

DEPARTMENT OF HEALTH AND HUMAN SERVICES
OFFICE OF DIRECTOR

ACTION REFERRAL

TO	DATE
Bowling	6-20-07

DIRECTOR'S USE ONLY		ACTION REQUESTED	
1. LOC NUMBER	000790	<input checked="" type="checkbox"/> Prepare reply for the Director's signature DATE DUE <u>6-27-07</u>	
2. DATE SIGNED BY DIRECTOR		<input type="checkbox"/> FOIA DATE DUE _____ <input type="checkbox"/> Necessary Action	
cc: Wells, Singleton Cleared 7/2/07 attached			

APPROVALS (Only when prepared for director's signature)	APPROVE	* DISAPPROVE (Note reason for disapproval and return to preparer.)	COMMENT
1.			
2.			
3.			.
4.			

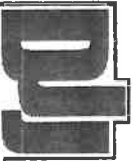
**DEPARTMENT OF HEALTH AND HUMAN SERVICES
OFFICE OF DIRECTOR**

ACTION REFERRAL

TO <i>Wells</i>	DATE <i>6-20-07</i>
--------------------	------------------------

DIRECTOR'S USE ONLY	ACTION REQUESTED
1. LOG NUMBER <i>000790</i>	<input checked="" type="checkbox"/> Prepare reply for the Director's signature DATE DUE <i>6-27-07</i>
2. DATE SIGNED BY DIRECTOR <i>cc: Bowling, Singletan</i>	<input type="checkbox"/> Prepare reply for appropriate signature DATE DUE _____ <input type="checkbox"/> FOIA DATE DUE _____ <input type="checkbox"/> Necessary Action

APPROVALS <small>(Only when prepared for director's signature)</small>	APPROVE	* DISAPPROVE <small>(Note reason for disapproval and return to preparer.)</small>	COMMENT
1.			
2.			
3.			
4.			



**South Carolina
Department of
Juvenile Justice**

P.O. Box 21069
Columbia, SC 29221-1069

Bill Byars, Director

June 18, 2007

Log: Wells
c: Bowling
Singleton
"Dir. Sign"



Mark Sanford
Governor
State of South Carolina

RECEIVED

JUN 19 2007

Department of Health & Human Services
OFFICE OF THE DIRECTOR

Susan B. Bowling
Interim Director
Department of Health and Human Services
1801 Main Street
Post Office Box 8206
Columbia, South Carolina 29202-8206

Dear Director Bowling:

As we recently discussed in a meeting held on Thursday, June 7, 2007, with DHHS representatives and DJJ staff, OIG Auditor Charlie Williams changed the focus of her office's review to include not only DJJ's commitment facilities (or programs that look like jails) to all DJJ facilities/programs. She has requested the following in order to determine which of these facilities/programs (we suspect all) she intends to review.

1. A list of the DJJ facilities (secure and non-secure);
2. Where the facility/program is located;
3. Who runs the facility/program; and
4. Process by which children are placed in these facilities.

Despite the change in the focus and scope of this audit from one that was very specific and focused to one that is all encompassing, DJJ's intent to cooperate fully with this review has not changed and, therefore, we intend to provide all the information requested in a timely manner.

DJJ is in the process of compiling this information and intends to include all facilities/programs that currently serve DJJ children, including the multi-agency placements we utilize which serve children we place in these programs side-by-side with children placed in these programs by DSS, DMH and all other child-serving agencies. In addition to this requested information, DJJ plans to develop a "Timeline of Events" that will outline DJJ's involvement with Medicaid and the program changes we have made over the years to stay in compliance with DHHS guidelines. We are doing this because upon being informed by Ms. Williams of the change of scope and focus of her review (and informing us that the review could include a third year, if cooperation was not forthcoming), we informed Ms. Williams that South Carolina had been operating, prior to, during and subsequent to the "current" review period, consistent with

Bill Byars, Director (803) 896-5940
Sarah Odiome, Administrative Assistant (803) 896-5940

guidance we had sought and received from the Centers for Medicare and Medicaid Services (CMS) over the years. She indicated that if this guidance was provided to her and if it demonstrated our attempts to govern our practices accordingly, that she would include same in both her audit file and in her audit report.

