

DEPARTMENT OF HEALTH AND HUMAN SERVICES
OFFICE OF DIRECTOR

ACTION REFERRAL

TO <i>Singleton</i>	DATE <i>11-1-11</i>
------------------------	------------------------

DIRECTOR'S USE ONLY	ACTION REQUESTED
1. LOG NUMBER <i>101188</i>	<input checked="" type="checkbox"/> Prepare reply for the Director's signature DATE DUE <i>11-9-11</i>
2. DATE SIGNED BY DIRECTOR <i>cc: Mr. Keck, Giese, Waldrep</i> <i>Cleared 12/7/11, letter attached.</i>	<input type="checkbox"/> Prepare reply for appropriate signature DATE DUE _____ <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.			



WILKINS & BOUTON, LLC
ATTORNEYS AT LAW

ROBERT W. WILKINS
rwilkins@wilkinsbouton.com

WILLIAM I. BOUTON
wbouton@wilkinsbouton.com

October 26, 2011

Anthony Keck, Director
South Carolina Department of Health and Human Services
Post Office Box 8206
Columbia, South Carolina 29202-8206

RECEIVED

NOV 01 2011

Department of Health & Human Services
OFFICE OF THE DIRECTOR

RE: Gateway House

Dear Director Keck:

I represent Gateway House, a private, not-for-profit, clubhouse model rehabilitation program for men and women in Greenville County suffering from chronic mental illness. Gateway House is enrolled as a private provider of Medicaid Rehabilitative Psychosocial Services. The purpose of this letter is to request your immediate assistance and confirmation that the Greenville Mental Health Center ("GMHC") and the Piedmont Center for Mental Health Services ("PCMHS") in our catchment area will comply with Medicaid regulations concerning free choice of providers.

Many of the men and women who attend Gateway House are Medicaid beneficiaries. In order for Medicaid to reimburse Gateway House for Rehabilitative Psychosocial Services, the local mental health centers must authorize the services for eligible beneficiaries. In July 2010, forty-six (46) existing GMHC clients were authorized to continue receiving services at Gateway House; however, this number has been reduced to twenty-eight (28) and no new referrals have been made since July 2010. In addition, the number of approved service units have been decreased by approximately seventy (70%) percent for all authorized GMHC clients.

PCMHS initially authorized services for fifteen (15) existing clients in July 2010 and the approved service units have remained the same. Today, twelve (12) PCMHC have been reauthorized and no new referrals have been made since July 2010. On a regular basis, Gateway House receives calls and visits from Medicaid beneficiaries or family members pursuing enrollment at Gateway House and mental health center clients are being referred to Gateway House by Marshall I. Pickens Psychiatric Hospital, Carolina Behavioral Health and Patrick B. Harris Hospital. However, these Medicaid beneficiaries are not able to be authorized to receive Gateway House services. Gateway House does not deny services to these clients and it is the

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Gateway House. Additionally, we are aware of at least one instance where PCMHs has denied a beneficiary's request.

These actions are in direct violation of the law. 42 C.F.R. §431.51 provides that a Medicaid beneficiary shall have the right to obtain services from any qualified Medicaid provider. Additionally, this past legislative year, the General Assembly showed its support of Gateway House and other private Medicaid providers by including the following proviso in H.3700, the General Appropriations Bill:

23.16. *(DMH: Medicaid Beneficiary Choice) For any Medicaid covered community based rehabilitative behavioral health service for which the Department of Mental Health provides state identified matching funds, the department must allow a Medicaid beneficiary to receive medically necessary community based rehabilitative behavioral health services from any qualified Medicaid provider enrolled by the Department of Health and Human Services as of July 1, 2011.*

We were hopeful that the approval of the Medicaid Beneficiary Choice proviso would solve this problem, yet GMHC continues to blatantly disregard the proviso and the law allowing choice of providers.

