

DEPARTMENT OF HEALTH AND HUMAN SERVICES  
OFFICE OF DIRECTOR

ACTION REFERRAL

TO <i>Grissel FOIA</i>	DATE <i>11-14-11</i>
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<b>DIRECTOR'S USE ONLY</b>		<b>ACTION REQUESTED</b>	
1. LOG NUMBER <i>101200</i>	<input type="checkbox"/> Prepare reply for the Director's signature DATE DUE _____	<input type="checkbox"/> Prepare reply for appropriate signature DATE DUE _____	<input checked="" type="checkbox"/> FOIA DATE DUE <i>11-30-11</i>
2. DATE SIGNED BY DIRECTOR <i>CC: Singleton, Stansland cleared 10/27/11, letter attached.</i>	<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.			
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4.			



November 10, 2011

**RECEIVED**

NOV 14 2011

Anthony E. Keck, Medicaid Director for SC  
Department of Health and Human Services  
P.O. Box 8206  
Columbia, SC 29202-8206

Department of Health & Human Services  
OFFICE OF THE DIRECTOR

RE: FOIA REQUEST

Dear Sir or Madam:

This is a request under the South Carolina Freedom of Information Act (§§ 30-4-10 et.seq.) and S.C. Code Ann. § 63-11-1990(C) (2009 Supp.) by the American Civil Liberties Union of South Carolina. The ACLU of South Carolina defends and promotes the fundamental principles embodied in the Bill of Rights and the U.S. and South Carolina constitutions.

All of the following requests relate to how the State of South Carolina provides the Early and Periodic Screening, Diagnostic and Treatments ("EPSDT") Services that are provided under Medicaid.

*Outreach and the Provision of Information*

1. Do the request for proposal ("RFP") and contract specify the responsibilities of the managed care plan, contracting providers, and the state agency for conducting outreach and informing?
2. Will each enrollee be provided information, in writing and orally, about the need for preventive care?
3. Will each enrollee be provided information, in writing and orally, about EPSDT services?
4. Will each enrollee be provided information, in writing and orally, about the availability of help scheduling appointments and providing transportation?
5. Will plans be required to document when enrollees decline EPSDT services *and* to deem the rejection as specific to that particular service at that time (so that outreach and informing for future EPSDT services persists)?
6. Will "high-risk" enrollees (e.g., pregnant women and adolescents, foster children) receive targeted outreach and informing regarding EPSDT?
7. Will the state Medicaid agency, plans and providers use appropriate means to communicate to persons who do not speak English, do not read, or who are hearing impaired or vision impaired?
8. Do the RFP and contract clarify who has responsibility for informing enrollees of transportation assistance and arranging for or providing non-emergency transportation?

### ***Screening Services***

9. Do the RFP and contract specify separate screening schedules for medical, vision, hearing, and dental screens and allocate responsibility for each of these screens?
10. Do the RFP and contract specify that a medical screen must include a comprehensive physical/mental health examination and developmental history?
11. Do the RFP and contract specify that a medical screen must include a comprehensive unclotted physical exam?
12. Do the RFP and contract specify that a medical screen must include immunizations, as set by the CDC?
13. Do the RFP and contract specify that a medical screen must include all necessary laboratory tests, including lead blood tests?
14. Do the RFP and contract specify that a medical screen must include health education, including anticipatory guidance to the child and family?
15. Are plans prohibited from imposing prior authorization for periodic and interperiodic screens?
16. Are plans and providers required to make referrals for necessary follow-up treatment, to assure the timely receipt of services, and to maintain accurate health records for all screening components?
17. Is the plan required to meet and exceed 80 percent EPSDT participation?
18. Do the RFP and contract explain what specific steps will be taken if the plan fails to meet 80 percent EPSDT participation?

