

DEPARTMENT OF HEALTH AND HUMAN SERVICES
OFFICE OF DIRECTOR

ACTION REFERRAL

TO <i>Giese</i>	DATE <i>9-29-11</i>
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DIRECTOR'S USE ONLY	ACTION REQUESTED
1. LOG NUMBER <i>100144</i>	<input type="checkbox"/> Prepare reply for the Director's signature DATE DUE _____
2. DATE SIGNED BY DIRECTOR <i>cc: Mr. Keck, Singleton</i> <i>Cleared 10/7/11, letter</i> <i>attached.</i>	<input checked="" type="checkbox"/> Prepare reply for appropriate signature DATE DUE <i>10-10-11</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.			

ABSOLUTE TOTAL CARE



South Carolina
HealthyConnections
1-877-552-4642

1441 Main Street, Columbia, South Carolina 29201 • Toll Free 1-866-433-6041 • www.absolutetotalcare.com

September 28, 2011

Mr. Anthony E. Keck, Director
South Carolina Department of Health & Human Services
1801 Main Street
Columbia, SC 29202

RECEIVED

SEP 29 2011

Department of Health & Human Services
OFFICE OF THE DIRECTOR

Re: Request for Reconsideration

Dear Director Keck:

Thank you for your support of Absolute Total Care, Inc. ("ATC"). I am requesting your review and reconsideration of a recent request ATC received from the Department of Health and Human Services ("DHHS"). Specifically, although ATC has voluntarily exited Spartanburg, Union, and Cherokee counties (collectively "Affected Counties"), DHHS additionally has requested that ATC terminate all of the contracts it has entered into with providers in the Affected Counties. Those providers are important caregivers for many of our members in adjoining counties and their termination will adversely impact access to care, in our opinion.

To date, we have not been able to ascertain a rationale for the request from DHHS. DHHS has acknowledged there is no existing requirement, in either the contract between DHHS and ATC or the DHHS' Policy and Procedure manual, requiring ATC to terminate independent contracts with providers.

As such, we respectfully request that you reconsider DHHS' request and allow ATC to maintain its provider contracts in the Affected Counties for the benefit of members in adjoining counties. We are not seeking to retain or add members in Affected Counties. If that is DHHS' concern, we believe we can address that concern by amending the provider contracts.

I. Background:

On August 15, 2011, DHHS informed ATC that unless ATC exited the Affected Counties, DHHS would remove ATC as an option in the Affected Counties, with existing membership transferred to alternative MCOs/MHNs. As you are aware, ATC did not desire to exit the Affected Counties but accepted DHHS' offer to permit a withdrawal in lieu of a removal by DHHS. At the time DHHS provided ATC with the option to exit the Affected Counties voluntarily, DHHS did not inform ATC of any additional requirements that DHHS would impose in connection with the Affected Counties, such as terminating provider contracts.

On September 16, 2011, ATC received an email request from DHHS requiring ATC to provide a list of providers, and setting out the dates upon which ATC would terminate providers in the Affected Counties.

Over the last week ATC has worked collaboratively with DHHS' representatives on this matter in an effort to identify opportunities for resolution, but we have not been able to come to a resolution or to understand why DHHS has requested this requirement.

II. Description of Providers:

Currently, ATC holds independent contracts with providers in the Affected Counties. These providers render services to members that reside outside of the Affected Counties. As you know, provider service areas quite frequently extend beyond county lines and even state lines. DHHS' network adequacy requirements implicitly acknowledge this fact because they measure access by mileage proximity, not by county borders. Patients throughout the state regularly cross such borders for their medical care. For example, Regenesys (FQHC) has members that reside outside of the Affected Counties. In addition, Upstate Carolina Medical Center's service area extends beyond Cherokee County.

III. Request for Reconsideration:

ATC believes it should be allowed to maintain its independent contractual relationships with providers within the Affected Counties for the following reasons:

1) Requiring ATC to Terminate Provider Contracts is Inconsistent with the Requirement in the DHHS Contract that ATC Maintain Robust Provider Agreements In the Interest of Its Members.

Provider network expansion continues to be a high priority for ATC. In an effort to provide the most accessible provider networks to membership, ATC has an objective of ultimately covering all counties in South Carolina and building robust networks in each county.

