

DEPARTMENT OF HEALTH AND HUMAN SERVICES  
OFFICE OF DIRECTOR

ACTION REFERRAL

TO <i>Hess</i>	DATE <i>6-10-11</i>
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<b>DIRECTOR'S USE ONLY</b>		<b>ACTION REQUESTED</b>	
1. LOG NUMBER <i>101560</i>	<input type="checkbox"/> Prepare reply for the Director's signature DATE DUE _____	<input checked="" type="checkbox"/> Prepare reply for appropriate signature DATE DUE <i>6-21-11</i>	<input type="checkbox"/> FOIA DATE DUE _____
2. DATE SIGNED BY DIRECTOR <i>cc: Singleton, Waldrop</i>	<input type="checkbox"/> Necessary Action		
<i>Should be WA. Hearing will be scheduled. See attached e-mail.</i>			

APPROVALS (Only when prepared for director's signature)	APPROVE	* DISAPPROVE (Note reason for disapproval and return to preparer.)	COMMENT
1. <i>Cleared 7/18/11, letter attached</i>			
2.			
3.			
4.			

PATRICIA L. HARRISON  
ATTORNEY AT LAW  
611 HOLLY STREET  
COLUMBIA, SOUTH CAROLINA 29205

TELEPHONE (803) 256-2017

FAX (803) 256-2213

June 8, 2011  
via fax and mail

**RECEIVED**

JUN 10 2011

Department of Health & Human Services  
OFFICE OF THE DIRECTOR

Mr. Robert French  
Division of Appeals and Hearings  
SC Health and Human Services  
PO Box 8206  
Columbia, SC 29202-8206

Re: Matthew Chittick

Dear Mr. French:

We are appealing the proposed termination of adult day health care services for Matthew Chittick. A copy of the denial of reconsideration signed by Dr. Buscemi is attached. We are also appealing other violations of the Medicaid Act and the Supremacy Clause of the United States Constitution. This appeal is based on the following grounds and others that may be presented at Matthew's fair hearing.

1. Notice of termination, elimination or reduction of services was defective.
2. Adult day health care services are medically necessary for Matthew in order to prevent regression and to allow him to function with the most independence possible and to protect his health and welfare.
3. Adult Day Health Care services have been ordered by Matthew's treating physicians and it is a violation of the South Carolina Medical Practice Act to terminate these services without a qualified physician examining him and determining that these services are not medically necessary. Such notice may not be conducted after receipt of this notice without written notice to Matthew's counsel and to Matthew's guardian.
4. DHHS improperly reduced respite services provided to Matthew and has failed to properly evaluate his need for respite by applying reasonable standards.
5. SCDHHS and SCDDSN have failed to provide Matthew with adult companion services which are necessary for him to remain in the least restrictive setting and to apply reasonable standards in determining his need for these services.
6. SCDHHS has violated the Supremacy Clause of the United States Constitution

and the following provisions of the Medicaid Act: reasonable promptness (42 U.S.C. § 1396a(a)(8)); free choice (42 U.S.C. § 1396(a)(23)); comparability (42 U.S.C. § 1396(a)(10)); reasonable standards (42 U.S.C. § 1396(a)(17)) and equal access (42 U.S.C. §1396a(a)(30)).

We are requesting that adult day health care services be continued during this appeal and that the respite services previously reduced be immediately restored. By copy of this letter to SCDHHS and RichLex we are withdrawing any consent previously given to share any information about Matthew without notice to his legal counsel. The only exception is to share financial information necessary for billing for services. We are requesting that SCDDSN, SCDHHS and RichLex provide copies of any documents or information shared with another entity after receipt of this notice. We are requesting notice of any evaluations of Matthew's mental or physical condition and copies of the evidence used by SCDHHS and/or SCDDSN to determine that these services are not medically necessary. Copies may be provided electronically to [plh.cola@att.net](mailto:plh.cola@att.net) under the heading of "Matthew Chittick Medical Records" or paper copies may be sent to me at the address on the letterhead of this correspondence. We are requesting immediate notice of any communication between the Office of Hearings and Appeals and any of its staff or hearing officers and other offices or employees of SCDHHS or SCDDSN and respectfully request that no ex parte communications take place during this appeal. Thank you for your assistance with this appeal.

Cordially,



Patricia L. Harrison

cc: Rebecca Johnson  
Mary Leitner  
Beverly Buscemi  
Anthony Keck  
Barbara Wright

Beverly A. H. Buscemi, Ph.D.  
State Director  
David A. Goodell  
Associate State Director  
Operations  
Kathi K. Lacy, Ph.D.  
Associate State Director  
Policy  
Thomas P. Waring  
Associate State Director  
Administration



3440 Hardden Street Ext (29203)  
PO Box 4706, Columbia, South Carolina 29240

V/TTY: 803/898-9600  
Toll Free: 888/DSN-INFO  
Website: [www.ddsn.sc.gov](http://www.ddsn.sc.gov)

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Kelly Hanson Floyd  
Nancy L. Banov, M.Ed.

6 May 2011

Rebecca Johnson  
112 Char Oak Dr  
Columbia, SC 29212

RE: MR/RD Waiver Request for Reconsideration

Dear Mrs. Johnson:

The South Carolina Department of Disabilities and Special Needs (SCDDSN) received the request that you sent on behalf of your brother, Matthew Chittick, for reconsideration of the termination of Adult Day Health Care (ADHC) Services through the MR/RD Waiver.

