

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

**ACTION REFERRAL**

TO <i>Myers</i>	DATE <i>12-29-08</i>
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DIRECTOR'S USE ONLY	ACTION REQUESTED
1. LOG NUMBER <i>.100338</i>	<input checked="" type="checkbox"/> Prepare reply for the Director's signature DATE DUE <i>1-6-09</i>
2. DATE SIGNED BY DIRECTOR <i>cc: Ms. Farkner Closed 1/8/09, letter attached.</i>	<input type="checkbox"/> Prepare reply for appropriate signature DATE DUE _____ <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.			

JOE WILSON  
2ND DISTRICT, SOUTH CAROLINA

ASSISTANT MAJORITY WHIP

COMMITTEES:  
ARMED SERVICES

INTERNATIONAL RELATIONS  
EDUCATION AND THE WORKFORCE

HOUSE POLICY

## Congress of the United States House of Representatives

**RECEIVED**

COUNTIES:  
AIKEN\*  
ALLEDALE  
BARNWELL  
BEAUFORT  
CALHOUN\*  
HAMPTON  
JASPER  
LEXINGTON  
ORANGEBURG\*  
RICHLAND\*  
(\*PARTS OF)  
ERIC DELL  
CHIEF OF STAFF

December 18, 2008

DEC 29 2008

Department of Health & Human Services  
OFFICE OF THE DIRECTOR

Ms. Emma Forkner  
Director  
SC Department of Health and Human Services  
Post Office Box 8206  
Columbia, South Carolina 29202-8206

RE: Mr. Daniel R. Huber

Dear Ms. Forkner,

I am writing to you on behalf of the above named constituent who has contacted me regarding a problem with South Carolina covering the cost of Rotoxin as a treatment for acquired Hemophilia Disease. Enclosed is a copy of Mr. Huber's correspondence for your perusal. Any assistance that you could offer would be most appreciated.

It is an honor to represent the people of the Second Congressional District, and I value your input.

Please respond to the Lowcountry District Office at Post Office Box 1538, Beaufort, South Carolina 29902; Fax number 843-521 2535. Thank you for your time and concern in this and all other matters.

Yours very truly,

*Joe Wilson*

JOE WILSON  
Member of Congress

JW/cs  
Enclosure

MIDLANDS OFFICE:  
1700 SUNSET BLVD. (US 378), SUITE 1  
WEST COLUMBIA, SC 29169  
MAILING ADDRESS: P.O. BOX 7381  
COLUMBIA, SC 29202  
(803) 939-0041  
FAX: (803) 939-0078

212 CANNON HOUSE OFFICE BUILDING  
WASHINGTON, DC 20515-4002  
(202) 225-2452  
FAX: (202) 225-2455  
E-MAIL: joe.wilson@mail.house.gov  
WEBSITE: www.house.gov/joewilson

LOWCOUNTRY OFFICE:  
903 FORT REPUBLIC STREET  
P.O. BOX 1538  
BEAUFORT, SC 29901  
(843) 521-2530  
FAX: (843) 521-2536

Congressman Joe Wilson  
1700 Sunset Blvd.  
Suite One  
West Columbia, S.C.  
29169

November 30, 2008

Dear Congressman Wilson,

First of all let me congratulate you on your successful campaign and November victory. We need your leadership at this critical time in the history of our country and in serving problems here in South Carolina.

The purpose of this letter is to revisit and update you on my Medicare claim problem and to ask you to get involved first hand in an effort to assist me on my claim and address Medicare South Carolina Medicare's policy on the use of Ritoxin and other medications in the treatment of serious diseases here in South Carolina.

I am enclosing copies of significant correspondence of my claim of my own claim for you review. It is important you and your staff understand the issue in detail in order to be effective in pursuit of addressing the claim and future policy.

Let me now outline the problem from the beginning and by date.

#### The Basic Problem

On September 25, October 2 and 9, 2007, Dr. Gay Thomas of South Carolina cancer specialists, Hilton Head S.C., infused 3 times the drug/ medication Ritoxin. This drug is used successfully to treat my acquired Hemophilia disease globally.

In December 2007, South Carolina Medicare (Columbia) rejected my claim under the code "not necessary". I didn't realize the claim was denied until February 2008 when Dr. Thomas' office invoiced me of same and later invoiced me for the same expense- IE \$18,000, I paid Dr. Thomas \$11,900 in April and have attempted to appeal my claim with S.C. Medicare since March 2007.

The real problem is this: I never understood S.C. Medicare would not cover the three Ritoxin infusions. I received Ritoxin infusions at Mayo Clinic Jacksonville, Florida in September 2007, and at Mayo Clinic Rochester, Minnesota in July/ August 2006, and both Florida and Minnesota Medicare paid the expense/ claim. Medicare is our national health program. It makes no sense- nor is it logical, or fair, that Medicare Florida and Minnesota cover the medication Ritoxin, while South Carolina Medicare does not.