On August 8, 2011, Phil Emory, Executive Director of Gateway House, sent a letter to Dr. Al Edwards of GMHC, requesting once again that GMHC authorize certain individuals to attend Gateway House. Mr. Emory also raised the issue concerning GMHC's failure to authorize Medicaid beneficiaries to attend Gateway House. I have attached Dr. Edwards' response, in which he specifically states that "[n]either [he] nor the Department of Mental Health has prevented GMHC physicians from referring GMHC patients to Gateway House for paraprofessional services." Simply put, Dr. Edwards' statement is false. I am attaching several affidavits from Medicaid beneficiaries, which confirm GMHC denies authorization to attend Gateway House for numerous reasons, including state "budget cuts". As you can clearly see, when a Medicaid beneficiary asks about a referral or an authorization to attend Gateway House, GMHC informs the beneficiary they no longer make referrals to Gateway House. Medicaid beneficiaries are also being told they can attend Gateway House, but GMHC will not authorize them to do so.

We would be glad to meet with you to discuss these concerns in more detail. I look forward to your response.

With kindest regards, I am

Very truly yours,

WILKINS & BOUTON, LLC

A handwritten signature in black ink, appearing to read "RW Wilkins", with a stylized flourish at the end.

Robert W. Wilkins

RWW/

Enclosures

cc: Phil Emory
The Honorable Brian White

Allison Y. Evans, PsyD, Chair
Joan Moore, Vice Chair
Jane B. Jones
Everard Rutledge, PhD
J. Buxton Teary

STATE DIRECTOR

John H. Magill

GREENVILLE
Mental Health Center
124 Mallard Street
Greenville, SC 29601
Information: (864) 243-1040
Al C. Edwards, M.D., Executive Director

August 23, 2011

Phil Emory, Director
Gateway House
415 Rutherford Street
Greenville, SC 29609

Dear Phil:

Thank you for your letter of August 8, 2011

Neither I nor the Department of Mental Health has prevented GMHC physicians from referring GMHC patients to Gateway for para-professional services. It is my expectation that when GMHC physicians' assess a patient as being in need of paraprofessional services, they will make a referral, taking patient preferences and choices into consideration. Nevertheless, the likely reason referrals to Gateway from the Center have declined is that GMHC also offers paraprofessional/RPS services and many GMHC doctors, due to continuity of care and familiarity, have chosen to refer internally. GMHC physicians and staff all recognize that the patient does have the option to choose another provider, including Gateway, for such services.

If a GMHC patient desires to utilize Gateway for para-professional services, the Center will determine the amount of units of such services that are necessary and complete the necessary prior-authorization. Similarly, if Gateway or another provider refers a non-GMHC patient to the Center for an assessment and prior-authorization for Gateway para-professional services, the Center will assess that individual, as well.

The changes and requirements brought about by the State Plan Amendment were significant and during the first year of its implementation, the new assessment and prior-authorization process has been a work-in-progress for DMH mental health centers, including Greenville Mental Health Center. Susan Marshburn and April Simpson of my staff are currently revising the Center's monitoring and re-assessment functions of patients receiving para-professional services along the

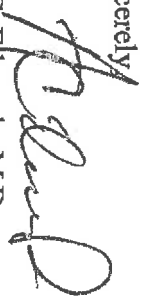
MISSION STATEMENT

To support the recovery of people with mental illnesses.

DMH South Carolina
Department of
Mental Health

serving our patients.

Sincerely,

A handwritten signature in black ink, appearing to read 'A. Edwards', written in a cursive style.

Al C. Edwards, M.D.

ACE/gp

C: Geoff Mason – SCDMH

Brenda Hart – SCDMH

Center and she informed me that I could not get an appointment unless I was seeking services from the mental health center. I was unable to schedule an appointment.

Ana L... Date 9/11/11

AS WITNESSED ON SEPT. 1, 2011

Annette Sanders 09/01/2011

Annette Sanders
NOTARY PUBLIC
State Of South Carolina
My Commission Expires 07/31/2018

DECLINING MEDICAL CARE: I, the undersigned, do hereby certify that I am not
appointment to see a psychiatrist but would not refer me to Gateway House. I have Medicaid that will
pay for me to go to Gateway House and I feel like I have the right to go to Gateway House to get the
help and life skills that I need to be independent. I am homeless and need a place to live. Gateway
House can help me.

John C. Green II

Date 9/22/11

John Greene appeared before me this day, 9/2/2011

Annette Y. Sanders

Annette Y. Sanders

Annette Y. Sanders
NOTARY PUBLIC
State Of South Carolina
My Commission Expires 07/31/2018

am an active client at the mental health center now. When my case worker at United Ministries first mentioned that Gateway House would be a good program for me, we were told that I could not go to Gateway House and be a client of the mental health center. Gateway House agreed to accept me even though the mental health center would not refer me. When I asked again today that I be authorized, my case manager told me that the mental health center has not been able to refer to Gateway House since August 13, 2010. He said I could not be authorized to go to Gateway House. He also told Phil Emory from Gateway House the same thing.

