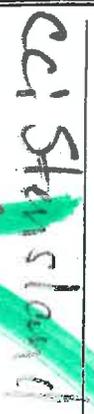


DEPARTMENT OF HEALTH AND HUMAN SERVICES
OFFICE OF DIRECTOR

ACTION REFERRAL

TO	DATE
Singleton/FOIA	11-1-10

DIRECTOR'S USE ONLY		ACTION REQUESTED	
1. LOG NUMBER	001200	<input type="checkbox"/> Prepare reply for the Director's signature	DATE DUE _____
2. DATE SIGNED BY DIRECTOR	 Cecily Stensland Cleared 11/19/10, letter attached.	<input type="checkbox"/> Prepare reply for appropriate signature	DATE DUE _____
		<input checked="" type="checkbox"/> FOIA	DATE DUE <u>11-16-10</u>
		<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.			

STARKES
LAW FIRM, L.L.C.

1817 Hampton St.
Post Office Box 1497
Columbia, SC 29202

NOV 01 2010

RECEIVED

Department of Health & Human Services
OFFICE OF THE DIRECTOR

F. XAVIER STARKES
ATTORNEY AT LAW

October 28, 2010

xavier@starkeslawfirm.com
www.starkeslawfirm.com

S.C. Department of Health & Human Services
ATTN: PUBLIC INFORMATION
Post Office Box 8206
Columbia, SC 29202-8206

RE: Personal Touch Homecare, L.L.C.

Dear Sir or Madam:

Under the Freedom of Information Act (FOIA), I would like to inspect and possibly copy all of the files from January 1, 2010 to the present date for Personal Touch Homecare, L.L.C., located 715 Betsy Drive, Suite 9B, Columbia, SC 29210 in Richland County and additional information as outlined below.

I request the following:

- (1) Reports of contacts with Personal Touch Homecare, L.L.C. by DHHS.
- (2) Unredacted reports of contacts with Personal Touch Homecare, L.L.C. by DHHS.
- (3) All Survey reports from January 1, 2010 to present including all deficiencies, investigations, and certification surveys.
- (4) State contract with Personal Touch Homecare, L.L.C. regarding Medicare or Medicaid reimbursement.
- (5) Facility visit history, i.e., dates and times of all visits by DHHS or other state agency personnel.
- (6) All correspondence between the facility and DHHS or other state agencies.
- (7) Investigation of complaints; including the names of the individuals making the complaints.
- (8) All contracts entered into with Personal Touch Homecare, L.L.C. and the State of South Carolina to provide care to residents.
- (9) Any and all surveys completed at the facility which show any deficiencies.
- (10) Complete copy of master file from January 1, 2010 to present.
- (11) Reports from similar facilities that were found to have insufficient documentation similar to those cited in the attached letter from Valerie S. Pack to Thomas Colter dated June 17, 2010 and said facility was not given the opportunity to correct insufficiency before a fine was levied.
- (12) Reports from similar facilities that were found to have insufficient documentation similar to those cited in the attached letter from Valerie S. Pack to Thomas Colter



Re: Personal Touch Homecare, L.L.C.
Page Two of Two
October 28, 2010

dated June 17, 2010 and said facility was given the opportunity to correct insufficiency before a fine was levied.

- (13) Records of similar facilities that were audited, without an initial inspection by DHHS, within the first three months of the facilities existence.

Please make sure these documents available for inspection. Upon inspection, we will be happy to pay for the cost of copying the records we need. Please contact me when the documents are ready for inspection. I look forward to hearing from you.

Yours very truly,

STARKES LAW FIRM, L.L.C.

BY: 
F. Xavier Starkes

FXS:cwr

cc: Thomas L. Colter, CEO



June 17, 2010

CERTIFIED MAIL

Mr. Thomas Colter
Personal Touch HomeCare
715 Betsy Drive Suite 9B
Columbia, South Carolina 29210-7867

Provider #: EN1012
Case #: P4107

Dear Mr. Colter:

The Division of Program Integrity has completed the post-payment review of your Medicaid records. Through the activities of the Division of Program Integrity, the South Carolina Department of Health and Human Services (SCDHHS) ensures the integrity of the Medicaid program and seeks to reduce waste, fraud and abuse in the use of Medicaid funds. The purpose of program oversight is to safeguard against unnecessary or inappropriate use of Medicaid services, identify excessive or inaccurate payments to providers, and ensure compliance with the applicable Medicaid laws, regulations, and policies. Program Integrity policies and operating procedures as well as citations to appropriate State and Federal Regulations can be found in Section 1 of each provider manual. Ms. Candice Smith-Byrd obtained records at your office on May 21, 2010. We appreciate the cooperation extended to her. The review covered claims for services rendered during the period of February 1, 2010 through April 30, 2010. The review of claims from the 17 recipients in the sample yielded an error rate of 94%; i.e, 94% of the Medicaid payment of the claims reviewed is at risk of disallowance as an overpayment or improperly paid claim.

