

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

ACTION REFERRAL

TO <i>Waldrep</i>	DATE <i>7-15-11</i>
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DIRECTOR'S USE ONLY	ACTION REQUESTED
1. LOG NUMBER <i>101036</i>	<input type="checkbox"/> Prepare reply for the Director's signature DATE DUE _____
2. DATE SIGNED BY DIRECTOR <i>cc: Mr. Keck</i> <i>Close, see attached e-mail</i> <i>from Byron 8/23/11</i>	<input checked="" type="checkbox"/> Prepare reply for appropriate signature DATE DUE <i>7-26-11</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.			

Alan and Susan Lait

From: "Alan and Susan Lait" <aslscusa@directv.net>
To: "Jan Polatty" <POLATTYJ@scdhhs.gov>
Sent: Tuesday, July 12, 2011 10:20 PM
Subject: To: Mr. Keck - 1) Failure of DHHS Director to respond; 2) Failure to ID Consumer at Risk; 3) Dismantling of Home & Community Services

July 12, 2011

Anthony Keck, Director
 Dept. Health & Human Services (South Carolina Medicaid)
 P.O. Box 8206
 Columbia, SC 29202-8206

RECEIVED

JUL 15 2011

Department of Health & Human Services
OFFICE OF THE DIRECTOR

Susan Lait, Parent Guardian
 308 Turkey Run
 Pickens, SC 29671
 (864)878-4567

REF: Leah Lait, Citizen with Disabilities and Consumer/Recipient of Medicaid Services including MR/RD Waiver Home and Community Based Services

Topics: 1) Failure of Director to Respond; 2) Failure of SCDHHS to Identify Consumer "at risk" of institutional placement; 3) Dismantling of Medicaid Home & Community Based Services

On April 6, 2011, I was one of a group of citizens attending a meeting with you. You requested that contact with you be made through your executive assistant, Jan Polatty. To date, I have been unsuccessful in reaching you personally. My efforts to contact you have been referred to Sam Waldrep, Deputy Director. We were happy to delay federal discrimination complaints to accept Mr. Waldrep's offer of assistance. We are experiencing delays in receiving assistance from Mr. Waldrep. These delays have resulted in the need for additional requests for fair hearings to avoid missing SCDHHS appeal deadlines.

I have attempted to reach you in reference to the dismantling of the home & community based services which allow our daughter to live at home in her community. We have submitted multiple letters, complaints and appeals to SCDHHS. This includes six (6) appeals submitted in 2011 under Governor Nikki Haley's administration. Our daughter is most certainly "at risk" of being placed in an institution. According to opinions published by the U.S. Department of Justice, this is a violation of our daughters civil rights under Olmstead vs. LC and the American with Disabilities Act (ADA).

Mr. Keck, we do not look for opportunities to submit state or federal complaints and appeals. Like most families, we are very busy living our lives as a family. We simply want to continue to meet our responsibilities while saving the state dollars caring for our daughter at home in her own community.

Disability itself does not pose the greatest challenge of caring for a person with disabilities. It is the agencies with which we interact who label us "problem, persistent or difficult parents" that present the greatest challenges.

We respectfully request that you stop handling us as if we are a problem, and instead address us as citizens with real concerns. Our daughter is but one example of the barriers citizens with disabilities are encountering. You can learn from us and other families how to save money and improve services.

It is our hope that you will respond personally in an effort to continue less expensive home & community based

7/12/2011

services for our daughter and other citizens with disabilities.

Sincerely,


Susan Lait

Alan and Susan Lait

From: "Alan and Susan Lait" <asiscusa@directv.net>
To: "Jan Polatty" <POLATTYJ@scdhhs.gov>
Sent: Tuesday, July 12, 2011 10:20 PM
Subject: To: Mr. Keck - 1) Failure of DHHS Director to respond; 2) Failure to ID Consumer at Risk; 3) Dismanteling of Home & Community Services

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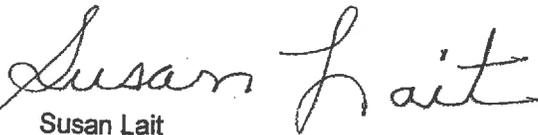
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7/12/2011

services for our daughter and other citizens with disabilities.

