

DEPARTMENT OF HEALTH AND HUMAN SERVICES
OFFICE OF DIRECTOR

ACTION REFERRAL

| | |
|--------------------|-----------------------|
| TO <i>Myers</i> | DATE <i>3-8-10</i> |
|--------------------|-----------------------|

| DIRECTOR'S USE ONLY | ACTION REQUESTED |
|--|--|
| 1. LOG NUMBER 000379 | <input type="checkbox"/> Prepare reply for the Director's signature DATE DUE _____ |
| 2. DATE SIGNED BY DIRECTOR <i>cc: Ms. Forner Cleared 3/29/10, letters attached.</i> | <input checked="" type="checkbox"/> Prepare reply for appropriate signature DATE DUE <i>3-10-10</i> 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. <i>All 50 letters dated 4/21/10, attached</i> | | | |
| 2. | | | |
| 3. | | | |
| 4. | | | |

Mark and Cheryl Porter
401 Farm Branch Drive
Fort Mill, SC 29715

T 803 396-5535
cherport@comporium.net

March 5, 2010

Governor Mark Sanford
Office of the Governor
P.O. Box 12267
Columbia, SC 29211

RECEIVED

MAR 08 2010

Department of Health & Human Services
OFFICE OF THE DIRECTOR

Ms. Emma Forkner
Director, SC Department of Health and Human Services
P.O. Box 8206
Columbia, SC 29202

Dear Governor Sanford and Ms. Forkner,

After being assured repeatedly for months that our daughter, Emily Porter had a waiver slot under the new South Carolina Community Supports Waiver, we were advised on February 22, 2010 that she in fact has been denied the waiver.

On June 16, 2009, we met with Emily's service coordinator from York County Disabilities and Special Needs to process the paperwork necessary to obtain a slot under the Community Supports Waiver. We were assured that Emily would receive a slot, once the correct paperwork was submitted by York County. In September and October, we followed up with the service coordinator and again were assured that the process was going forward. On January 6, 2010 we were told that Emily had been denied, but that it was an error and that she would receive priority in the appeal process. On January 15, 2010 I met with her service coordinator to sign a "Statement of Understanding" to resign from the Medicaid Managed Care Organization (MCO) and select the Community Supports Waiver. At that time I was told that Emily's file was complete, that she had received the waiver slot and that a budget for services would be prepared by the end of the following week.

We waited another four weeks without any information. Finally, after pushing to get an answer, we were notified via e-mail that in fact Emily had been denied the Community Supports Waiver slot. The reason given was a lack of billable services during 2009.

Emily received job coaching services from York County DSN after graduation in May, 2006 until she lost her job because the restaurant where she was employed closed. The job coach provided by York County DSN made a very tepid attempt to find Emily another job, which was further hampered by the downturn in the economy.

Then, in January, 2009 Emily underwent extensive surgery on her right foot, which involved bunion surgery, placement of a lateral post to straighten her gait, and cutting and stretching her achilles tendon. She spent at least 8 weeks in a wheelchair, with a cast on her foot, and then had to put only limited weight on the foot for weeks after that. She required assistance to walk. By April she was able to walk again without assistance, but on May 1, 2009, she had surgery on her left foot. This surgery was a duplicate of her right foot and included bunion surgery, a lateral post and achilles tendon. Again, she was in a wheelchair. By mid-July, she was able to begin weight-bearing on her left foot. She began physical therapy to help in the recuperative process on September 9, 2009. Soon after that, her bunion surgery failed, which hampered her recovery. She attended physical therapy sessions and followup doctor appointments, which showed that the intrinsic muscles in her feet were extremely weak. Slowly Emily regained strength in her feet and legs, and by December, 2009 she had regained enough stamina to think about resuming her search for supported employment, even though her feet were not fully healed.

Throughout 2009 we maintained contact with her job coach, to assess her recovery progress and determine when services could be resumed. Her service plan continued to reflect the need for job support services, but since she was unable to walk, and then lacked strength and stamina, actively seeking a job had to be postponed.

In December 2009 we agreed with her job coach that Emily was sufficiently recovered to continue seeking a job in spite of economic downturn. We recently resumed the job search, and have developed a good working relationship and set of goals with her York County DSN job coach. It would be a shame to have to discontinue these services now that Emily is finally able to walk and seek supported employment in her local community.