Requiring that ATC terminate its independent contractors in the Affected Counties would impact ATC's ability to serve its members. Providers that would be terminated as a result of this proposed action include one hospital and physicians currently serving ATC members who reside in contiguous counties. In addition, as DHHS is aware, ATC is working to ensure that it complies with the current corrective action in effect for the counties contiguous to the Affected Counties. It will not serve ATC's members to terminate providers who contribute to ATC's compliance with its contractual obligations related to the corrective action plan and overall access requirements.

2) There is No Legal Provision Requiring ATC to Terminate its Provider Contracts.

DHHS acknowledges that there is no provision in the DHHS Contract or Policy and Procedures requiring an MCO to terminate independent provider relationships when exiting a county, but takes the position that DHHS has the authority to make decisions even where the DHHS Contract and Policy and Procedures are silent as to what is required of MCOs and DHHS.¹ In our view, the language of this provision clearly indicates that it applies only when there is a dispute about the application of a particular requirement. Based on our discussions with DHHS, we both agree that there are no current requirements that would require termination of ATC's independent contractual relationships.

¹ To support this position, DHHS points to the provision in the Policy and Procedures that states "In the event of any confusion or disagreement as to the meaning or intent of requirements of Policies and Procedures contained herein, SCDHHS shall have the ultimate authority to interpret said requirements, of the Policies and Procedures, and the SCDHHS' interpretation shall control." However, in the current circumstances there is no requirement or provision in the Policy and Procedures even to be subject to confusion or disagreement. The Policies and Procedures are silent on this issue.

3) Current DHHS Practice Allows an MCO to Hold Provider Contracts in Areas Where the MCO is not Approved

As you are aware, ATC and other MCOs (including BlueChoice and UnitedHealthcare) hold provider contracts in service areas that are not approved by DHHS. In allowing MCOs to do so, DHHS recognizes that if an MCO is not approved by DHHS to provide services in a particular area, there is no reason to prohibit contractual relationships with providers in that area. We recognize the potential risk of allowing MCOs to exit counties for purely financial reasons and subsequently regaining approval, in an attempt to avoid adverse risk, but, as you know, this is not the case in ATC's "voluntary" exit from the Affected Counties.

Maintaining contracts with providers in the Affected Counties does not cause ATC to run afoul of our contractual or regulatory obligations. Our current provider contracts allow providers to render services only to members who are enrolled with ATC. Obviously, there will be no residents of the Affected Counties enrolled with ATC. However, if, DHHS is concerned that ATC's provider contracts in the Affected Counties will create confusion regarding which patients these providers can serve, ATC is willing to seek amendments to those provider contracts making it clear that the providers may only render services to ATC members who reside in counties where ATC is approved to operate.

We thank you for your reconsideration and request that you allow ATC to continue its independent provider relationships in the Affected Counties.

Sincerely,



Aaron W. Brace
President and CEO
Absolute Total Care, Inc.

DEPARTMENT OF HEALTH AND HUMAN SERVICES
OFFICE OF DIRECTOR

ACTION REFERRAL

TO <i>Giese / Campbell</i>	DATE <i>9-29-11</i>
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2. DATE SIGNED BY DIRECTOR <i>cc: Mr. Heck, Singleton</i>	<input checked="" type="checkbox"/> Prepare reply for appropriate signature DATE DUE <i>10-10-11</i>
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APPROVALS (Only when prepared for director's signature)	APPROVE	* DISAPPROVE (Note reason for disapproval and return to preparer.)	COMMENT
1.	<i>[Signature]</i>		<i>See Vicki's changes</i>
2. <i>B. Giese</i>	<i>10/20 BZ OK</i>	<i>09/17</i>	
3.			
4.			

Log # 144



October 7, 2011

Arthur Ravenel, Jr.
1413 Wittenberg Drive
Mt. Pleasant, South Carolina 29464

Dear Mr. Ravenel:

I appreciate your letter of September 7, 2011 concerning your son William's care at the Coastal Center in Ladson. After I received your letter, I asked Sam Waldrep, Deputy Director of Long Term Care and Behavioral Health, to discuss your concerns with Larry Mattive, Administrator at the Coastal Center.

The concerns that you addressed in your letter result from an on-site survey performed by the South Carolina Department of Health and Environmental Control (SCDHEC). This survey is part of state and federal requirements for Medicaid reimbursement. The Center was cited for not having a formal team conference appropriately documented. This matter has since been resolved between the Coastal Center and SCDHEC.

We have been assured by Mr. Mattive that your son's nutritional plan will not be changed as a result of this issue and that family input will continue to be an important part of the care planning process for William.