Sincerely,


Susan Lait

7/12/2011

July 12, 2011

Division of Appeals and Hearings
SC Department of Health and Human Services
P.O. Box 8206
Columbia, SC 29202-8206

ATTN: Renee Johnson, Hearing Officer DHHS Division of Appeals

Susan Lait
308 Turkey Run
Pickens, SC 29671

**REF: Appeal Case #11-MISC-171 (Leah Elaine Lait) - Fair Hearing –
Physical & Occupational Therapy**

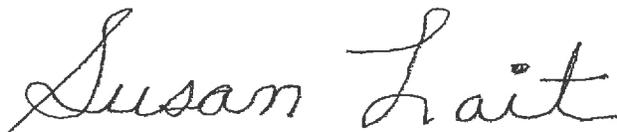
Dear Ms. Johnson:

In a 6/28/2011 letter, I requested to continue the appeal process. Thank you for your 7/7/2011 response. Per your request, I have attached the 6/29/2011 letter I received from Neuro-Developmental Treatment Programs (NDTP). Mr. Sam Waldrep, Deputy Director, appears to be offering assistance to resolve therapy as a concern. I have attached a copy of a 7/3/2011 e-mail from Mr. Waldrep. I have been unable to make contact with Mr. Waldrep, and he has not followed up by contacting me. Therefore, I continue my request for the fair hearing appeals process.

I would also like to continue a request that services be continued during the appeal process. Please advise how continued services can be applied to the attached billing from NDTP.

I can not leave my daughter unsupervised to attend a hearing in Columbia, SC. I respectfully request to continue my request for the hearing to be held in the DHHS Office closest to our home in Greenville, SC.

Thank you for your kind assistance.



Encl: 6/29/2011 letter from Neuro-Developmental Treatment Programs, Inc.; 7/3/2011 e-mail from Sam Waldrep, DHHS Deputy Director; 7/7/2011 letter from Renee Johnson;

Neuro-Developmental Treatment Programs, Inc.

*Physical Therapy
Occupational Therapy*



*817 Crawford Avenue
Augusta, Georgia 30904
Office (706) 736-1255
Fax (706) 736-1258*

June 29, 2011

RE: Leah's Account

Alan & Susan Lait
308 Turkey Run
Pickens, SC 29671

Following are listed the treatment dates that have denied for SC Medicaid for Leah stating the code of 712 which reads "Recip age-Proc inconsist/not DMR recip (the procedure/revenue code is inconsistent with the patient's age)" Since SC Medicaid currently will not cover her therapy charges we are no longer able to treat Leah unless you agree to pay out of pocket for all incurred therapy charges or other alternatives for reimbursement are discovered.

DOS	Procedure code	Therapist	Charge	Primary INS Paid	Balance Due
3/4/11	97530	C Hall	160	0	160
3/4/11	97110	Bierman	160	0	160
05/5/11	97110	Bierman	160	0	160
			Balance		\$480.00

Please let me know if you have any questions.

Sincerely,

A handwritten signature in cursive script that reads "Shelly".

Shelly
Billing Specialist/Office Assistant

Alan and Susan Lait

From: "Sam Waldrep" <Waldrep@scdhhs.gov>
To: <asiscusa@directv.net>
Cc: "George Maky" <Maky@scdhhs.gov>
Sent: Sunday, July 03, 2011 1:24 PM
Subject: Re: Fwd: FOIA Request

Ms. Lait-

We will be happy to comply with your request and will be back in touch with you to let you know the cost of copying this document. Can I ask if there is something in particular that you are searching for? I thought that during our last conversation you felt comfortable with the explanations we provided to you about the nature of the changes. Again, we will comply but the waiver document as you know is quite lengthy.

Also, I did not hear back from you concerning the therapy visits. I left 2 messages on your answering machine in hopes of being able to further explain why the claims were denied and to hopefully discuss ways we might be able to determine how medically necessary and authorized therapy visits could be covered.