Even though Emily was not receiving "billable" services through York County DSN or the State of South Carolina throughout 2009, she was receiving day activity-type services from a local agency. In fact from July 2008 to February 2010, Emily has received 954 hours of billable services! 610 of those billable hours fell during the calendar year 2009. These services in Emily's community of Fort Mill were not available through York County DSN, nor was funding available to her for such services. She did not yet have a waiver, so the services were paid for privately by her family.

The services that Emily received even while in a wheelchair and recuperating from surgery, included job skills and participating in volunteer work, as well as working on independence, social and life skills. It is a community-based program, perfectly in line with what Community Supports Waiver was designed to promote. They are services

that Emily desperately needed in order to remain the up-beat, talented, productive person that she was when she graduated from high school.

The bottom line is that we were repeatedly told and assured that Emily had in fact received a waiver slot, only to be notified by e-mail at the last minute, that she had been denied the slot.

In addition, we were told that it was due to a lack of "billable services" in 2009. However, that lack was due to medically necessary surgery, and her service plan continued to reflect the need for supported employment. In fact, she has now recovered sufficiently to resume those services. It also did not take into consideration the 610 hours of billable community based services Emily received from a service provider independent of York County DSN and DDSN. Again, those services are desperately needed and would have been reflected in her plan under any waiver she was able to obtain. It is my understanding that the State of South Carolina has received a mandate to increase the number of service providers in the state. Yet, it seems that because Emily received services from a provider independent of York County DSN, and had to pay for those services through her family because she didn't have a waiver, she has therefore been denied the waiver slot.

We are hoping that this situation will be reviewed, and we would sincerely appreciate any reconsideration that can be given to Emily's status with regards to the Community Supports Waiver.

Sincerely,



Mark and Cheryl Porter
Emily Porter

cc: Dr. Beverly A.H. Buscemi
State Director
SC Department of Disabilities and Special Needs

Dr. Kathi Lacy
Associate State Director
SC Department of Disabilities and Special Needs

EDHMS54 P S.C. DEPARTMENT OF HEALTH AND HUMAN SERVICES DATE: 03/08/10
MEDSPROD RECIPIENT INFORMATION ACTION:

MEMBER PERIOD START: 11/20/05 END: PAGE: 0001

NAME: PORTER EMILY C HH NAME: PORTER EMILY C
RCP NUMBER: 0780534756 HH NUMBER: 101090409 ACTION TYPE: MAINTENANCE
SSN: 313-04-9782 VC: V APL STATUS: ACTION DATE: 11/20/05
PRIMARY INDIVIDUAL: APL CO: 46 WORKER ID: CUWKR LOCATION: 099
401 FARM BRANCH DR SSCN: 313049782A RRN:

FT MILL SC 29715-7074 RACE: 01 SEX: F MARITAL STATUS: S
CORRECT RCP NUMBER: _____ DOB: 07/05/1985 RELATION: SELF
LIV ARRANGEMENT: HOME INCOME TRUST:
PROVIDER:

| BG | BEG | END | PCAT | QCAT | TYPE | IND | IND | LEVEL | SPONSOR |
|----------|------------|------------|------|------|------|-----|-----|-------|---------|
| S | NUMBER | ELIG | ELIG | 80 | 50 | N | N | .00 | |
| 19032996 | 12/01/2005 | | | | | | | | |
| 19032990 | 11/01/2005 | 12/01/2005 | 32 | 50 | | N | | .00 | |

UPDATED: USER ID: _____ DATE: _____ SYSTEM ID: TTR1001 DATE: 11/24/05
ME900063 RECIPIENT RECORD FOUND
PF2->HH BG PF3->HH MBR DTL PF4->REFH PF5->ELD02 PF6->RETURN PF7->PREV
PF8->NEXT PF9->HH NOTES PF15->RCP SEARCH PF17->ELD00 PF18->HH MBR BGS

Log # 379 ✓



State of South Carolina
Department of Health and Human Services

Mark Sanford
Governor

Emma Forkner
Director

March 29, 2010

Janet Priest
Division Director of Mental Retardation Division
SC Department of Disabilities and Special Needs
3440 Harden Street Ext
P O Box 4706
Columbia, SC 29240

Dear Ms. Priest:

Enclosed please find a letter from parents, Mark and Cheryl Porter, regarding accessing the Community Supports waiver on behalf of their daughter, Emily. It details numerous issues. Please ask your staff to conduct the necessary research and contact the appropriate personnel in order to provide a thorough and detailed response to all of the Porters' identified concerns. I would appreciate receiving your formal response to these concerns by April 2, 2010, as I will share this information with Mr. and Mrs. Porter when replying to their letter. Thank you for your attention to this matter.

