DUE <i>1-5-12</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.			

**Brenda James - please log - Fwd: Password (Forward from Info ID)**

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**From:** Bryan Kost  
**To:** Brenda James  
**Date:** 12/21/2011 8:14 AM  
**Subject:** please log - Fwd: Password (Forward from Info ID)  
**Attachments:** Fwd: Password (Forward from Info ID)

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this goes with the other e-mail. thanks

**RECEIVED**

DEC 21 2011

Department of Health & Human Services  
OFFICE OF THE DIRECTOR

Bryan Kost  
SCDHHS Senior Consultant  
803.898.2865  
803.429.3201  
[kostbr@scdhhs.gov](mailto:kostbr@scdhhs.gov)

**Brenda James - GAO Request for SC Medicaid Restricted Recipient Information**

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**From:** "Melkote, Katya" <MelkoteK@GAO.GOV>  
**To:** "info@scdhhs.gov" <info@scdhhs.gov>  
**Date:** 12/20/2011 1:49 PM  
**Subject:** GAO Request for SC Medicaid Restricted Recipient Information  
**CC:** "Meyer, Jonathan T" <MeyerJ@gao.gov>, "Silva, Daniel E" <SilvaD@gao.gov>...  
**Attachments:** SOUTH\_CAROLINA\_REQUEST\_LETTER\_192374-127.pdf

Dear Mr. Keck,

The Government Accountability Office (GAO) is conducting an audit on the U.S. Department of Transportation's oversight of Commercial Driver License (CDL) holders. We are also investigating the possible abuse of prescription drugs by CDL holders. As part of this work, we are requesting information on specific individuals who may be on the Medicaid Restricted Recipient list from several states, including South Carolina.

Please find attached a formal request letter stating which individuals we are requesting information on and the specific information we are requesting. The letter is encrypted, and I will send you a follow-up e-mail with the password. Please do not hesitate to contact me if you have any questions or concerns about this request.

Thank you,

Katya Melkote, Analyst  
U.S. Government Accountability Office (GAO)  
(202) 512-8371  
[melkotek@gao.gov](mailto:melkotek@gao.gov)

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Accountability • Integrity • Reliability

United States Government Accountability Office  
Washington, DC 20548

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December 20, 2011

DEC 21 2011

Mr. Tony Keck  
South Carolina Department of Health and Human Services  
1801 Main Street PO Box 8206  
Columbia, SC 29201-8206  
(Sent via email to [info@scdhhs.gov](mailto:info@scdhhs.gov))

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

Dear Mr. Keck:

The U.S. Government Accountability Office (GAO) is currently conducting an audit on the U.S. Department of Transportation's oversight of commercial driver license (CDL) holders. The engagement code for this work is 192374. This audit is being conducted at the request of the Chairman of the Surface Transportation and Merchant Marine Infrastructure, Safety, and Security Subcommittee, U.S. Senate Committee on Commerce, Science, and Transportation.

Specifically, GAO is reviewing whether operators of commercial vehicles are using prescription drugs or other substances that would disqualify them from having a CDL or impair their ability to safely operate a commercial vehicle. Pursuant to 31 U.S.C. § 6503(h), we are requesting information on specific individuals from the state of South Carolina.

Please provide us with the requested information in the attached enclosure no later than January 6, 2012. If you are unable to meet this deadline, or you have any questions, please contact me at (214) 777-5766 or [MeyerJ@gao.gov](mailto:MeyerJ@gao.gov).  
Sincerely,

Jonathan T. Meyer  
Assistant Director, Forensic Audits and Investigative Service

Enclosure  
FAIS – 192374 – 127

**Enclosure for Request of South Carolina Medicaid Restricted Recipient  
Program**

**GAO is requesting information on the following individuals:**

	<b>Name</b>	<b>DOB</b>
1	Mark Deas	03/20/1962
2	Harvey Revis	11/22/1957
3	Stephen Winton	01/27/1956
4	Joshua Spangler	05/31/1983

**Information requested on each individual:**

- Confirmation of individual into Restricted Recipient Program
  - Date individual placed into the Restricted Recipient Program
  - Prescriptions individual filled for controlled substances while in Restricted Recipient Program within the last 5 years
  - Name of health care provider and/or pharmacy to which the individual is restricted.