Sam

>>> "Alan and Susan Lait" <asiscusa@directv.net> 7/1/2011 3:04 PM >>>
 Date: July 1, 2011

To: Anthony Keck, Director of SCDHHS (SC Medicaid)

From: Susan Lait, Parent/Guardian of Leah E. Lait
 308 Turkey Run
 Pickens, SC 29671
 (864)878-4567

REF: Freedom of Information Act (FOIA) Request for Information

Under the Freedom of Information Act (FOIA), I would like to request a copy of the previous Mental Retardation and Related Disabilities MR/RD Waiver Document that was in effect 1/1/2010 through February 2011. There is currently a new, 3/1/2011 MR/RD Waiver Document in use made retroactive to 3/1/2011 based on a 5/2/2011 Center for Medicaid Services (CMS) Letter. In a previous conversation with Sam Waldrep, Mr. Waldrep confirmed that a hard copy of the previous, MR/RD Waiver Document is maintained in George Maky's office. Please advise in advance of any costs associated with my request.

Thank you so much for your attention.

Confidentiality Note

This message is intended for the use of the person or entity to which it is addressed and may contain information, including health information, that is privileged, confidential, and the disclosure of which is governed by applicable law. If the reader of this message is not the intended recipient, or the employee or agent responsible to deliver it to the intended recipient, you are hereby notified that any dissemination, distribution or copying of this information is STRICTLY PROHIBITED.

If you have received this in error, please notify us immediately and destroy the related message.

7/12/2011



July 7, 2011

CERTIFIED AND FIRST CLASS MAIL

Susan Lait
308 Turkey Run
Pickens, South Carolina 29671

RE: Fair Hearing of Neuro Development Treatment Programs, Inc. v. SCDHHS
Appeal Case # 11-MISC-171 (Leah Elaine Lait)

Dear Mrs. Lait:

I am thankful you sent a hard copy of your email as I did not receive it. Our email system is very sensitive to possible threats and sometimes blocks valid emails. As I do not receive notification when any email is blocked, I recommend you correspond with me via other avenues such as mail, phone or fax so you can be assured I receive all necessary information.

You stated in your email that your daughter's provider has agreed to give you a statement concerning the denied claims and that the services would no longer be provided to your daughter because they are no longer covered by Medicaid. You requested additional time to obtain this statement and you asked if the statement of unanimous consent was still necessary.

I will allow you until July 28, 2011 to provide me with such a statement from the provider. If I receive a statement by this date, a statement of unanimous consent will not be necessary. If I do not receive a statement from the provider by July 28, 2011, I will need a letter of unanimous consent. If I do not receive either by July 28, 2011, the appeal will be dismissed.

If there are any questions, please contact me at 803-898-2661.

Sincerely,



Renee Johnson, Hearing Officer
Division of Appeals and Hearings

Alan and Susan Lait

From: "Alan and Susan Lait" <aslscusa@directv.net>
To: "Robert French" <FRENCHR@scdhhs.gov>
Cc: "Sam Waldrep" <Waldrep@scdhhs.gov>
Sent: Tuesday, July 12, 2011 10:22 PM
Subject: 1) Continued Barriers to Due Process/Appeals Process; 2) Request Status of Appeals

July 12, 2011

Sent by E-mail and U.S. Mail

Robert French, Director Division of Appeals
P.O. Box 8206
Columbia, SC 29202-8206

Susan Lait
308 Turkey Run
Pickens, SC 29671

REF: Leah Elaine Lait - Barriers to Completing and Implementing the Fair Hearing Appeals Process - 1) Appeals Case #11-MISC-019 (12/14/2011 Medicaid Changes); 2) Appeal Case # 10-MISC-171 (Therapy); 3) Unopened Appeals Case #11-U-138 (6/6/2011 Changes to Medicaid); 4) 6/27/201 Request for Fair Hearing ref. Co-pays on MR/RD Waiver Services (Case # not assigned)

Dear Mr. French:

I am in receipt of your letter dated 7/2/2011. Your letter is in reference to **Unopened Appeals Case #11-U-138 (Please refer to Item #3 listed below)**. I have concerns in reference to your 7/2/2011 response to Case #11-U-138, and other pending appeals. As you are the Director of the Division of Appeals, I am forwarding my concerns to your attention.

