

DEPARTMENT OF HEALTH AND HUMAN SERVICES
OFFICE OF DIRECTOR

ACTION REFERRAL

TO <i>Singleton</i>	DATE <i>6-9-14</i>
------------------------	-----------------------

DIRECTOR'S USE ONLY	ACTION REQUESTED
1. LOG NUMBER <i>000404</i>	<input type="checkbox"/> Prepare reply for the Director's signature DATE DUE _____
2. DATE SIGNED BY DIRECTOR <i>Cleared 7/2/14, letter attached.</i>	<input checked="" type="checkbox"/> Prepare reply for appropriate signature DATE DUE <i>6-18-14</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

From: Cynthia Gore
Sent: Monday, June 09, 2014 9:48 AM
To: Brenda James
Subject: FW: SCAHP Letter to Deirdra Singleton - July Contract and Rate Uncertainties
Attachments: SCAHP Letter to Deirdra Singleton - July Contract and Rate Uncertainties.pdf

Please log this one too. Thanks

RECEIVED

JUN 09 2014

Department of Health & Human Services
OFFICE OF THE DIRECTOR

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

From: Deirdra Singleton
Sent: Friday, June 06, 2014 5:26 PM
To: Cynthia Gore
Subject: FW: SCAHP Letter to Deirdra Singleton - July Contract and Rate Uncertainties

Cynthia, pls log. thanks

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

From: Lea Kerrison [<mailto:lea@kerrisonlaw.com>]
Sent: Friday, June 06, 2014 2:54 PM
To: Deirdra Singleton
Cc: Anthony Keck; Nathaniel Patterson; david.shafer@wellcare.com; 'Bill A. Prince'; linda.steinke@wellpoint.com; 'Scott Graves'; 'Jim Richie'; 'Melvin.Lindsey@amerigroup.com'; 'Andrea Rawl'; 'Paul Accardi'; christopher.horan@wellcare.com; 'Betsy Hall'; 'Mark Stephens'; douglas.klise@wellpoint.com; 'Beverly Hamilton'; gary.ries@bluechoicesc.com; 'Cesar Martinez'; kathy.warner@wellcare.com; Dan Gallagher; Tom Lindquist; Stephen Moore; Joe Lowry; Nichole Melton mitchell; kgailey@advicarehealth.com; David Smith; Zacher, Frances
Subject: SCAHP Letter to Deirdra Singleton - July Contract and Rate Uncertainties

Deirdra, attached please find a letter from SCAHP on behalf of its member plans respecting the July Contract and continuing rate uncertainties. We look forward to your response and meeting with you next week. Do not hesitate to call me respecting this letter or any other issues. Thank you, Lea

Lea B. Kerrison, Esq.

Kerrison Law, LLC

Director, Medicaid Services, South Carolina Alliance of Health Plans

845 Lowcountry Boulevard, Suite J

Mount Pleasant, South Carolina 29464

Phone: (843) 606-2242

Cell: (843) 345-5050

Email: lea@kerrisonlaw.com <<mailto:lea@kerrisonlaw.com>>

<<https://urldefense.proofpoint.com/v1/url?u=http://www.avast.com/&k=L5G5zaSmVxhL3ZBiCgAA0A%3D%3D%0A&r=8dcdU6li6lyF9SxyF4oht%2FXTV1x9PK9z3wMQSSttcXk%3D%0A&m=bC3wNVOPgQ4HfaFPCY%2FbxSpHDgbbtc1rwNpbzoAw6P0%3D%0A&s=f833cabf8390dd658ca655eef67375fe8a81100df95df8cd9911450f9b165141>> This email is free from

viruses and malware because avast! Antivirus

<<https://urldefense.proofpoint.com/v1/url?u=http://www.avast.com/&k=L5G5zaSmVxhL3ZBiCgAA0A%3D%3D%0A&r=8dcdU6li6lyF9SxyF4oht%2FXTV1x9PK9z3wMQSSttcXk%3D%0A&m=bC3wNVOPgQ4HfaFPCY%2FbxSpHDgbbtc1rwNpbzoAw6P0%3D%0A&s=f833cabf8390dd658ca655eef67375fe8a81100df95df8cd9911450f9b165141>> protection is active.



