

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

**ACTION REFERRAL**

TO <i>Jacobs</i>	DATE <i>11-9-09</i>
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<b>DIRECTOR'S USE ONLY</b>	<b>ACTION REQUESTED</b>
1. LOG NUMBER  <i>1011215</i>	<input type="checkbox"/> Prepare reply for the Director's signature DATE DUE _____
2. DATE SIGNED BY DIRECTOR  <i>cc: Ms. Forkner, Dept, CMS files</i>	<input type="checkbox"/> Prepare reply for appropriate signature DATE DUE _____
	<input type="checkbox"/> FOIA DATE DUE _____
	<input checked="" type="checkbox"/> Necessary Action

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

DEPARTMENT OF HEALTH & HUMAN SERVICES  
Centers for Medicare & Medicaid Services  
7500 Security Boulevard, Mail Stop S2-14-26  
Baltimore, Maryland 21244-1850



Center for Medicaid and State Operations  
Disabled and Elderly Health Programs Group (DEHPG)

NOV 04 2009

RECEIVED

Emma Forkner, Director  
Department of Health and Human Services  
Post Office Box 8206  
Columbia, SC 29202-8206

NOV 09 2009  
Department of Health & Human Services  
OFFICE OF THE DIRECTOR

Dear Ms. Forkner:

I am writing in response to your letter to Cindy Mann requesting that the Centers for Medicare and Medicaid Services (CMS) delay the implementation of the Asset Verification System (AVS) provisions as set forth in section 1940 of the Social Security Act (the Act). Your letter was referred to this office so that I could address your concerns.

South Carolina was expected to have implemented its AVS by the end of fiscal year 2009, or September 30, 2009. You ask for a delay in implementation because the Department of Human Services' budget was reduced by a total of \$154 million last fiscal year, and has been further reduced this year by another \$32 million. While you have identified an AVS vendor through your State procurement process, budget constraints make it difficult to set aside the nearly \$1 million necessary for implementation and first year operations costs for your system. In light of the budget constraints facing South Carolina and other States you have contacted, you believe CMS should delay the implementation of the AVS provisions in the statute.

First, let me assure you that we at CMS appreciate South Carolina's and other States' efforts to continue to provide consistent, quality services to your Medicaid beneficiaries. We are aware of the financial position most of the States are in due to budget constraints. We are sympathetic to your concerns and the needs of your State and want to provide you with any assistance we can.

With regard to your request that we delay implementation of the AVS requirements pending the outcome of health insurance reform deliberations, though, the statute does not provide any authority under which we can waive or otherwise delay the requirement in section 1940 of the Act that States implement an AVS program. However, as we have said previously in a number of forums and venues, the statute does offer considerable flexibility with regard to implementation via the process for determining whether States are in compliance with the AVS requirements. Provided a State is making a good faith effort to comply with the AVS requirements, the deadline by which a State is expected to have implemented its AVS program can be extended for up to twenty months without the State incurring a financial penalty for non-compliance. We believe this should provide sufficient time for States to resolve any budget or other issues that may complicate their implementation of an AVS program.

Page 2 - Emma Forkner

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While I regret that my response could not be more favorable, I hope this information is useful to you.

Sincerely,

A handwritten signature in dark ink, appearing to read "Terry Pratt". The signature is stylized with a large, looped "P" and a cursive "T".

Terry Pratt  
Acting Director

cc: Associate Regional Administrator  
Division of Medicaid and Children's Health  
Region IV, Atlanta