I will be using e-mail to copy Director Anthony Keck and Assistant Director Sam Waldrep. In your 7/2/2011 letter you advise that you will not accept any electronic communication such as e-mails so I will send you a hard copy by U.S. Mail.

1. **Appeals Case #11-MISC-019 (Benefit Reduction) 1/20/2011 Request for Fair Hearing in reference to 12/14/2010 Medicaid Cuts** - This appeal in addition to other issues addresses the introduction of co-pays to state plan services for MR/RD Waiver Participants. I mention this because this appeal (#11-MISC-019) is related to Appeals Case #11-U-138 in that the June 6, 2011 changes increase co-pays established on 12/14/2011. This appeal (#11-MISC-019) was submitted six (6) months ago on 1/11/2011. I attended a Fair Hearing three (3) months ago on 4/26/2011. I have not received notice of an opinion from you. Would you advise when an opinion might be issued on #11-MISC-019?
2. **Appeal Case # 10-MISC-171 - 6/1/11 Request for Fair Hearing** - This request was in reference to continued therapy under the adult rehabilitation therapy criteria. Our daughter turned age 21 on 8/31/2011. Our daughter was provided therapy under the adult criteria, with a specific provider, 8/31/2010 through February 2011. Our provider received notice in April 2011 that therapy was to be denied effective March 2011. The provider nor parents had "**prior notice**" that therapy was to be discontinued. Our daughter was transitioned into the adult criteria

7/12/2011

with the assistance of Sam Waldrep, Deputy Director. There is much confusion as to if the correct code was used to deny therapy. No mention was made in the denial sent to the provider that therapy was being denied because of the "location". Mr. Waldrep has offered his assistance, but we have been unable to reach him, and he has not followed up with me. Please refer to attached 7/3/2011 e-mail from Mr. Waldrep.

3. Unopened Appeals Case #11-U-138 - 6/28/2011 - Request for Fair Hearing ref. 6/6/2011 Medicaid Cuts - On 6/27/2011, I submitted a request for Fair Hearing in reference to Medicaid changes announced in a June 6, 2011 Medicaid Bulletin. I received a letter from you dated 7/2/2011 in which you state that you will **not** open an appeal. I believe that you are failing to open an appeal in error concerning changes to Medicaid including an increase in co-pays for MR/RD Waiver participants and percentage increases. In error you have requested that I represent individual providers. Please document the policy that requires a Medicaid Recipient to actually suffer "harm" before eligible for due process that includes a Fair Hearing Appeal.

4. 6/27/2011 Request for Fair Hearing ref. Co-pays on MR/RD Waiver Services (Appeal Case # Not assigned) - As this issue relates to a waiver services, on 5/18/2011, I sent a Request for Reconsideration to Dr. Beverly Buscemi, Executive Director. On 5/31/2011, Dr. Buscemi responded and confirmed that co-pays are not charged to waiver participants for waiver services. Sam Waldrep advised me that indeed, charging our daughter as waiver participant for waiver services was an error. Mr. Waldrep asked me to keep a record of co-pays charged my daughter for waiver services to assist DHHS in reimbursement. This DHHS error has not yet been corrected. On 6/27/2011, I sent a request for Fair Hearing to DHHS in order to be within a thirty (30) day time frame to request a Fair hearing. The U.S. Postal Service confirms that this appeal was received on 6/28/2011. Please consider this correspondence a second request for Fair Hearing Appeal.

Please advise of the status of the above pending appeals. I continue to request Fair Hearings on behalf of my daughter, therapy services are continued, and services are continued without co-pays or increases in co-pays. I am unable to leave my daughter unsupervised. I respectfully request that the Fair Hearing be scheduled in the DHHS Office closest to our residence in Greenville, SC.