James H. Ritchie, Jr.
Executive Director

(803) 256-9005
www.scalliance.org

June 6, 2014

RECEIVED

JUN 09 2014

Department of Health & Human Services
OFFICE OF THE DIRECTOR

Via Email Only

Deirdra T. Singleton
Deputy Director for Health Services
South Carolina Department of Health & Human Services
P.O. Box 8206
Columbia, South Carolina 29202-8206

Re: July, 2014 MCO Contract and Capitation Rate Instability

Dear Deirdra,

Following up on my letter of May 22, 2014, the MCO members of the SCAHP remain extremely concerned about the Department's ability to deliver a draft of the complete 2014 Contract and the Policy and Procedure Manual (collectively the "Contract Documents"). As of today, the plans have not been provided any of the following essential documents: a full draft contract; any draft of the P&P; and, the corrected and final fixes to the apparent instability of the July rate book. With July 1st just over three weeks away, even if the Department can provide a complete draft of the Contract Documents, it is highly implausible that either the Department or any plan can competently review, assess, negotiate, sign and operationalize the July Contract by July 1st. Given the gaps and deficiencies in the performance of the Department on this matter, SCAHP members will be unable to sign the incomplete contract by July 1, 2014.

Status of Contract Documents and Drafting History

The plans appreciate your acknowledgement at Tuesday's Managed Care Reimbursement Workgroup meeting that the Department will not enforce contract, policy and procedural items which the Department has not published or provided sufficient guidance, such as blanks in the contract and report templates, and those items which cannot reasonably be operationalized overnight. However, this contract represents \$3+ Billion of state and federal funds, and the capitation rates for the risk undertaken by the plans leave no room for error, assumption or speculation.

This situation is extremely frustrating given that the Department has been planning the Contract Documents for two years. The original effective date of January 1, 2014 came and went without any published drafts or invitation for plan input. The Department delayed the effective date six months to allow extra time for completion, plan review, finalizing of terms and for the Department and the plans to operationalize the Contract Documents by July 1st.

1122 Lady Street, Suite 720
Columbia, South Carolina 29201

Post Office Box 2573
Columbia, South Carolina 29202

Throughout this two year timeframe, the plans consistently requested to be part of the process for developing the Contract Documents. In response, the Department discussed the concept of having drafting Workgroups. However, the Workgroups never materialized.

The Department also committed to publishing sections of the Contract for comment as the Department developed such sections. While that occurred with the network adequacy terms, it did not occur for any other section. In addition, the Department has always been aware of the plans' need to have 90-180 days after execution of the new contract to make the internal changes necessary to implement the Contract Documents. This requirement remains and cannot be waived by the plans just because the Department is a year late from the time when it committed to providing the draft agreement to the plans.

Given the continuing lack of finality and uncertainty with the Contract Documents, coupled with the enormous amount of financial risk to be undertaken by the plans, we suggest a more rational approach to move this matter forward:

1. The Department will meet with the plans next week to identify and address the current deficits in the Contract Documents.
2. Once the outstanding deficiencies are determined, the parties will establish a reasonable date for completion of the Contract Documents and the commencement of enforcement for each new requirement concurrent with the Department's publication of final guidance on how to comply with such requirement.
3. The Department will not enforce any provision of the Contract Documents against a plan for which the plan has not been given notice or guidance on how to comply until a reasonable passage of time following such notice and guidance from the Department.