### ***Treatment and Provider Participation***

19. Do the RFP and contract list *all* of the services included in 42 U.S.C. 1396 d (a) and specify which services are the responsibility of the plan and which services are the responsibility of the state or other contracting organizations?20. Are plans prohibited from placing caps on the number of services a child can receive (e.g., two psychology visits per month)?
21. Are plans required to use the EPSDT standard (42 U.S.C. 1396d(r)(5)) for determining which services must be covered (i.e., services necessary to correct or ameliorate physical or mental conditions)?
22. Do the RFP and contract specify that the plan must provide "case management" services (to facilitate needed medical, education, social, and other services)?
23. Will enrollees be informed of the availability of family planning services offered by the plan and outside of the plan?
24. Are adolescents assured of the confidentiality of their services, to the extent permitted by law?
25. Do the RFP and contract address the ability of minors to consent for treatment without parental consent or notification?
26. Are payment rates adequate to enlist enough obstetrical providers, pediatric providers, and adolescent specialists so that services are available to Medicaid enrollees at least to the extent services are available to the general population in the geographic area?

27. Will plans and providers be required to coordinate with other agencies, e.g., WIC, Title V, Head Start, school-based clinics, Federally Qualified Health Centers?

28. Do the RFP and contract require the plan to meet national professional standards of care as articulated by the American Academy of Pediatrics, the Advisory Committee on Immunization Practices, the American College of Obstetricians and Gynecologists, the American Medical Association Guidelines for Adolescent Preventive Screening and the American Academy of Child and Adolescent Psychiatry's Work Group on Quality Issues?

#### ***Reporting Requirements***

29. Will plans and providers be required to report encounter data sufficient to complete the HCFA Form-416?

30. Will information on EPSDT performance be made publicly available?

#### ***Specific Document Requests***

31. For the past three federal fiscal years, including the most recent fiscal year for which the document is available, reports required to be sent to the Secretary of the United States Department of Health and Human Services pursuant to the EPSDT, 2 U.S.C. § 1396a(a)(43)(D).

32. For each of the past three state fiscal or calendar years, all documents, data, records and/or reports reflecting both (i) the number of children under age 21 in South Carolina, and (ii) the number of children under age 21 in the legal custody of the South Carolina Department of Social Services, who were provided child health screenings services pursuant to EPSDT.

33. For each of the past three state fiscal or calendar years, all documents, data, records and/or reports concerning the completion of EPSDT child health screenings for children under age 21 at the frequency set forth in the South Carolina Department of Health and Human Services Physicians Provider Manual, Section 2, p. 55.

34. For each of the past three state fiscal or calendar years, all records and reports reflecting both (i) the number of children under age 21 in South Carolina, and (ii) the number of children under the age of 21 in the legal custody of the South Carolina Department of Social Services, who were referred for corrective treatment the need for which was disclosed by an EPSDT child health screening.

35. For each of the past three state fiscal or calendar years, all records and reports reflecting both (i) the number of children under age 21 in South Carolina, and (ii) the number of children under the age of 21 in the legal custody of the South Carolina Department of Social Services, who received:

a. "Vision services," pursuant to 42 U.S.C. §§ 1396a(a)(10)(A), 1396d(a)(i) & (4)(B) and 1396d(r)(2);

b. "Dental services," pursuant to 42 U.S.C. §§ 1396a(a)(10)(A), 1396d(a)(i) & (4)(B) and 1396d(r)(3);

- c. "Hearing services," pursuant to 42 U.S.C. §§ 42 U.S.C. § 1396a(a)(10)(A), 1396d(a)(i) & (4)(B) and 1396d(r)(4); and
- d. "[H]ealth care, diagnostic services, treatment, and other measures," pursuant to 42 U.S.C. §§ 1396a(a)(10)(A), 1396d(a)(i) & (4)(B) and 1396d(r)(5).

There should be no provision of law exempting any items on the schedule of records from disclosure. *See* S.C. Code Ann. § 63-11-1990(C) & (F) (2009 Supp.). All responsive documents should be made available promptly. Of course, all identifying information should be redacted, but this should exclude the age of the child, the child's race or ethnicity, and gender. If you maintain that certain of the requested records are exempted from disclosure, please identify those categories in writing and produce all other responsive documents without delay and within the time required by statute. *See* S.C. Code Ann. § 30-4-30(c) (2009 Supp.).