To coordinate this effort with what you have already done, and in order to maintain consistency with the information both of our agencies submit to the OIG, we would like to review the document that you developed that outlines the guidance that DHHS has sought and/or received from CMS regarding juvenile justice children and Medicaid services, over the years. In the interest of time, given my absence from the office during the week of June 18th, please submit the timeline you prepared and any supporting documents directly to Ms. Joan Barber, DJJ's Medicaid Administrator, who is preparing our timeline for me. We will of course share what we prepare with you prior to its submission to the OIG, and we will discuss with you in the future the most appropriate time/forum to present these documents to those involved with/interested in helping us successfully resolve these reviews.

Sincerely,

A handwritten signature in cursive script, appearing to read "Bill Byars by Margaret Barber".

Bill Byars
Director

BB/db

cc: Joan Barber, Medicaid Administrator
Margaret Barber, Chief of Staff



State of South Carolina
Department of Health and Human Services

#790 ✓

Mark Sanford
Governor

Susan B. Bowling
Acting Director

July 2, 2007

The Honorable William R. Byars, Director
South Carolina Department of Juvenile Justice
Post Office Box 21069
Columbia, South Carolina 29221

Dear Judge Byars:

Thank you for your letter dated June 18, 2007, concerning the audit that was recently initiated by the Office of the Inspector General (OIG) in regards to certain Medicaid services to juveniles committed to the South Carolina Department of Juvenile Justice (SCDJJ).

We understand that the scope of the audit has expanded and that SCDJJ is in the process of compiling information requested by the auditor, Ms. Williams. Per your request, please find enclosed a copy of a chronological listing of correspondence relevant to this issue that has been prepared by program staff. We would appreciate your sharing the timeline of events prepared by SCDJJ program staff to ensure consistency of information being shared with the auditors.

We appreciate your time and effort and the dedication of the SCDJJ staff in preparing for this audit. Please do not hesitate to let me know if you have any questions or need additional information regarding this matter.

Sincerely,

Susan B. Bowling
Susan B. Bowling
Acting Director

SBB/mmj

Enclosure

Relevant Correspondence

DRAFT

Date	To	From	Content
July 7, 1987	Dennis Caldwell SCSHHSFC	Richard Warren HCFA, Region IV	Provides interpretive guidance re: inmate status. Advises that an individual imprisoned because he's accused of a crime has inmate status. Also states that inmate status would continue until the person is released from custody for a variety of reasons, including probation and parole.
September 27, 1988	Richard Warren HCFA, Region IV	Eugene Laurent SCSHHSFC	Requests policy clarification re: Medicaid eligibility for inmates of public institutions, specifically those who are incarcerated through the criminal justice system.
October 12, 1988	Eugene Laurent SCSHHSFC	Richard Warren HCFA, Region IV	Responds to 9/27/1988 inquiry. Affirms that inmates of penal institutions, whether before trial or after conviction, are not eligible for Medicaid. Indicates that children committed by the court to correctional institution for detention are inmates. Further discusses conditions for eligibility.
August 17, 1990	Jeanne Rivard SC Continuum of Care	Lex Cole SCSHHSFC	In response to recent policy clarification, informs Continuum of Care that children placed temporarily in the Reception and Evaluation Center are no longer eligible for Medicaid reimbursement for case management services and that this placement should now be considered as other DYS institutional placements.
June 10, 1993	Eugene Laurent SCSHHSFC	Michael LeFever SCDYS	Outlines the intent of DYS to begin putting an array of community services into place. Requests clarification re: Medicaid eligibility for juveniles placed in, or subsequently transferred from a secure facility to a non-secure Medicaid eligible program.
June 28, 1993	Michael LeFever SCDYS	Eugene Laurent SCSHHSFC	Replies to 6/10/1993 inquiry. Indicates that children committed to SCDYS, but placed in a therapeutic setting in the community may be eligible for Medicaid. Also refers to a request to HCFA Region IV for further clarification.
June 28, 1993	Eugene Grasser HCFA, Region IV	Eugene Laurent SCSHHSFC	Requests policy clarification re: Medicaid sponsorship for services to children who've been adjudicated in Family Court and committed to DYS. Refers to 3 classifications of children: 1) Child remains in detention facility and is an inmate; 2) Child is furloughed and is an inmate; 3) Child is transferred to a therapeutic setting such as a group home or therapeutic treatment facility with the assumption that the child will not be returning to a detention facility and may be Medicaid eligible.
September 13, 1993	Eugene Laurent SCSHHSFC	Eugene Grasser HCFA, Region IV	Indicates that in the situation where a child is placed in the community rather than on the grounds of the detention facility, the child may be eligible for FRP.
November 1, 1993	Flora Boyd SCDJJ	Eugene Laurent SCSHHSFC	Refers to Medicaid eligibility for children who are transfer status to a community based program and are not considered to be inmates. Requests policy clarification re: Medicaid sponsorship for services to children who've been adjudicated in Family Court and committed to DYS. Refers to 3 classifications of children: 1) Child remains in detention facility and is an inmate. 2) Child is furloughed and is an inmate. 3) Child is transferred to a therapeutic setting such as a group home or therapeutic treatment facility with the assumption that the child will not be returning to a detention facility and may be Medicaid eligible.
October 11, 1996	Flora Boyd SCDJJ	Gwen Power SCDHHS	Advises DJJ that children placed in wilderness programs who are not on probation or parole status may not be Medicaid eligible. Requests information re: how children are selected for wilderness programs, as well as the status of these children.