I have compared the responses on Matthew's Service Coordination Annual Assessment (SCAA) -- for which you and two nurses at Hopebridge are indicated as having provided input -- with the criteria on the ADHC Assessment of Need. The responses on the SCAA indicate that Matthew has neither a deficit in one of the specifically-defined functional ability categories nor a medically complex condition that would qualify him for ADHC Services. I have not received, nor am I aware of, any documentation to support the claims that ADHC is medically necessary and that Matthew is likely to require hospitalization or institutionalization as a result of the termination. Therefore, I uphold the termination of ADHC Services.

If you wish to pursue this matter further, you have the right to request an appeal with the South Carolina Department of Health and Human Services (SCDHHS). The appeal process is attached for your information.

P.O. Box 239  
Clinton, SC 29325-5328  
Phone: (864) 938-3497

DISTRICT I

Midlands Center - Phone: 803/935-7500  
Whitten Center - Phone: 864/833-2733

9995 Miles Jamison Road  
Summerville, SC 29485  
Phone: 843/832-5576

DISTRICT II

Coastal Center - Phone: 843/873-5750  
Pee Dee Center - Phone: 843/664-2600  
Saleeby Center - Phone: 843/332-4104

The Richland/Lexington DSN Board has re-authorized ADHC Services to continue during the pendency of the SCDDSN Reconsideration/SCDHHS Appeal process.

Thank you for the opportunity to respond to your concern. I encourage you to continue to work with Matthew's Service Coordinator, Sherry Cade, to access services that will best meet his needs.

Sincerely,



Beverly A.H. Busceni, Ph.D.  
State Director

Attachment

cc: John King, District I Director  
Sherry Cade, Richland/Lexington DSN Board  
Lori Manos, Richland/Lexington DSN Board  
Vicki Coleman, District I Waiver Coordinator  
Kara Lewis, SCDDHHS Division of Long Term Care

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\*\*\* TX REPORT \*\*\*  
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TRANSMISSION OK

TX/RX NO 1452

CONNECTION TEL

2558206

SUBADDRESS

CONNECTION ID

ST. TIME

06/07 12:18

USAGE T

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PGS. SENT

5

RESULT

OK

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*Law Office of Patricia L. Harrison*

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611 Holly Street  
Columbia SC 29205  
(803) 256-2017  
Fax: (803) 256-2213

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FAX TRANSMISSION COVER SHEET

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Date: June 7, 2011

To: Robert French

Fax: 803-255-8206

Re: Matthew Chittick

Sender: Patricia L. Harrison

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**YOU SHOULD RECEIVE 5 PAGE(S), INCLUDING THIS COVER SHEET. IF YOU DO  
NOT RECEIVE ALL THE PAGES, PLEASE CALL (803) 256-2017.**

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Mr. Anthony Keck  
Director, SC Department of Health and Human Services  
PO Box 8206  
Columbia, SC 29202

TO:

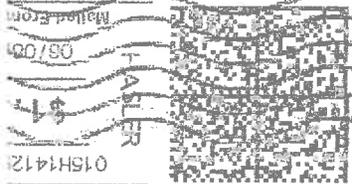
PATRICIA L. HARRISON  
ATTORNEY AT LAW  
611 HOLLY STREET  
COLUMBIA, SOUTH CAROLINA 29205

Department of Health & Human Services  
OFFICE OF THE DIRECTOR

JUN 10 2011

**RECEIVED**

COLUMBIA SC 292  
WED JUN 08 2011 PM



06/08

\$1.00

015H14121

log # 557 ✓

**From:** Anmarie McCanne  
**To:** Brenda James  
**Date:** 06/24/2011 2:25 PM  
**Subject:** Logs...

Can you check Logs ~~557~~, ~~558~~, ~~559~~, & ~~560~~ - Per Roy - Mike Cannon should have sent an email with the hearing number to close these out.

Thanks,  
Annie

log # 566

July 18, 2011

FIRST CLASS MAIL

Patricia L. Harrison, Esquire  
611 Holly Street  
Columbia, SC 29205

RE: Appeal request on behalf of Matthew Chittick

Dear Ms. Harrison:

You copied the Director of the South Carolina Department of Health and Human Services (SCDHHS), Anthony Keck with your appeal letter of June 8, 2011 on behalf of Matthew Chittick. I have been asked to respond to your appeal letter to Mr. Keck.

You have properly appealed SCDHHS' determination in this matter to the SCDHHS Division of Appeals and Hearings and that appeal has been assigned to Hearing Officer Monet Pincus. Ms. Pincus should be sending you correspondence very soon with regard to this appeal. You have requested that certain services continue to be provided to Mr. Chittick pending the outcome of the appeal and since you have copied Dr. Beverly Buscemi at the South Carolina Department of Disabilities and Special Needs (SCDDSN) with your appeal letter, she will be responsible for handling that. You have also requested copies of certain records that pertain to Mr. Chittick and since the Division of Appeals and Hearings does not have access to those records, that request will have to be made to the appropriate SCDHHS and SCDDSN staff. You have also requested that no ex parte communications take place between the staff members of the SCDHHS Division of Appeals and Hearings, or between the staff members of the Division of Appeals and Hearings and any other employees of SCDHHS or SCDDSN. The SCDHHS Division of Appeals and Hearings' staff are very aware of the prohibitions against ex parte communications and are continually vigilant about not engaging in these types of communications.

If you do not receive correspondence from Ms. Pincus shortly, or if you have any questions regarding this case, please feel free to contact me directly at 898-2714.

Sincerely,



Robert French, Director  
Division of Appeals and Hearings