Because the ACLU is a non-profit public interest organization, we request a fee waiver. If, however, such a waiver is denied, we will reimburse you for the reasonable cost of copying. Please inform us in advance if the cost will be greater than \$150.

Thank you for your prompt attention to this matter. Please send all applicable hard copy records to ACLU of South Carolina, P.O. Box 20998, Charleston, SC 29413 and all applicable electronic records to [sdunn@aclusouthcarolina.org](mailto:sdunn@aclusouthcarolina.org).

If you have questions relating to this request, please contact Susan Dunn via email at the address listed above or by telephone at 843-720-1425.

Thank you in advance for your prompt response to this request.

Sincerely,



Susan K. Dunn  
Legal Director



292028206

Anthony E. Keck, Medicaid Director for SC  
Department of Health and Human Services  
P.O. Box 8206  
Columbia, SC 29202-8206

Department of Health & Human Services  
OFFICE OF THE DIRECTOR

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AMERICAN CIVIL  
LIBERTIES UNION  
SOUTH CAROLINA  
NATIONAL OFFICE  
PO BOX 20998  
CHARLESTON, SC 29403-63222



TO:

FROM:

SUBJECT: Cost of Processing FOIA Request #

The South Carolina Department of Health and Human Services has received and processed your FOIA request. The cost for processing this information is as follows:

Staff processing time at \$10.00 per hour	_____ Hours	\$ _____
Pages copied at \$.10 per page	_____ Pages	\$ _____
Pages faxed at \$.20 per page	_____ Pages	\$ _____
Shipping and Handling Costs		\$ _____
Other costs associated with the FOIA request:	_____	\$ _____
<b>Total Amount Due SCDHHS:</b>		<b>\$ _____</b>

Please remit the above amount to the following address:

**Bureau of Fiscal Affairs**  
South Carolina Department of Health and Human Services  
Post Office Box 8297  
Columbia, South Carolina 29202-8297

Please contact \_\_\_\_\_ should you have any questions.

Signature \_\_\_\_\_

Date: \_\_\_\_\_

DEPARTMENT OF HEALTH AND HUMAN SERVICES  
OFFICE OF DIRECTOR

ACTION REFERRAL

*Per [Signature] Lawler*

TO	DATE
<i>Grise/FOIA/Campbell</i>	<i>11-14-11</i>

DIRECTOR'S USE ONLY		ACTION REQUESTED	
1. LOG NUMBER	<i>101200</i>	<input type="checkbox"/> Prepare reply for the Director's signature	DATE DUE _____
2. DATE SIGNED BY DIRECTOR	<i>cc: Singleton, Stensland</i>	<input type="checkbox"/> Prepare reply for appropriate signature	DATE DUE _____
		<input checked="" type="checkbox"/> FOIA	DATE DUE <i>11-30-11</i>
		<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.	<i>BB Shan</i>	<i>12/2 OK</i>	
3.			
4.			



Log # 200 ✓

December 2, 2011

Ms. Susan K. Dunn  
Legal Director  
American Civil Liberties Union of South Carolina  
Post Office Box 20998  
Charleston, SC 29413

Dear Ms. Dunn:

Thank you for your Freedom of Information Act request regarding how the State of South Carolina provides the Early and Periodic Screening Diagnosis and Treatment ("EPSDT") services that are provided under Medicaid. I have attached the documents that will address your questions related to (a) Outreach and the Provision of Information, (b) Screening Services, (c) Treatment and Provider Participation, and Reporting Requirements, and Specific Document Request, and the invoice for processing this information.

If you should need additional information, please contact Mr. Bruce Harbaugh in the Managed Care department at (803) 898-2618.