Sincerely,

A handwritten signature in cursive script that reads "Emma Forkner".

Emma Forkner,
Director

Enclosure

Mark and Cheryl Porter
401 Farm Branch Drive
Fort Mill, SC 29715

T 803 396-5535

cherport@comporium.net

RECEIVED

MAR 08 2010

Department of Health & Human Services
OFFICE OF THE DIRECTOR

March 5, 2010

Governor Mark Sanford
Office of the Governor
P.O. Box 12267
Columbia, SC 29211

Ms. Emma Forkner
Director, SC Department of Health and Human Services
P.O. Box 8206
Columbia, SC 29202

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We are hoping that this situation will be reviewed, and we would sincerely appreciate any reconsideration that can be given to Emily's status with regards to the Community Supports Waiver.

Sincerely,

A handwritten signature in black ink that reads "Mark and Cheryl Porter". The signature is written in a cursive, flowing style.

Mark and Cheryl Porter
Emily Porter

cc: Dr. Beverly A.H. Buscemi
State Director
SC Department of Disabilities and Special Needs

Dr. Kathi Lacy
Associate State Director
SC Department of Disabilities and Special Needs



State of South Carolina
Department of Health and Human Services

Mark Sanford
Governor

Emma Forkner
Director

March 29, 2010

Mr. and Mrs. Mark Porter
401 Farm Branch Drive
Fort Mill, SC 29715

Dear Mr. and Mrs. Porter:

Thank you for your recent letter regarding your daughter, Emily, and your interest in accessing the Community Supports waiver. We have forwarded your information to the SC Department of Disabilities and Special Needs on Emily's behalf so they can research your concerns and respond to us accordingly.

If you have any questions about the progress of Emily's case, please contact Ms. Janet Priest, Division Director of Mental Retardation Division at (803) 898-9620. We will continue to monitor Emily's case and contact you once we have more information. Thank you for your efforts to advocate on behalf of your daughter.

Sincerely,

A handwritten signature in cursive script that reads "Emma Forkner".

Emma Forkner,
Director

Log # 379 ✓

RECEIVED

MAR 18 2010

Department of Health & Human Services
OFFICE OF THE DIRECTOR

2 letters enclosed:
1 → DDSN 1 → family

Fellicity- Because of the complexity of this letter, we have sent it to DDSN for investigation. (It has been informally given to staff; this is the formal letter to Dr. B with a deadline.) We also did a short response to the family.

So, we may need to keep this log open for the "real" response when we hear back from DDSN. Let's extend the due date to 4/5.

Ann

Ms. Forkner
April 1, 2010
Page 2

In their correspondence, the Porter's also indicate that Emily received a service similar to Rehabilitation Services that was paid for by her family. Emily's Service Plan indicates that the service she received, paid for by her family, was Adult Day Health Care. Emily is very fortunate to have been able to receive these services during her recuperation. However, the CS Waiver is very clear that capacity is reserved for those currently receiving Medicaid State Plan Rehabilitation Services.

I hope this address the issues sufficiently. If you have any questions, please feel free to contact me.

Sincerely,



Janet Brock Priest, Director
Mental Retardation/Related Disabilities Division

C: Kara Lewis, DHHS
Suzanne Yankowitz, The ARC of SC



Fax

To: Ms. Emma Forkner, Director **From:** Janet Brock Priest, Director
Mental Retardation/Related Disabilities Division

Fax: (803) 255-8235 **Pages:** 3, Including cover sheet

Phone: **Date:** April 1, 2010

Re: **CC:**

- Urgent** **For Review** **Please Comment** **Please Reply** **Please Recycle**

Original in today's interoffice mail.

Confidentiality Notice: This fax may contain information that is privileged, confidential, and/or otherwise protected from disclosure to anyone other than its intended recipient(s). Any dissemination or use of this fax or its contents or attachments by persons other than the intended recipient(s) is strictly prohibited. If you have received this communication in error, please notify the sender immediately so that we may correct the error. Thank you.



