

DEPARTMENT OF HEALTH AND HUMAN SERVICES
OFFICE OF DIRECTOR

ACTION REFERRAL

TO <i>Myers</i>	DATE <i>3-18-08</i>
--------------------	----------------------------

DIRECTOR'S USE ONLY	ACTION REQUESTED
1. LOG NUMBER <i>J00476</i>	<input type="checkbox"/> Prepare reply for the Director's signature DATE DUE _____ Prepare reply for appropriate signature DATE DUE _____ <input type="checkbox"/> FOIA DATE DUE _____ <input checked="" type="checkbox"/> Necessary Action
<i>No Response needed per Richard K.</i>	

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.			

Dear Emma Forker

Because you have demonstrated an interest or advocacy for the needs and legal rights of adults with mental retardation, I have enclosed a copy of my letter delivered on 2/26/2008 to Dr. Stan Butkus of the South Carolina Department of Disabilities and Special Needs. Please take time to read the letter. There are other mentally retarded adults like our daughter, Eleanor Jane Macy, whose legal access to Medicaid Waiver services is being blocked by decisions made at SCDDSN.

If you would like to have a copy of this letter on Word or wish to have an update, you can contact me at gmacy@earthlink.net or 803 - 767- 9309.

Thank you for your interest in the welfare of adults with disabilities.

Sincerely,

Gwen

Gt. Macy

Gwen H. Macy

March 10, 2008

RECEIVED

MAR 17 2008

Department of Health & Human Services
OFFICE OF THE DIRECTOR

Dear Dr. Butkus:

My husband and I are the parents and legal guardians for our thirty-two year old daughter, Eleanor Jane "E.J." Macy. E.J. has always lived at home with us. She is enrolled in the South Carolina MRR/RD Medicaid waiver. In the fall of 2006, E.J. was finally placed on the priority one list to receive residential habilitation services.

I have requested that E.J.'s status be changed from Priority One to Critical because of my medical condition. I have been diagnosed with a return of breast cancer. I am paralyzed below the waist due to the cancer moving to my spinal column. I am also losing control of my upper body. I have lost sight in one eye and have limited fine motor control. With the help of my husband, I do my best to try and care for E.J. from my wheelchair.

For years, our family has been studying residential options for E.J. Together we chose a group home which will be operated by the Aldersgate Special Needs Ministry. This home will serve six women who have mental retardation on the Epworth campus. Aldersgate expects the home to be ready for E.J. to move in this April.

When you met with faith-based groups (Aldersgate, PADD, Trinity and Indwellings) in September of 2007, you advised them that DDSN will not approve their applications as providers of residential habilitation services in six-bed homes. You advised the faith-based providers that DDSN will not provide MRR/RD Medicaid funding for residential habilitation unless the home has no more than four beds. When PADD, a Presbyterian nonprofit provider, responded to DDSN's RFP for new providers in 2006, DDSN denied their application (without review) because they were proposing to serve six persons in each home. There is no statutory or regulatory basis for this denial. When PADD's application was rejected, without review, other faith based providers did not go through the time consuming and costly process of submitting an application, only to receive a rejection by your agency.

While DDSN is refusing to approve faith-based providers' requests to operate six-bed homes, strangely enough, DDSN has been paying local DSN boards MRR/RD Medicaid waiver funds to operate eight bed CRCF's across the state. DDSN allows existing providers, including the Babcock Center and County Disabilities and Special Needs Boards, to provide MRR/RD Medicaid waiver funded residential habilitation services in homes licensed as CRCF's which serve up to eight individuals.

The DDSN Commission has adopted a policy of the "money follows the person." Your refusal to approve Aldersgate as a provider of residential habilitation services is blocking my child from accessing her MRR/RD Medicaid waiver funds! Her money cannot follow her to Aldersgate because of your unreasonable denial of their request to provide MRR/RD Medicaid waiver services. There is no logical reason why you would pay for E.J. to receive residential habilitation services in an eight bed home operated by the Babcock Center, yet you refuse to provide equal funding in a faith-based home.

Aldersgate's homes are modeled after six bed homes that have successfully and efficiently been operated for two decades by the United Methodist Agency for the Retarded in

North Carolina, Florida and Georgia, using Medicaid funding. It appears that DDSN has engaged in unfair competition which restricts competition and may violate unfair trade practices laws. Already, DDSN provides funding to DSN providers, through no-bid contracts, to build group homes, without allowing other providers the opportunity to compete for these funds. Even when the faith based groups have managed to build homes without financial assistance from DDSN, the residents who live in these homes are further discriminated against by your agency's decision to withhold approval for residential habilitation services. Last year, the General Assembly provided DDSN more than \$9 million to provide 500 new residential beds. Instead of using these funds to provide services for individuals like E.J., it appears that DDSN distributed this money to chosen DSN Boards through no-bid contracts to purchase real estate.

I understand that State law will require Aldersgate to obtain a license from DHEC, because their homes will have more than four beds. Aldersgate is prepared to obtain this license from DHEC. However, I have found nothing in our State's laws which allow DDSN to refuse to provide funding for residential habilitation services in six bed homes. There appears to be nothing in the DDSN regulations which would prohibit Aldersgate from receiving MR/RD Medicaid waiver residential habilitation services in a six bed facility. The State's contract with CMS does not prohibit residential habilitation services from being provided in a six-bed home.

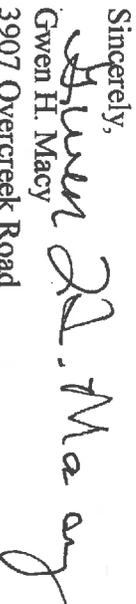
DDSN has assured the South Carolina Legislature that these policies are followed:

1. Person Centered Planning: Consumers and families are to be given adequate choices from which to create a custom plan that is best for the consumer.
2. The money follows the person: The federal and state MRRD Waiver money always follows the consumer to whom it is allotted.

In reality, however, families are being denied the choice of services and providers. Funding does not follow the consumer, unless the consumer "chooses" to live in a home operated by a DSN Board or the Babcock Center. I am requesting that you provide me with copies of the statutes and regulations upon which you rely to deny Aldersgate and other faith-based providers approval as providers of residential habilitation services. Please explain why you will pay for residential habilitation services to be provided in CRCF's operated by local boards, but you will not approve E.J.'s request to receive residential habilitation services in a six bed home operated by Aldersgate.

Thank you for your prompt response.

Sincerely,


Gwen H. Macy

3907 Overcreek Road
Columbia, SC 29206
February 15, 2008

cc: Not in order.

Sen. Joel Lourie (my Senator)

Emma Forkner

Lt. Gov. Andre Bauer

Speaker Robert Harrell

Sen. Vincent Sheheen

Sen. Jake Knotts

Sen. Dick Eliott

Sen. Glenn McConnell

Rep. Joan Brady (my Representative)

Rep. Jim Harrison

Rep. Chaulk

Rep. Parks

Rep. Pitts

Rep. Dan Cooper

Rep. Davenport

Emilia DiSanto

Leslie Norwalk, CMS

Walter Ochinko

Sam Waldrep

Shelton Elliott

Mary Leitner

Tamara Friday

Mike Dyson

Gloria Prevost

Jane Thesing

DDSN Commissioners