Sincerely,

Melanie "Bz" Giese, RN  
Deputy Director

MG/chm

Attachments



TO: Susan K. Dunn, Legal Director  
FROM: M. Melanie "Bz" Giese, RN

SUBJECT: Cost of Processing FOIA Request #

The South Carolina Department of Health and Human Services has received and processed your FOIA request. The cost for processing this information is as follows:

Staff processing time at \$:10.00 per hour	<u>14</u> Hours	\$ <u>140.00</u>
Pages copied at \$.10 per page	<u>31</u> Pages	\$ <u>3.10</u>
Pages faxed at \$.20 per page	_____ Pages	\$ _____
Shipping and Handling Costs		\$ _____
Other costs associated with the FOIA request:	_____	\$ _____
<b>Total Amount Due SCDHHS:</b>		\$ <u>143.10</u>

Please remit the above amount to the following address:

Bureau of Fiscal Affairs  
South Carolina Department of Health and Human Services  
Post Office Box 8297  
Columbia, South Carolina 29202-8297

Please contact Bruce Harbough 803 878 2418 should you have any questions.

Signature Melanie Giese Date: 12/01/11

American Civil Liberties Union of South Carolina  
Attention: Susan K. Dunn, Legal Director  
P.O. Box 20998  
Charleston, South Carolina 29413

Regarding: FOIA Request

Outreach and the Provision of Information

1. Do the request for Proposal ("RFP") and contract specify the responsibilities of the managed care plan, contracting providers, and the state agency for conducting outreach and informing?  
**(There is no RFP) Yes, the Managed Care Organization contract describes the responsibilities for conducting outreach and informing.**
2. Will each enrollee be provided information, in writing and orally, about the need for preventive care?  
**The Managed Care Organizations provides each member a member handbook which contains information on preventive care, and provides a member service toll free phone line to answer any questions.**
3. Will each enrollee be provided information, in writing and orally, about EPSDT services?  
**The Managed Care Organizations provides each member a member handbook which contains information on EPSDT services, and a member service toll free phone line to answer any questions.**
4. Will each enrollee be provided information, in writing and orally, about the availability of help scheduling appointments and providing transportation?  
**The Managed Care Organizations provides each member a member handbook which contains information on scheduling appointments and transportation, and a member service toll free phone line to answer any questions.**
5. Will the plans be required to document when enrollees decline EPSDT services and to deem the rejection as specific to that particular service at that time (so outreach and informing for future EPSDT services persist)?  
**No**
6. Will "high risk" enrollees (e.g. pregnant women and adolescents, foster children) receive targeted outreach and information regarding EPSDT?  
**No**

The Managed Care Organizations provide case management services for high risk enrollees.

7. Will the state Medicaid agency, plans and providers use appropriate means to communicate to persons who do not speak English, do not read, or who are hearing impaired or vision impaired?  
Yes

8. Do the REF and contract clarify who has responsibility for informing enrollees of transportation?  
(There is no RFP) Yes, the Managed Care Organization contract and Policy and Procedures Guide Section 10.3 contain information on Medical (Non Ambulance) Transportation and Section 10.31 on Broker Based Transportation.

Screening Services

9. Do the RFP and contract specify separate screening for medical, vision, hearing, and dental screens and allocate responsibility for each of these screens?  
(There is no RFP) Yes, the Managed Care Organization contract in Section 4.1 says that "Services shall be furnished in an amount, duration, and scope that is no less than the amount, duration, and scope for the same services furnished to beneficiaries under Medicaid fee-for-service. The Physicians Manual Section 2 page 51 refers to a screening package of services: medical, vision, hearing, and dental.

10. Do the RFP and contract specify that a medical screen must include a comprehensive physical/mental health examination and developmental history?  
(There is no RFP) Yes, the Managed Care Organization contract in Section 4.1 says that "Services shall be furnished in an amount, duration, and scope that is no less than the amount, duration, and scope for the same services furnished to beneficiaries under Medicaid fee-for-service. The fee-for-service Physicians Manual Section 2 page 51 indicates that a medical screen must include a comprehensive physical/mental health examination and developmental history.