As you are aware, most changes take the plans and the Department at least three and often as much as six months to operationalize. As we move forward, it is essential that the Department make a detailed inventory and consider the collective impact and totality of the new reporting requirements. Our review of the Contract parts which have been provided suggests that many additional operational and reporting requirements were added without consideration of the number, usefulness, compliance burdens on the plans or whether the Department has the manpower to analyze and act upon them in any manner supporting the program's health objectives. The emerging contract and its burgeoning administrative requirements leave the plans with confusion, uncertainty and many unanswered questions, while also leaving many of the main terms of the Contract Documents incomplete.

Finally, as I noted in my letter of May 27th, Milliman did not modify capitation rates to account for these additional burdens. The current administrative load is not predicated on the business model envisioned under the draft Contract. The administrative load has remained

unchanged and is predicated on the business model in place for the existing contract. An adjustment of the increased administrative burden must be added to the rating structure.

Capitation Rate Instability

Jeff Saxon made a few comments at Tuesday's meeting respecting the APR-DRG grouper and outpatient multipliers which cast new concerns over the rate book. While the plans continue to await the Department's response respecting the rate book questions and issues previously posed, including significant questions respecting APR-DRG repricing, Jeff's comments created new concerns. We need to address all of the issues below before finalizing the new rates.

First, the Department refused to commit to a date for converting to version 30 of the APR-DRG grouper. While Jeff stated the Department intends budget neutrality for the conversion, the plans have seen no analysis validating this intent. The plans expressed great concern that the conversion will increase plan operational costs. Moreover, Jeff indicated the Department based its budget neutrality analysis upon FFS claims only, yet the majority of claims are paid by the plans. A complete analysis could not have been performed using only FFS claims, which supports the plans' concerns over the conversion's budget neutrality.

Second, Jeff made three comments respecting the July 1st Outpatient Multipliers which require clarification:

1. The Facility Fee Schedule distributed to the plans as part of the July 1st rate setting document contained the caveat that such rates were not final and that the comment period would remain open until June 18th. This creates a scenario which will likely cause the Fee Schedules to remain in flux up until or even after their proposed effective date. The plans expend substantial effort and time to configure their respective claims systems. Having fee schedules in flux and no clear direction from the Department thwarts any and all plan efforts to run efficiently and increases the likelihood of payment error. The delays and inaccuracies will increase plan administrative costs, divert resources from improving the health of Medicaid recipients impact implementation of the Contract and enhance provider abrasion with the plans. The plans do not complain of high expectations, rather they request the opportunity to meet them without undue burden and unnecessary uncertainty.
2. Any Facility Fee Schedule changes must be factored into the July 1st capitation rates. Milliman included an assumption that Facility Fee Schedule changes would reduce plan cost. That assumption caused Milliman to decrease the capitation rates by 1.2%. If the Facility Fee Schedule rate reduction is altered, Milliman will need to adjust its assumption, resulting in a capitation rate increase.

3. The Department mentioned a possible delay in implementing the fee schedule changes to October 1, 2014, yet Milliman assumed the reduction would occur July 1st. Any change or delay in implementation of the fee schedule reduction will need to be met with a corresponding increase to the plan capitation rates. All rate changes must be implemented prospectively.

Conclusion

Finally, two weeks have passed since the plans submitted comments and questions respecting the Contract, and we do not have a meeting date from the Department to discuss and receive answers to the multiple open questions and the missing terms to the Contract Documents.

I urge you to set the date very soon so that we may determine outstanding issues and how best to incorporate our requests: (1) to establish a reasonable date for completion of the Contract Documents and the commencement of enforcement for each new requirement concurrent with the Department's publication of final guidance on how to comply with such requirement, and (2) not to enforce any provision of the Contract Documents against a plan for which the plan has not been given notice or guidance on how to comply until a reasonable passage of time following notice and guidance from the Department. Please also remember that the portions of the Contract which have been published make significant references to the P&P for key plan performance terms and conditions. None of the P&P provisions have been provided for review.

As I noted at the outset of this letter, it is very unlikely that the legal representatives for the plans will allow their clients to execute a multi-year agreement involving hundreds of millions of dollars without having all of the Contract Documents agreed upon and having a reasonable amount of time for the plan to operationalize the new agreements.