October 17, 1996	Gwen Power SCDHHS	Flora Boyd SCDJJ	Summarizes DJJ's current understanding of Medicaid issues.	
November 15, 1996	Flora Boyd SCDJJ		Indicates that based upon the 9/13/1993 letter from HFCA, it continues to be the understanding of DHHS that child in a therapeutic setting in the community is no longer considered to be an inmate and that FFP is available for the child.	
March 5, 2001	Richard Quinn SC House of Representatives	Bill Prince SCDHHS Gina Wood SCDJJ	Provides examples of when Medicaid funding is not available: 1) Juvenile held in detention center and awaiting trial; 2) Inmates residing involuntarily at a wilderness camp under governmental control; 3) Inmates receiving care on the premises of any penal setting. Also, affirms that Medicaid funding had previously been obtained for juveniles placed in community settings and who are on probation or parole. Requests policy clarification pertaining to services rendered to juvenile justice population, specifically re: the availability of FFP for: 1) Juveniles adjudicated delinquent but who volunteer to be released to community residential programs including marine or wilderness programs; 2) Functions which must be under the control of a private entity or which functions that may remain with the governmental entity. Provides DJJ with May 17 letters from Robert Kerr to Renard Murray.	
May 17, 2004	Renard Murray CMS, Region IV	Robert Kerr SCDHHS	Responds to May 17, 2004 letter. Provides that when a juvenile is participating in a program sanctioned under the terms of his sentence, whether voluntary or involuntary, FFP is not available. Does not provide a clear response re: functions under the control of a private entity for FFP availability. Provides CMS response to DJJ. Notes that CMS did not provide a definitive answer re: which functions must be under private control vs. functions under control of a governmental entity. Requests CMS' final interpretation of FFP eligibility requirements for Medicaid eligibles who are on probation or parole status and receive services in the community, including group home and residential settings. Written in response to April 2, 2007 letter. States the following examples to reiterate where FFP is unavailable: 1) Individuals (including juveniles) who are being held involuntarily in detention centers awaiting trial; 2) Inmates involuntarily residing at a wilderness camp under governmental control; 3) Inmates involuntarily residing in a half-way house under governmental control; 4) Inmates receiving care as an outpatient; 5) Inmates receiving care on premises of prison, jail, detention center, or other penal setting.	
May 25, 2004	William Byars SCDJJ	Deirdra Singleton SCDHHS		
August 10, 2004	Robert Kerr SCDHHS	Renard Murray CMS, Region IV		
August 13, 2004	William Byars SCDJJ	Deirdra Singleton SCDHHS		
April 2, 2007	Renard Murray CMS, Region IV	Robert Kerr SCDHHS		
May 8, 2007	Susan Bowling SCDHHS	Renard Murray CMS, Region IV	States that issues re: to FFP for Medicaid eligibles on probation or parole status and who reside in the community are complicated and require more detail.	