11. Do the RFP and contract specify that a medical screen must include a comprehensive unclothed physical exam?  
(There is no RFP) Yes, the Managed Care Organization contract in Section 4.1 says that "Services shall be furnished in an amount, duration, and scope that is no less than the amount, duration, and scope for the same services furnished to beneficiaries under Medicaid fee-for-service. The fee-for-service Physicians Manual Section 2 page 51 indicates that a medical screen must include a comprehensive unclothed physical exam.

12. Do the RFP and contract specify that a medical screen include immunizations, as set forth by the CDC?

(There is no RFP) The Managed Care Organization contract in Section 4.1 says that "Services shall be furnished in an amount, duration, and scope that is no less than the amount, duration, and scope for the same services furnished to beneficiaries under Medicaid fee-for-service. The fee-for-service Physicians Manual Section 2 page 51 indicates that a medical screen includes immunizations, but does not refer to meeting CDC standards.

13. Do the RFP and contract specify that a medical screen must include all necessary laboratory tests, including lead blood tests?

Yes. (There is no RFP) The Managed Care Organization contract in Section 4.1 says that "Services shall be furnished in an amount, duration, and scope that is no less than the amount, duration, and scope for the same services furnished to beneficiaries under Medicaid fee-for-service. The fee-for-service Physicians Manual Section 2 page 51 indicates lab test including lead blood tests.

14. Do the RFP and contract specify that a medical screen must include health education, including anticipatory guidance to the child and family?

(There is no RFP) Yes, the Managed Care Organization contract in Section 4.1 says that "Services shall be furnished in an amount, duration, and scope that is no less than the amount, duration, and scope for the same services furnished to beneficiaries under Medicaid fee-for-service. The fee-for-service Physicians Manual Section 2 page 51 indicates that a medical screen must include health education, including anticipatory guidance to the child and family.

15. Are plans prohibited from imposing prior authorization for periodic and interperiodic screens?

No

16. Are plans and providers required to make referrals for necessary follow-up treatment, to assure the timely receipt of services, and to maintain accurate health records for all screening components?

Yes

17. Is the plan required to meet and exceed 80 percent EDSDT participation?

**No. There is no Medicaid fee-for-service percentage participation requirement. The plans are required to provide EPSDT services to their members, but there is no benchmark percentage they must reach.**

18. Do the RFP and contract explain what specific steps will be taken if the plan fails to meet 80 percent EPSDT participation?

**(There is no RFP) See response to question 18 above.**

Treatment and Provider Participation

19. Do the RFP and contract list all services included in 42 U.S.C. 1396 d (a) and specify which services are the responsibility of the plan and which services are the responsibility of the state or other contracting organization?

**(There is no RFP) Yes. The Managed Care Organization Policy and Procedures Guide Section 9.0 lists Core Benefits and Section 10.0 lists Services Outside the Core Benefits.**

20. Are the plans prohibited from placing caps on the number of services a child can receive (e.g. two psychology visits per month)?

**Yes. The Managed Care Organization contract in Section 4.1 says that "Services shall be furnished in an amount, duration, and scope that is no less than the amount, duration, and scope for the same services furnished to beneficiaries under Medicaid fee-for-service.**

21. Are plans required to use EPSDT standards (42 U.S.C. 1396d(r)(5)) for determining which services must be covered (i.e. services necessary to correct or ameliorate physical or mental conditions)?

**The Managed Care Organization plan must provide services that shall be furnished in an amount, duration, and scope that is no less than the amount, duration, and scope for the same services furnished to beneficiaries under Medicaid fee-for-service.**

22. Do the RFP and contract specify that the plan must provide "case management" services (to facilitate needed medical, education, social, and other services)?