We look forward to meeting with you soon and your timely responses to the concerns outlined above.

Very truly yours,

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Lea B. Kerrison

cc: Anthony E. Keck (via email only)
Nathaniel J. Patterson (via email only)

LBK

DEPARTMENT OF HEALTH AND HUMAN SERVICES
OFFICE OF DIRECTOR

Response attached
7/10/14

RECEIVED

JUN 10 2014

Department of Health & Human Services
Office of Health Programs

ACTION REFERRAL

TO <i>Singleton/Patterson</i>	DATE <i>6-9-14</i>
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Lea B. Kerrison, Esq.

Kerrison Law, LLC

Director, Medicaid Services, South Carolina Alliance of Health Plans

845 Lowcountry Boulevard, Suite J

Mount Pleasant, South Carolina 29464

Phone: (843) 606-2242

Cell: (843) 345-5050

Email: lea@kerrisonlaw.com <<mailto:lea@kerrisonlaw.com>>

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JUN 09 2014

Department of Health & Human Services
OFFICE OF THE DIRECTOR

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<<https://urldefense.proofpoint.com/v1/url?u=http://www.avast.com/&k=L5G5zaSmVxhL3ZBjCgAA0A%3D%3D%0A&r=8dcdU6li6lyF9SxyF4oht%2FXTV1x9PK9z3wMQSSttcXk%3D%0A&m=bC3wNVOPgQ4HfaFPCY%2FbxSpHDgbbtc1rwNpbzoAw6P0%3D%0A&s=f833cabf8390dd658ca655eef67375fe8a81100df95df8cd9911450f9b165141>> protection is active.



James H. Ritchie, Jr.
Executive Director

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June 6, 2014

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JUN 09 2014

Department of Health & Human Services
OFFICE OF THE DIRECTOR

Via Email Only

Deirdra T. Singleton
Deputy Director for Health Services
South Carolina Department of Health & Human Services
P.O. Box 8206
Columbia, South Carolina 29202-8206

Re: July, 2014 MCO Contract and Capitation Rate Instability

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Very truly yours,

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Lea B. Kerrison

cc: Anthony E. Keck (via email only)
Nathaniel J. Patterson (via email only)

LBK

Cynthia Gore

From: Courtney Sanders
Sent: Thursday, July 10, 2014 5:12 PM
To: lea@kerrisonlaw.com
Cc: Deirdra Singleton; Adriana Day; Donna Parker; Bryan Amick; Stephen Boucher; Jeff Saxon; Amanda Q. Williams; Kevin Bonds, FACHE; Evan Gessner; Cynthia Gore
Subject: Response to July 01, 2014 MCO Contract and Capitation Rate Instability (Log Letter 000404)
Attachments: Log Letter 000404.pdf

Good Afternoon Mr. Kerrison,

Please find the attached response to your letter regarding the July 01, 2014 MCO Contract and Capitation Rate Instability. If you have questions or concerns regarding this matter please contact Nathaniel Patterson at (803)-898-2018 or pattnat@scdhhs.gov. Thank you and have a great evening!

Courtney Sanders

Administrative Assistant, Health Services

Courtney.Sanders@scdhhs.gov

803-898-4614

1801 Main Street

Columbia, South Carolina - 29201-8206

www.scdhhs.gov



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July 2, 2014

Lea B Kerrison, Director
South Carolina Alliance of Health Plans
845 Lowcountry Boulevard, Suite J
Mount Pleasant, South Carolina 29464

Re: South Carolina Alliance of Health Plans (SCAHP) June 6, 2014 Letter (Re: July 1, 2014
MCO Contract and Capitation Rate Instability)

Dear Mr. Kerrison:

This letter serves as a response to the June 6, 2014 letter and email submitted to the Department by the South Carolina Alliance of Health Plans (SCAHP) regarding two items, as listed within the letter: 1) the status of contract documents and drafting history; and 2) capitation rate instability.