Tony Pearson Date 9-27-11

This person did appear before me on this day and I did witness his signature.

Annette Sanders 09-27-2011

Annette Sanders
NOTARY PUBLIC
State Of South Carolina
My Commission Expires 07/31/2018

DN, LLC
AW

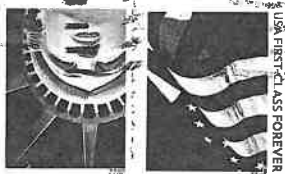
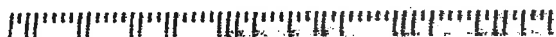
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Department of Health & Human Services
OFFICE OF THE DIRECTOR

Anthony Keck, Director
South Carolina Department of Health and Human
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Post Office Box 8206
Columbia, South Carolina 29202-8206

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Anthony Keck, Director
South Carolina Department of Health and Human Services
Post Office Box 8206
Columbia, South Carolina 29202-8206

NOV 07 2011
Department of Health & Human Services
OFFICE OF THE DIRECTOR

RE: Gateway House

Dear Director Keck:

As a follow-up to my letter dated October 26th, it has come to my attention that I failed to include the enclosed affidavit. This affidavit is from a Medicaid beneficiary and confirms that he was denied a referral to Gateway House by the Greenville Mental Health Center due to "budget cuts".

Again, I am hopeful we can resolve this issue and look forward to your response.

With kindest regards, I am

Very truly yours,

WILKINS & BOUTON, LLC



Robert W. Wilkins

RWW/

Enclosure

cc: Phil Emory
The Honorable Brian White

I went to Greenville Mental Health Center for an appointment, because Judge Sauvain court-ordered me to go there. During my appointment with Tony Schmidt at Greenville Mental Health Center, he told me in order to go to Gateway House that I would have to see a private psychiatrist. He would then close my case at the mental health center. Mr. Schmidt left me a voice mail saying that he had discussed this (my coming to Gateway House) with Judge Sauvain. Mr. Schmidt also said that Judge Sauvain would allow me to receive services at Gateway House. Because of this situation, I had to find a private psychiatrist. I have Medicaid, but because I am not authorized by the mental health center to attend Gateway House, my Medicaid will not pay for it.

I like my psychiatrist, and I do not desire any services from the local mental health center. I do, however, benefit greatly from and want to continue going to Gateway House. I am aware that because of the situation created by Greenville Mental Health in its unwillingness to refer patients to Gateway House, the mental health center subsequently prevents proper funding from reaching Gateway House. As I am a consumer of Gateway House's services, I would like to see my Medicaid policy pay for it. On September 26, I called the Greenville Mental Health Center and left a voice message regarding my authorization to come to Gateway House. I finally spoke with a representative by telephone today around 10:00 am. During our short conversation, the employee I spoke with informed me that the doctors at the Mental Health Center were not referring patients to Gateway House because of "budget cuts". I responded that writing a referral couldn't cost that much money. She said that the Mental Health Center had to pay a "matching fee" for referrals to Gateway House. I told her I would be back in touch.

Donna M. Mavris

Date 10/6/11

Christine Sanders
Christine Sanders
NOTARY PUBLIC
State Of South Carolina
My Commission Expires 07/31/2018

Notary

Date 10/06/2011

RECEIVED

Department of Health & Human Services
OFFICE OF THE DIRECTOR

Anthony Keck, Director
South Carolina Department of Health and Human
Services
Post Office Box 8206
Columbia, South Carolina 29202-8206



1. I have been active in

2. I have been active in

WILKINS & BOUON, LLC
Attorneys at Law
P. O. Box 8373
Greenville, South Carolina 29604

RE: Complaint regarding Greenville Mental Health Center and Piedmont Center for Mental Health Services

Dear Mr. Wilkins:

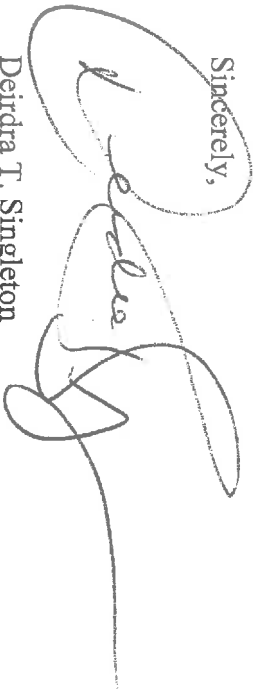
Thank you for your letter of October 26, 2011, regarding the situation related to Gateway and the above mental health centers.