Please examine the findings and contact Ms. Smith-Byrd at (803) 898-3372 if you have questions or if you wish to discuss any of the information. If we have not heard from you within ten (10) calendar days of the receipt of this letter, we will conclude that you agree with the findings. Should you wish to schedule an informal conference to discuss the results of your review in person, please call Ms. Smith-Byrd as soon as possible. Please note that we will not review any additional documentation if it is submitted after the date of the informal conference.

Findings and Recommendations

Detailed below are the specific findings identified in your post-payment review.

If additional information is provided for a particular line with multiple discrepancies, all identified discrepancies must be resolved in order for the disallowance to be cleared.

Finding #1: Insufficient Documentation: Documentation in the medical record was not sufficient to support the service for a total of eight hundred and seventy four (874) disallowed claims, totaling \$50,819.20 (see Payment Error Key C).

C.2 Daily task sheets were not signed by the nurse supervisor at least once every two weeks, as required by the SCDHHS Contract for Medicaid Home and Community Based Waiver Services, resulting in seven hundred ninety four (794) disallowed claims for seventeen (17) recipients. Instances were noted where daily task sheets were signed by someone other than a Licensed Nurse. The SCDHHS contract requires Personal Care Services II and Head and Spinal Cord Injury Attendant Care Services to be provided under the supervision of a Registered Nurse or a Licensed Practical Nurse who meet specified requirements. For both Community Long Term Care participants and South Carolina Department of Disabilities and Special Needs participants, it is required that a Nurse Supervisor review, sign and date the daily tasks sheets at least every two weeks. The SCDHHS contract also requires the nurse supervisor's signature on daily task sheets to substantiate that services are performed under the supervision of a nurse who is practicing within the scope of his or her practice under state law. Without documentation of nurse supervision, the claims you billed to Medicaid are improper and result in an overpayment by the Medicaid program. While other instances of non-compliance were identified in this review, this issue is the primary basis for the disallowance of \$50,819.20. Refer to the SCDHHS Contract for Medicaid Home and Community Based Waiver Services, dated July 1, 2009, Appendix A-1, pages 8, 9, 10 and 11.

C.1 Daily task sheets for DDSN beneficiaries did not contain the aide's signature/initials as required by the SCDHHS Contract for Medicaid Home and Community Based Waiver Services for one (1) recipient, resulting in four (4) disallowed claims. The SCDHHS Contract requires that the daily task sheets for SCDDSN participants be initialed daily by the participant or family member and the aide. Refer to the SCDHHS Contract for Medicaid Home and Community Based Waiver Services, dated July 1, 2009, Appendix A-1, Section E, Conduct of Services. The signature/initials of the aide confirms the delivery of services. Without the signature/initials, there is no assurance that the services were delivered to the participant in accordance to the Service Plan/Authorization, which caused an unnecessary cost to the Medicaid program.

C.3 The length of service was not specifically identified on the daily task sheets for four (4) recipients, resulting in seventy six (76) disallowed claims. Instances were noted where the amount of time spent providing Personal Care Services II was not documented on the daily task sheets for SCDDSN participants. According to the SCDHHS Contract for Medicaid Home and Community Based Waiver Services, daily task sheets for SCDDSN participants must document the actual amount of time spent providing Personal Care Services II. Medicaid providers are required to keep adequate and correct medical records to disclose the extent of services rendered and to assure claims for reimbursement are in accordance with all applicable laws, regulations and policies. Failure to maintain records that contain the necessary information to support the claim resulted in improper Medicaid payments. Refer to the SCDHHS contract dated July 1, 2009, Appendix A-1, page 11 and to the provider enrollment agreement dated January 14, 2010, page 2.

Recommendation #1: There must be a Registered Nurse or a Licensed Practical Nurse on staff to supervise the care provided to your patients. You should also ensure that a nurse supervisor is reviewing and signing all Personal Care Services II and HASCI attendant care daily tasks sheets at least every two

weeks. For SCDDSN participants, ensure that daily task sheets are being initialed/signed by the aides and that the length of personal care services is documented on the daily task sheets.

