DEPARTMENT OF HEALTH AND HUMAN SERVICES
OFFICE OF DIRECTOR

ACTION REFERRAL

TO	DATE
Wells	11/3/08

DIRECTOR'S USE ONLY	ACTION REQUESTED
1. LOG NUMBER 900249	[ ] Prepare reply for the Director's signature DATE DUE _____
2. DATE SIGNED BY DIRECTOR Emma Forkner Cleared 11/7/08 letter attached.	[X] Prepare reply for appropriate signature DATE DUE 11/12/08
	[ ] FOIA DATE DUE _____
	[ ] 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.			

RECEIVED
NOV 03 2008
Department of Health & Human Services
OFFICE OF THE DIRECTOR

October 30, 2008

Emmas Falkner – Director SDHHS
1801 Main Street
Columbia, SC 29202

Re: Mary Booker

Dear Madame:

On Friday October 24, 2008, I attended a hearing on behalf of my mother Mary Booker to determine her eligibility for the PACE program. The Hearing Office for this was Janet R. Goode. In this hearing myself and my sister, Kimberly Booker left with the feeling Ms. Goode held a bias opinion. Although, I stated several times that the testimony Palmetto Senior Care was not supported by documentation that wasn't submitted to Kimberly or I, she stated that she founds my mother a danger to others as well as herself. In the hearing she would cut us short and allow Palmetto to speak to extensively. With this being said I would value the opportunity for another hearing or at the least have her decision reviewed. I feel she should have excused herself from the case because of her personal relationship with Ms. Tillman. I will forward Ms. Goode a copy of this letter as well as the emails she said I can submit, "If I wanted to".

Sincerely,

Michelle Poindexter

Michelle Poindexter
638 Sumter Street
West Columbia, SC 29169
803-234-4424,803-786-3616

DEPARTMENT OF HEALTH AND HUMAN SERVICES
OFFICE OF DIRECTOR

ACTION REFERRAL

TO	DATE
Wells	11/3/08

DIRECTOR'S USE ONLY	ACTION REQUESTED
1. LOG NUMBER 080249	[ ] Prepare reply for the Director's signature DATE DUE _____
2. DATE SIGNED BY DIRECTOR Emma Faulkner	[X] Prepare reply for appropriate signature DATE DUE 11/12/08
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West Columbia, SC 29169
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Log # 249

State of South Carolina
Department of Health and Human Services

Mark Sanford
Governor

Emma Forkner
Director

November 7, 2008

Ms. Michelle Poindexter
638 Sumter Street
West Columbia, South Carolina 29169

Re: Appeal Matter of Mary Booker v. SCDHHS
Appeals' Case # 08-MISC-047

Dear Ms. Poindexter:

The South Carolina Department of Health and Human Services is in receipt of your letter of October 30, 2008, regarding your mother, Mary Booker, and her appeal. As your letter concerns the fair hearing that was held on October 24, 2008, I was asked to respond to your concerns.

You state in your letter ". . .she stated that she founds(sic) my mother a danger to others. . .." It appears that you are under the impression that Hearing Officer Goode issued a verbal decision at the time of the hearing. That is not correct. All decisions of the Division of Appeals are written decisions. Hearing Officer Goode has not rendered a decision in this matter. When she does, I will review her decision as I do all decisions of the staff of the Division of Appeals. When we publish her decision, it will be sent to you with a cover letter explaining that any party who disagrees with her decision has the right to appeal that decision to the South Carolina Administrative Law Court. If the decision is unfavorable to Ms. Booker, you have the right to appeal that decision and raise any issue(s) you wish, including bias by the Hearing Officer. If an appeal is filed, a transcript of the hearing, as well as copies of all correspondence and evidence, will be supplied to the parties and the court.

With regards to your statement that Hearing Officer Goode should recuse herself because of her "bias" and "personal relationship with Ms. Tillman", Hearing Officer Goode had previously never conducted an appeal from a decision of Palmetto Senior Care and never met or communicated with Ms. Tillman, or any of her staff, prior to the convening of your mother's hearing.

Division of Appeals and Hearings
P. O. Box 8206 Columbia South Carolina 29202-8206
(803) 898-2600 Fax (803) 255-8206

Also, because your letter, which was copied to Hearing Officer Goode, amounts to a motion that she recuse herself, she will be formally ruling on this motion in her decision.

With regards to your statement that Hearing Officer Goode "cut us short", during my post hearing discussions with Hearing Officer Goode, she did state that she asked that you and your sister not interrupt the testimony of other witnesses. It is a Hearing Officer's responsibility to ensure the due process rights of the Petitioner, Ms. Booker, are protected and that the Hearing Officer receives all evidence that the parties proffer that is relative. This includes ensuring that all witnesses are allowed to present their full testimony. Even though you were not allowed to speak at will, you were both given adequate opportunity to testify and refute the testimony of the witnesses of the Respondent.

With regards to your statement that Hearing Officer Goode allowed you to submit documents after the close of the hearing "If I wanted to", Hearing Officer Goode was giving you the opportunity to supplement your argument with additional evidence, which you have done. On the other hand, Hearing Officer Goode required the Respondent's representatives, Palmetto Senior Care, to submit documentation of the behavior problems, which they alleged as the basis of their decision to discharge Ms. Booker from their program.

In closing, let me assure you that Hearing Officer Goode holds no bias or prejudice toward Ms. Booker, you or your sister, and her decision will be based on the weight of the evidence alone.

Sincerely,

Vastine G. Crouch, Director
Division of Appeals and Hearings