The Department's responses to individual concerns and suggestions listed within both items submitted are provided below.

- 1) **Status of contract documents and drafting history (concerns & suggestions):** The concerns and suggestions listed within this section of the June 6, 2014 SCAHP letter focus on the development and implementation of the July 1, 2014 MCO Contract.

Department's Response: The design and development of the 2014 MCO Contract was initiated in 2012 and continued throughout 2013 and 2014. This included a team of private and public stakeholders and subject matter experts from across the continuum of health care services and public policy arenas.

The engagement of stakeholders included a series of formal meetings, focus groups and key informant interviews—meetings with internal and external subject matter experts, providers, advocates and consumers—a dedicated website and public comment period. For example, the Medicaid Coordinated Care Improvement Group established in 2011 by Director Anthony ("Tony") Keck. The CCIG is composed of a diverse group of stakeholders from across South Carolina. The members were charged with assisting the Department with a comprehensive examination of the current Medicaid coordinated care system. The purpose of this effort was to determine what is working and not working and to supply the Department with input that

resulted in the development of policies aligned with its mission—to *purchase the most health for our citizens in need at the least possible cost to the taxpayer.*

In demonstrating our commitment to develop a new MCO Contract for July 1, 2014, the lion share of this contract was built around the existing MCO Contract requirements and combined with stakeholder input. The Department carefully considered this approach and based it upon what we believe will work most successfully in South Carolina. We took into account the current status of this State's Medicaid managed care program—its strengths and weaknesses—and what we believe is realistic and necessary.

- 2) Capitation Rate Instability (concerns & suggestions):** The concerns and suggestions listed within this section of the June 6, 2014 SCAHP letter focus primarily on the APR-DRG grouper and outpatient multiplier as it relates to the rate book.

Department's Response: The Department will notify all impacted parties of the APR-DRG Grouper conversion implementation date once that decision is made.

Budget neutrality based upon the conversion from version 28 to 30 of the APR-DRG Grouper—in the aggregate—is based solely on Medicaid fee-for-service (FFS) claims experience.

The July 1, 2014 hospital specific outpatient multipliers have been finalized—with only five hospital specific outpatient multipliers being impacted. The updated hospital specific outpatient multiplier list has been provided to Milliman in order to update the July 1, 2014 Medicaid MCO capitation rates.

The implementation date of the changes to the hospital specific per discharge rates and the hospital specific outpatient hospital multipliers will remain July 1, 2014.

For questions related to financial matters, please contact Adriana Day by phone at (803) 898-0336 or by email at Adriana.Day@scdhhs.gov. For questions related to Health Programs, please contact Deirdra Singleton by phone at (803) 898-2647 or by email at singled@scdhhs.gov. For Pharmacy and Quality questions, please contact Bryan Amick by phone at (803) 898-0212 or by email at bryan.amick@scdhhs.gov. For questions regarding Health Services / Medicaid Managed Care policies, please contact me by phone at (803) 898-2018 or by email at pattnat@scdhhs.gov. For operational questions related to Health Services / Managed Care, please contact Stephen Boucher by phone at (803) 898-2938 or by email at boucher@scdhhs.gov.

Kerrison
July 2, 2014
Page 3 of 3

Sincerely,

A handwritten signature in black ink, appearing to read 'Nathaniel J. Patterson'.

Nathaniel J. Patterson
Program Director, Health Services

cc: Deirdra T. Singleton, Deputy Director
Adriana Day, Chief Financial Officer
Donna Parker, Accounting/Fiscal Manager
Bryan Arnick, Program Director
Stephen Boucher, Operations Director
Jeff Saxon, Program Manager
Amanda Williams, Program Manager
Kevin Bonds, Program Manager
Evan Gessner, Assistant General Counsel
Cynthia Gore, Executive Assistant
Courtney Sanders, Administrative Assistant