**No, targeted case management is not a core service for the Managed Care Organizations. They are expected to provide care coordination and case management, but not targeted care management.**

23. Will enrollees be informed of the availability of family planning services offered by the plan and outside the plan?

**Yes, the Managed Care Organization member handbook indicates that members can access Family Planning services within the provider network and outside the provider network.**

24. Are adolescents assured of the confidentiality of their services, to the extent permitted by law?

**Yes, The Managed Care Organization contract section 13.20.3 require the written consent of the member or potential member before disclosure of information about him or her, except in those instances where state or federal statutes or regulations require disclosure or allow disclosure without the consent of the member or potential member.**

25. Do the RFP and contract address the liability of minors to consent for treatment without parental consent or notification?

**Not directly, but the MCO subcontracts have language that they must meet all state and federal guidelines.**

26. Are payment rates adequate to enlist enough providers, pediatric providers, and adolescent specialists so that services are available to Medicaid enrollees at least to the extent services are available to the general population in the geographic area?

**The payment rate structure to the plans is actuarially sound. The payment arrangement between the Managed Care Organizations and the provider network is their business arrangement.**

27. Will plans and providers be required to coordinate with other agencies e.g. WIC, Title V, Head Start, school based clinics, Federally Qualified Health Centers?

**The Managed Care Organization plans develop their own provider networks which must meet Managed Care Organization guidelines as listed in the Managed Care Organization Policy and Procedure Guide and be approved by the Department of Managed Care before they can begin assignment of members for that county.**

28. Do the RFP and contract require the plan to meet professional standards of care articulated by the American Academy of Pediatrics, the Advisory Committee on Immunizations Practices, the American College of Obstetricians and Gynecologists, the American Medical Association Guidelines for Adolescent Preventive Screenings and the American Academy of Child and Adolescent Psychiatry's Work Group on Quality Issues?

Yes

Reporting Requirements

29. Will the plans and providers be required to report encounter data sufficient to complete HCFA Form-416

Yes. See attached instructions and specifics

30. Will information on EPSDT performance be made publicly available?

Yes

Specific Document Requests

31. For the past three federal fiscal years, including the most recent fiscal year for which the document is available, reports required to be sent to the Secretary of the United States Department of Health and Human Services pursuant to the EPSDT, 2 U.S.C. § 1396a(a)(43)(D).

See attached Form CMS -416 Documents

32. For each of the past three state fiscal or calendar years, all documents, data, records and/or reports reflecting both (i) the number of children under age 21 in South Carolina, and (ii) the number of children under age 21 in the legal custody of the South Carolina Department of Social Services, who were provided child health screenings services pursuant to EPSDT.

See University of South Carolina Letter

33. For each of the past three state fiscal or calendar years, all documents, data, records and/or reports concerning the completion of EPSDT child health screenings for children under the age of 21 at the frequency set forth in the South Carolina Department of Health and Human Services Physicians Provider Manual, Section 2, p. 55.

See attached Form CMS -416 Documents

34. For each of the past three state fiscal or calendar years, all records and reports reflecting both (i) the number of children under the age of 21 in South Carolina, and (ii) the number of children under the age of 21 in the legal custody of the South Carolina Department of Social Services, who were referred for corrective treatment the need for which was disclosed by an EPSDT child health screening.

See University of South Carolina Letter

35. For each of the past three state fiscal or calendar years, all records and reports reflecting both (i) the number of children under age 21 in South Carolina, and (ii) the number of children under the age of 21 in the legal custody of the South Carolina Department of Social Services who received:

- a. "Vision services," pursuant to 42 U.S.C. §§ 1396a(a)(10)(A), 1396(a)(i) & (4)(B) and 1396d(r)(2);
- b. "Dental services," pursuant to 42 U.S.C. §§ 1396a(a)(10)(A), 1396d(a)(i) & (4)(B) and 1396d<sup>e</sup>(3);
- c. "Hearing services," pursuant to 42 U.S.C. §§ 1396a(a)(10)(A), 1396d(a)(i) & (4)(B) and 1396d(r)(4); and
- d. "[H]ealth care, diagnostic services, treatment, and other measures," pursuant to 42 U.S.C. §§ 1396a(a)(10)(A), 1396d(a)(i) & (4)(B) and 1396d<sup>e</sup>(5).

See University of South Carolina Letter