Data files should be sent:

- On CD or DVD
- Zipped/encrypted with password using WinZIP or PKZIP or in self-decrypting password-protected files if software other than WinZIP or PKZIP is used (password will be supplied to GAO via telephone or e-mail)
- Codebook or field definitions

**Mail To:**

Jonathan Meyer  
U.S. GAO, FAIS  
1999 Bryan Street, Suite 2200  
Dallas, TX 75201

Log #000234 ✓

**From:** "McDermott, Jeffrey" <McDermottJ@gao.gov>  
**To:** 'Rick Hepfer' <Hepfer@scdhhs.gov>  
**Date:** 1/12/2012 2:10 PM  
**Subject:** RE: Transportation Audit

Ok, thanks very much.

Jeff

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

**From:** Rick Hepfer [mailto:Hepfer@scdhhs.gov]  
**Sent:** Wednesday, January 11, 2012 1:07 PM  
**To:** McDermott, Jeffrey  
**Subject:** RE: Transportation Audit

We do have a lock-in pharmacy program, but, as explained below, we do not believe there is authority for us to provide you with the information you requested. In any case, in further researching in accordance with our previous conversation, we do not have any information that is responsive to your request. If you would like to discuss further, my direct line is (803) 898-2791.

>>> Rick Hepfer 1/10/2012 11:17 AM >>>

Thank you for your response, but the GAO's letter seems to indicate that the GAO is specifically auditing the drug use of drivers who have a CDL under the DOT, not abuse of the Medicaid program. The regulation you cite seems to be authority for the Comptroller General to get information to audit this program, i.e. Medicaid, not the Department of Transportation's Program. Call me if you would like to discuss further. My direct is (803) 898-2791.

>>> "McDermott, Jeffrey" <McDermottJ@gao.gov> 1/6/2012 10:55 AM >>>  
Mr. Hepfer:

Thank you for discussing this issue with me.

The purpose of this audit and investigation is to examine prescription drug abuse and diversion by commercial drivers. It is also to examine allegations that commercial drivers may be utilizing their access to the nation's highways to distribute prescription drugs that were fraudulently or improperly procured through the Medicaid program.

The basis for GAO's access to state Medicaid data is the grants management common rule regulations issued by HHS at 45 C.F.R. 92.42(e), which includes the Medicaid program (see 68 Fed. Reg. 52843). Under that regulation, states must provide access to relevant records to the Comptroller General (the head of GAO) in order to make any "audits, examinations, excerpts, and transcripts."

I trust this clarification responds to your concerns. Please contact me with any further questions. Thanks very much-

Jeff McDermott  
Senior Attorney, GAO  
202-512-2584

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

**From:** Rick Hepfer [mailto:Hepfer@scdhhs.gov]  
**Sent:** Friday, December 30, 2011 3:14 PM  
**To:** McDermott, Jeffrey  
**Subject:** Transportation Audit

Thank you for talking with me regarding the information requested from the South Carolina Medicaid

agency for the referenced audit of commercial driver license (CDL) holders (Request Letter 192374-127).

As you probably know, the federal rules on Medicaid require the Medicaid state agencies to restrict disclosure of information on applicants and recipients to purposes directly related to the administration of the [Medicaid State] plan. 42 USC Sec. 1396a(a)(7). Therefore, I was surprised at Mr. Meyer's request, which does not seem to be directly related to the administration of the plan, but seems to be for a completely different purpose.

I suspect that there might be a general overreaching law that allows the GAO to obtain such information, but the statute cited in the letter (31 USC Sec 6503(f)) seems to relate to reports on the status and application of funds. The statute you cited in our conversation (42 USC Sec 1320a-4) only says that the Comptroller General can issue subpoenas for the audit of any program authorized under this chapter, which I think would be the chapter on Social Security, which I do not think includes the Department of Transportation. Furthermore, 1320a-4 seems only to be procedural. It doesn't give the substantive law on disclosure, which would be the issue on a Motion to Quash.

Therefore, we would like to wait to respond, until we can find an applicable statute or law that allows us to do so. Thank you for any help you can give us, and please contact me through this e-mail address or at (803) 898-2791. The regular mail address is P. O. Box 8206, Columbia, SC 29202-8206.

#### Confidentiality Note

This message is intended for the use of the person or entity to which it is addressed and may contain information, including health information, that is privileged, confidential, and the disclosure of which is governed by applicable law. If the reader of this message is not the intended recipient, or the employee or agent responsible to deliver it to the intended recipient, you are hereby notified that any dissemination, distribution or copying of this information is **STRICTLY PROHIBITED**.

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