Due to this inconsistency, which came as a surprise to me, we filed an appeal in April 2007.

With filing of our appeal we experienced the second part of our problem i.e. denial of our claim due to late filing of the appeal. See Medicare letter dated August 5, 2007.

As I understand it, we had 60 days from December 26, 2007 to file an appeal. We did the best we could to file the appeal which was mailed April 25, 2007.

The reasons for not filing within 60 days are as follows:

1. We never received notice from Medicare in December 2007 that the Ritoxin infusions were not covered by Medicare.
2. Dr. Thomas advised us in mid February of the rejection. We immediately wrote the three doctors, Thomas in South Carolina, Pruthi in Minnesota, and Rivera in Florida a letter of support in the use of Ritoxin medication for acquired Hemophilia. It took some time to compile their response and file the information which we did April 25, 2007. (See enclosed letters)
3. As you can see, on August 5, 2007 Medicare dismissed my appeal because it was not filed timely.
4. After receiving the August 5, 2007 letter dismissing my appeal due filing late, I wrote Medicare Columbia S.C. on August 31, 2007, advising Medicare that I disagree with the dismissal of my appeal and asked it be reconsidered. In that letter, I once again cited the reasons why we filed late, i.e. didn't receive the original in December, and did our best to file the appeal. Then, again October 8<sup>th</sup>, 2007 I wrote another letter to Medicare Columbia S.C. asking them the status of my claim/ appeal/ reconsideration. (See enclosed)
5. On October 20<sup>th</sup>, 2007 I received a reply from Medicare Columbia again denying my appeal/ reconsideration due my reasons for a late filing did not meet Medicare's policy and, dismissed my appeal again. The disturbing thing is that Medicare never has addressed my basic reason for rejecting my claim – i.e. the “not necessary” code in using Ritoxin for treatment of acquired Hemophilia. The only keep denying my appeal due to not following their policy re timely filing and rejecting my reasons for late filing- when in fact I never received their original rejection in December 2007 and responded within 60 days once defined in March/ April 2007.
6. In response to Medicare's October 20<sup>th</sup> dismissal I called Medicare and they advised me that my letter of August 31, 2008 should have gone to Medicare-Q2 Administrators in Columbus, Ohio, not to Medicare Columbia. So, while I did reply within the 60 days requirement to their letter of August 5, 2008- I sent it to the wrong address. Thus, my letter of 11-18-08 to Q2 Administrators Columbus Ohio, explaining same and for my appeal to be reconsidered.

This entire matter has been very frustrating and consuming. Medicare South Carolina is not being reasonable or logical on their policies in medications approved/ necessary and certainly not fair or reasonable on these time lines/ dates for filing appeals, reconsiderations with little/ no attention to dealing with people with life threatening diseases at the age of 72 and spending a lot of time in hospitals away from home.

Congressman Wilson, I apologize for this long and detailed explanation of my case. It is a very serious matter in my attempt to be paid the \$11,900 I paid Dr. Gary Thomas, and even more important, addressing medical care policy by South Carolina Medicare who denies the use of Ritoxin, while it is approved by Medicare Florida and Minnesota, and probably many other states.

This policy is very bad for the state of South Carolina where many seniors reside in retirement. Today, I have to go to Jacksonville for Ritoxin infusions, rather than doing them in my home town of Hilton Head. This again is more costly, time consuming and risky with our having to drive Highway 95 to Jacksonville for the infusions.

I need your involvement and counsel on this issue. I am prepared to visit your office/ staff to establish a game plan. As well, I am fully prepared to continue the appeal process and take my case with legal counsel management to the appropriate courts in South Carolina.

I look forward to your response and thank you in advance for listening and your consideration.

Sincerely,



Daniel Huber  
5 Rosebank Lane  
Hilton Head, SC 29928

OH 843-341-2980  
FAX 843-341-2078

P.S. Do you feel we should have Senator Graham involved?



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

Mark Sanford  
Governor

Emma Forkner  
Director

January 8, 2009

The Honorable Joe Wilson  
United States House of Representatives  
Post Office Box 1538  
Beaufort, South Carolina 29902

Dear Representative Wilson:

Thank you for contacting the Department of Health and Human Services (DHHS) regarding your constituent Daniel Huber.

According to our extensive research, Mr. Huber is not a beneficiary of our Medicaid program. We have attempted to contact Mr. Huber on several occasions but have not been successful. We believe that he is a Medicare beneficiary and should contact Medicare at 1-800-633-4227 for further assistance.

We hope that this information is beneficial to you. Please feel free to contact Ms. Melanie "BZ" Giese, Bureau Director of Health Services at 803-898-2868 should you need additional information.

Sincerely,

A handwritten signature in cursive script, appearing to read "Emma Forkner".

Emma Forkner  
Director

EF/mgb

cc: Daniel Huber

Log # 338 ✓