Log # 379 ✓

State of South Carolina
Department of Health and Human Services

Mark Sanford
Governor

April 21, 2010

Emma Forkner
Director

Mr. and Mrs. Mark Porter
401 Farm Branch Drive
Fort Mill, SC 29715

Dear Mr. and Mrs. Porter:

This letter follows my recent March 29, 2010 correspondence regarding your daughter, Emily, and your interest in the Community Supports (CS) waiver. As noted previously, my staff contacted the SC Department of Disabilities and Special Needs (SCDDSN) and asked them to research your concerns. We recently received their response. SCDDSN evaluated the information you provided as well as Emily's historical case file. Based on this review and the strict criteria for CS waiver enrollment, SCDDSN determined Emily does not meet the enrollment qualifications for the CS waiver at this time. The SCDDSN response is enclosed for your review.

We hope this information is helpful to you. We understand that the requirements for special Medicaid programs, including home and community-based waivers, are sometimes confusing. For this reason we encourage you to maintain close contact with Emily's service coordinator regarding any questions you have. If you have specific questions regarding the SCDDSN response to your inquiry, you may wish to contact Ms. Janet Priest, at the SCDDSN State Office, 803-898-9620.

Thank you for your efforts to advocate on behalf of your daughter.

Sincerely,

A handwritten signature in cursive script that reads "Emma Forkner".

Emma Forkner
Director

EF/mwmh

Enclosure



Beverly A. H. Buscemi, Ph.D.
State Director
David A. Goodell
Associate State Director Operations
Kathi K. Lacy, Ph.D.
Associate State Director Policy

3440 Harden Street Ext (29203)
PO Box 4706, Columbia, South Carolina 29240
V/TTY: 803/898-9600
Toll Free: 888/DSN-INFO
Website: www.ddsn.sc.gov

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April 1, 2010

RECEIVED

APR 05 2010

Bureau of Long Term Care Services
SC Department of Health and
Human Services

Ms. Emma Forkner, Director
SC Department of Health and Human Services
1801 Main Street
Columbia, SC 29201

RE: Emily Porter – Community Supports Waiver

Dear Ms. Forkner:

I am writing in response to your March 29, 2010 correspondence in which you asked that I respond to issues raised in a letter from Mark and Cheryl Porter regarding services for their daughter, Emily. The primary concern in the letter is the denial of enrollment in the Community Supports (CS) Waiver.

The Centers for Medicare/Medicaid Services (CMS) allows states to reserve capacity in their Home and Community Based Waivers for groups of people specified by the state. Reserving capacity allows those specified groups of people to enroll directly into the waiver, bypassing any waiting list. The CSW reserves capacity for two (2) groups of people:

- Those currently receiving Medicaid Sate Plan Rehabilitation Services and,
- Those currently enrolled in the Mental Retardation/Related Disabilities (MR/RD) Waiver.

Emily Porter was authorized to receive Rehabilitation Services on January 4, 2007. However, as indicated in the letter from her parents, Emily did not receive Rehabilitation service throughout 2009. Therefore, at the time waiver enrollment was requested she was not receiving Medicaid State Plan Rehabilitation Services as specified in the waiver.

Correspondence from the Porters indicates that contact was maintained with Emily's Job Coach throughout 2009 which seems to imply that Rehabilitation Services were received. The provision of Medicaid State Plan Rehabilitation Services requires a minimum of one (1) hour of face-to-face contact between the provider and the participant. Since the noted contact did not likely meet the minimum requirements for service provision, reimbursement for those services was not claimed.

DISTRICT I

P.O. Box 239
Clinton, SC 29325-5328
Phone: (864) 938-3497

Midlands Center - Phone: 803/935-7500
Whittem Center - Phone: 864/833-2733

9995 Miles Jamison Road
Summerville, SC 29485
Phone: 843/832-5576

DISTRICT II

Coastal Center - Phone: 843/873-5750
Pee Dee Center - Phone: 843/664-2600
Saleeby Center - Phone: 843/332-4104

Ms. Forkner
April 1, 2010
Page 2

In their correspondence, the Porter's also indicate that Emily received a service similar to Rehabilitation Services that was paid for by her family. Emily's Service Plan indicates that the service she received, paid for by her family, was Adult Day Health Care. Emily is very fortunate to have been able to receive these services during her recuperation. However, the CS Waiver is very clear that capacity is reserved for those currently receiving Medicaid State Plan Rehabilitation Services.

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