The Department of Health and Human Services (DHHS) has contacted the Department of Mental Health (DMH) regarding this issue and is currently awaiting their response. A copy of our letter to DMH is enclosed.

Our program staff has also been working to find a solution for the certification of medical necessity and authorization of services issues that you raised in your correspondence. We will keep you informed as to the progress of both the work being done by the program staff and the response to our letter to DMH.

If you have any questions, please contact me at (803) 898-2647.

Sincerely,

A handwritten signature in dark ink, appearing to read 'Deirdra T. Singleton', is written over a large, loopy, circular flourish that serves as a decorative underline.

Deirdra T. Singleton
General Counsel

DTS/bb

Enclosure

General Counsel
South Carolina Department of Mental Health
Administration Building
2414 Bull Street
Columbia, South Carolina 29202

RE: Complaint regarding Greenville Mental Health Center and Piedmont Center for Mental
Health Services

Dear Mr. Binkley:

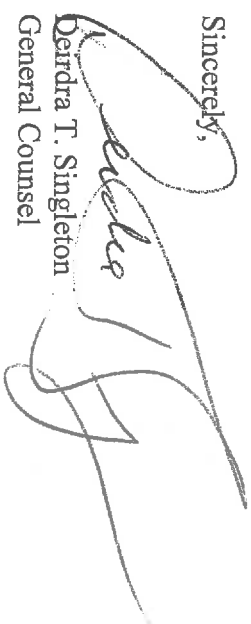
This is to confirm our conversation that the Department of Health and Human Services (DHHS) recently received a letter of complaint from a private Rehabilitative Behavioral Health Services (RBHS) provider related to the prior approval and referral process which is required for the provider to receive Medicaid reimbursement. As we discussed, at issue is whether or not the Greenville Mental Health Center (GMHC) and the Piedmont Center for Mental Health Services (PCMHS) are complying with the Medicaid regulations and a South Carolina Proviso concerning free choice of providers for Medicaid beneficiaries. A copy of the complaint is attached.

Because the complainant is a private RBHS provider, they are dependent upon state referring agencies to establish and certify medical necessity for services and to authorize the services that are to be provided. In the past, this was not a problem as most of the private providers were subcontractors of state referring agencies. However, in mid 2010, the Centers for Medicare and Medicaid Services informed DHHS that such arrangements were not in keeping with the beneficiary's right to choose the provider from whom they wish to receive Medicaid services. As a result, a number of private RBHS providers became direct providers of RBHS services in their own right. The complainant alleges that since July of 2010 they have received no referrals from either GMHC or PCMHS, and that GMHC and PCMHS are refusing to provide assessments and authorizations for Medicaid beneficiaries who express a desire to be treated by the private provider.

There is no mechanism for the establishment of medical necessity and the authorization of services based on client need other than through the Department of Mental Health's local centers and a few other state agencies that deal with specific subgroups of beneficiaries. Without the cooperation of the Department of Mental Health in providing these assessments and certification of medical necessity when appropriate, a significant number of Medicaid beneficiaries may be denied necessary services. If, as alleged in the complaint, GMHC and PCMHS are refusing to see Medicaid beneficiaries who are requesting placement with private RBHS providers, their

Please look into the attached complaint and provide us with the Department of Mental Health's response and any proposed actions. We look forward to hearing from you soon on this matter and trust that you will take into consideration the needs of those Medicaid beneficiaries who are currently unable to receive services from the provider of their choice. Thank you for your prompt attention to this matter. If you have any questions, please contact me at (803) 898-2647.

Sincerely,

A handwritten signature in black ink, appearing to read 'Deirdra', is written over the printed name and title.

Deirdra T. Singleton
General Counsel

DTS/bb

Enclosure

cc: Robert W. Wilkins, Esq.