Finding #2: Number of Units/Hours Error: There were a total of three (3) disallowed claims because the number of units/hours documented in the medical record did not match the number of units/hours billed (see Payment Error Key G).

G.1 The number of units/hours documented in the medical record did not match the number of units/hours billed for one participant, resulting in three (3) disallowed claims. An instance was noted where the daily task sheet reflected that the attendant worked 6 hours on three different days; however, Medicaid was billed for 7 hours on each of these days. The SCDDHHS Contract for Medicaid Home and Community Based Waiver Services, dated July 1, 2009, Appendix A-1, Section E, Conduct of Service requires the provider to maintain daily task sheets that reflect the services provided and the actual amount of time expended for the service. Medicaid will only pay for the number of units/hours provided. Billing for more units/hours than documented caused an overpayment by the Medicaid program. These disallowances are counted in finding #1.

Recommendation #2: Bill Medicaid for the actual number of units/hours provided to the participant.

General Issues

- Two Supervisory Reports were signed by a Medicaid excluded provider. An exclusion bars an individual from participating in the South Carolina Medicaid Program. No Medicaid payments may be made by SCDDHHS for any service furnished by an excluded individual on or after the effective date of the exclusion. Please assure that employees are not state or federally excluded from participating in the Medicaid program.
- Instances were noted where daily task sheets did not indicate which tasks/duties were performed. The SCDDHHS Contract for Medicaid Home and Community Based Waiver Services requires for the delivery of services to be documented. Also, the Community Long Term Care (CLTC) provider manual requires medical records to include information supporting medical necessity and detailing all treatment provided. Please assure that duties performed each day are medically documented for each participant. Medicaid will only pay for covered services that are medically necessary. Please assure that duties performed each day are documented for each participant.
- Instances were noted where daily task sheets were not dated for each day of service or daily task sheets were misdated for specified days. The SCDDHHS Contract for Medicaid Home and Community Based Waiver Services requires for the delivery of services to be documented. Also, the provider enrollment agreement requires for medical records to be adequate and correct to assure proper claims. With dates of service missing or being reported inaccurately, the documentation of service delivery is not adequate. Please assure that daily task sheets are completed adequately and correctly.

Please note that although no recoupment is associated with these general issues, each issue is indicative of either abuse or non-compliance with the Medicaid program.

Conclusion: The findings of this review indicate you have compliance issues needing your immediate attention and correction. An overpayment of \$50,819.20 has been identified. We have enclosed the Payment Error Key, a copy of the Provider Enrollment Agreement, copies of the cited pages from the CLTC Provider Manual, SCDHHS Contract for Medicaid Home and Community Based Waiver Services and the Detailed Claims Report for the above findings.

We would appreciate the opportunity to meet with you as soon as possible to discuss these findings. If you have any questions, please call Ms. Smith-Byrd at (803) 898-3372.

Sincerely,



Valerie S. Pack, Department Head
Department of Medical & Ancillary Service Review
Division of Program Integrity

VSP:csb
Enclosures

NOTE: The Federal and State authority for this review and recovery of the improper payments can be found at Reg. 126.401 et seq, Code of Laws of South Carolina 1076 as amended. - Administrative Sanctions against Medicaid Providers; 42 CFR 433.300 et seq, - Refunding of Federal Share of Medicaid Overpayments to Provider; See also 42 CFR Part 431.107 - Required Provider Agreement; 455 - Program Integrity, and 456 - Utilization Control.



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:	_____	\$ _____
Total Amount Due SCDHHS:		\$ _____

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: _____



Log #000200

November 19, 2010

F. Xavier Starkes
STARKE'S Law Firm, L.L.C.
P. O. Box 1497
Columbia, SC 29202

Re: FOIA on Personal Touch Homecare, L.L.C.

Dear Mr. Starkes:

This is in response to your Freedom of Information Request received on November 1, 2010. As you requested, we can assemble the files on this provider in our offices at 1801 Main Street in Columbia South Carolina.

We will need a little time to coordinate the various areas that have information, so please give us a few days advance notice of your visit. I will be out for the week after November 22, 2010. My direct is (803) 898-2792.

Sincerely,



George R. Burnett
Assistant General Counsel

cc: Kathleen Snider, Program Integrity