Susan Lait

Attach to e-mail: 7/3/2011 E-mail from Sam Waldrep

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

From: Sam waldrep

To: aslscusa@directv.net

Cc: George Maky

Sent: Sunday, July 03, 2011 1:24 PM

Subject: Re: Fwd: FOIA Request

Ms. Lait-

We will be happy to comply with your request and will be back in touch with you to let you know the cost of copying this document. Can I ask if there is something in particular that you are searching for? I thought that during our last conversation you felt comfortable with the explanations we provided to you about the nature of the changes. Again, we will comply but the waiver document as you know if quite lengthy.

7/12/2011

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Sam

>>> "Alan and Susan Lait" <aslscusa@directv.net> 7/1/2011 3:04 PM >>>
Date: July 1, 2011

To: Anthony Keck, Director of SCDHHS (SC Medicaid)

From: Susan Lait, Parent/Guardian of Leah E. Lait
308 Turkey Run
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Thank you so much for your attention.

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If you have received this in error, please notify us immediately and destroy the related message.

7/12/2011



July 2, 2011

FIRST CLASS MAIL

Susan Lait
308 Turkey Run
Pickens, South Carolina 29671

RE: Appeal Letter
Unopened Appeals Case # 11-U-138

Dear Ms. Lait:

I have received your appeal request filed on behalf of Leah Elaine Lait, in which you are appealing the South Carolina Department of Health and Human Services' (SCDHHS') determination to reduce payments to certain Medicaid providers. In this recent reduction of payments to Medicaid providers, the Medicaid agency, SCDHHS has not reduced any services directly to Leah; therefore, Leah has not been harmed by this reduction in payments to Medicaid providers. SCDHHS cannot force providers to accept Medicaid patients and if Leah's medical providers decide to no longer accept Leah as a Medicaid patient, that decision is strictly between you and Leah's medical providers. However, if you are representing one of those medical providers in their appeal, you must indicate which provider you are representing. At this point, you do not have standing to represent any Medicaid provider that has been harmed by the reduction in Medicaid payments and your appeal request will be filed away as an unopened appeal.

If you have any questions, you may call me at 1-800-763-9087. When calling or writing back, please mention Appeals Unopened Case # 11-U-138. **I will not accept any electronic communications, such as e-mails.**

Sincerely,



Robert French, Director
Division of Appeals and Hearings

PLACE STICKER AT TOP OF ENVELOPE TO THE RIGHT OF THE RETURN ADDRESS. FOLD AT DOTTED LINE

CERTIFIED MAIL™

Swanheit
308 Turkey Run
Pickens, SC 29667



7009 2820 0003 7010 4018



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29202

U.S. POSTAGE
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JUL 13 2011
AMOUNT

\$5.59
00016918-03

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RETURN RECEIPT JUL 15 2011
REQUESTED

Department of Health & Human Services
OFFICE OF THE DIRECTOR

Director Anthony Kack
SC Dept. Health & Human Services
Director's Office
P.O. Box 8206
Columbia, SC 29202-8206

292028206



PLACE STICKER AT TOP OF ENVELOPE TO THE RIGHT OF THE RETURN ADDRESS, FOLD AT DOTTED LINE

Swannkait
308 Turkey Run
Pickens, SC 29667

JUL 15 2011
JUL 13 2011

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JUL 15 2011

Department of Health & Human Services
OFFICE OF THE DIRECTOR

CERTIFIED MAIL™



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Sam Waldrop
Deputy Director
SC Dept. Health & Human Services
P.O. Box 8206

292028205

Columbia, SC 29202-8206

Marie Brown - Log 036



From: Byron Roberts
To: Marie Brown
Date: 8/23/2011 4:57 PM
Subject: Log 036

Marie,

Log 036 relates to an email that Ms. Susan Lait sent to Director Keck. Ms. Lait has a pending appeal that I am handling. I intend to call Ms. Lait regarding the appeal and this should resolve the issue. No letter or written response is necessary.

Thanks.

Byron