Thank you again for bringing this matter to our attention. Please let me know if we can be of further assistance to you.

Sincerely,



Anthony E. Keck
Director



October 20, 2011

Mr. Aaron Brace
CEO & Plan President
Absolute Total Care
1441 Main Street
Columbia, South Carolina 29201

Dear Mr. Brace: 

Thank you for your letter to Mr. Keck requesting a reconsideration of our decision requiring Absolute Total Care to terminate all of the contracts in the three counties you have voluntarily exited.

The basic policy outline of "voluntary" withdrawal was sent in an email to the MCOs on July 19, 2011. After the invocation of a voluntary withdrawal, SCDHHS began to add detail to the policy which included the requirement that all MCOs who voluntarily terminate in a county must terminate all of its provider contracts within the requested counties. After this policy received upper management approval, it was discussed at the September 22, 2011 MCO operations meeting.

Based on the county review, the contiguous counties must be able to stand on their own to support the plans enrollment within those counties. The enrollment broker will not enroll members into a plan that has not been approved or that has voluntarily left the county. Members may request disenrollment from a plan in which their provider is not part of the plan's network or if the plan has terminated its relationship with their provider.

We are within the scope of our authority to make decisions regarding the policies that govern the managed care plans who participate in South Carolina Medicaid. The requirement to have an MCO who ceases operations in a county to cancel the associated provider contracts for that county is a policy, not a legal requirement. If an MCO believes that the members it serves in adjacent counties are dependent upon the providers of the closing county, this should be taken into consideration during your analysis of whether to withdraw from a county.

In regards to SCDHHS allowing an MCO to hold provider contracts where the MCO is not approved, these are counties into which the MCO is planning to expand not exit. It is important to note that the MCOs are not allowed to execute those contracts until the county has been submitted and approved. In the case of an MCO withdrawing from a county, it is reasonable that the MCO terminates its relationship with the providers in those counties. Under the voluntary termination policy, the former Medicaid MCO members are transferred to other health plans in the county, and the Medicaid MCO members in the surrounding counties are given a ninety (90) day choice period so that they may chose another health plan to maintain their relationship with their PCP. In this

Mr. Aaron Brace
October 20, 2011
Page 2

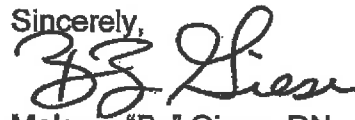
case all of the other health plans have contracts with providers within the three counties from which you have voluntarily withdrawn.

SCDHHS has reconsidered your most recent request and is reaffirming our original decision that all provider contracts in Spartanburg, Cherokee and Union must be terminated.

A policy will continue to be fully developed by the managed care staff to reflect the requirements for voluntary withdrawal, including criteria related to any specific contractual exceptions which may be allowed on a case by case basis. This new policy is targeted to be included in the next updated MCO Policy and Procedures Manual.

It is important to note that our policies and procedures along with our guidelines are not exclusive to ATC. All managed care health plans that participate in South Carolina Medicaid are held to the same standards. We look forward to working with you in the future to assist you in meeting these goals.

If you have any other questions or concerns, please do not hesitate to contact me directly.

Sincerely,

Melanie "Bz" Giese, RN
Deputy Director

MG/cbm

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South Carolina Department of Health & Human Services
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We thank you for your reconsideration and request that you allow ATC to continue its independent provider relationships in the Affected Counties.

Sincerely,



Aaron W. Brace
President and CEO
Absolute Total Care, Inc.

From: Annmarie McCanne
To: Jennifer Campbell
CC: Brenda James; Jan Polatty
Date: 10/07/2011 1:07 PM
Subject: Fwd: Follow Up

Log 144 is Due on 10/17, extended from 10/10.

>>> Melanie Giese 10/7/2011 1:04 PM >>>

Hi Aaron-

Just a quick message that we are in receipt of your letter dated 9/28. We are having an internal meeting with Mr. Keck on the 13th to discuss some of the issues, so there will be a slight delay from normal in your receiving a written response. Thanks for your patience. BZ

M. Melanie "Bz" Giese, RN
Deputy Director
Medical and Managed Care Services
SC DHHS
PO Box 8206
1801 Main Street, J-1116
Columbia, SC 29202
803-898-0178
803-255-8235 (fax)

Log #144

See if the
attached ltr,
is to close the
log.