

DEPARTMENT OF HEALTH AND HUMAN SERVICES  
OFFICE OF DIRECTOR

ACTION REFERRAL

TO <i>Wells</i>	DATE <i>10-2-04</i>
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DIRECTOR'S USE ONLY		ACTION REQUESTED	
1. LOG NUMBER <i>000279</i>	<input checked="" type="checkbox"/> Prepare reply for the Director's signature DATE DUE <i>11-2-04</i>		
2. DATE SIGNED BY DIRECTOR <i>C: Kerr</i> <i>Singh</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. <i>Cleared 5/24/07, letter attached</i>			
2.			
3.			
4.			

Department of Health & Human Services  
Centers for Medicare & Medicaid Services  
61 Forsyth Street, SW, Suite 41720  
Atlanta, Georgia 30303-8909



September 28, 2006

Mr. Robert M. Kerr, Director  
South Carolina Department of Health & Human Services  
Post Office Box 8206  
Columbia, South Carolina 29202-8206

**RECEIVED**

OCT - 2 2006

Re: SC State Plan Amendment 06-009

Department of Health & Human Services  
OFFICE OF THE DIRECTOR

Dear Mr. Kerr:

We have completed our review of South Carolina State plan amendment (SPA) 06-009 which was received by the Centers for Medicare & Medicaid Services on July 10, 2006. This SPA updates estate recovery policy to reflect the revised program guidance as specified in the State Medicaid Manual and section 1917(b) of the Social Security Act. We have discussed the pending SPA with your staff several times and have provided technical assistance to them. We have completed our review of this amendment and find that additional information is required. We are therefore requesting additional information pursuant to Section 1915(f) (2) of the Social Security Act.

1. On Attachment 4.17-A, page 2, the State defines undue hardship. The State indicates that it protects up to one hundred thousand dollars (\$100,000) of appraised value of the home property. The State indicates that it recovers from that portion of the value that exceeds one hundred thousand dollars. The State's linkage of the threshold to the undue hardship provision is incorrect, Section 1917(b)(2) of the Act does not provide for a threshold, therefore, the State may not establish a threshold and subsequently create exceptions under the provisions of undue hardship. The State must delete paragraphs (1) – (3) from this section. The State must complete this section and define undue hardship.

2. On Attachment 4.17-A, page 3, paragraph (b), the State is required to identify the procedures and standards it uses for waiving estate recoveries when recovery would cause an undue hardship. The State's policy or criteria for waiving estate recovery must be included in the State plan. The State has not included the criteria in SPA 06-009. We note that the State is prohibited from recovering as long as the Medicaid recipient's spouse is living, and when there is a surviving child who is under age 21, and a child (any age) who is blind or permanently and totally disabled. These individuals do not have to meet any undue hardship criteria. The State should also identify the timeframe when a decision will be made and identify who makes the decision regarding the hardship waiver.

In accordance with Section 1915(f) of the Social Security Act, this letter has the effect of stopping the 90-day time frame for CMS to take action on this material. In accordance with our guidelines to all State Medicaid Directors dated January 2, 2001, we request that you provide a formal response to this request for additional information no later than 90-days from the date you

Mr. Robert M. Kerr

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receive this letter. When your response is received, CMS will have a new 90-day time frame to review your response. If you do not provide us with a formal response within 90 days, we will conclude that the State has not established that the proposed State plan is consistent with all statutory and regulatory requirements. Therefore, we will initiate disapproval action on the amendment. In addition, because this SPA was submitted after January 2, 2001, and is effective on or after January 1, 2001, please be advised that we will defer any FFP that you claim for payments made in accordance with this proposed SPA until it is approved. Upon CMS approval, FFP will be available for the period beginning with the effective date through the date of actual approval. If you have any further questions, please contact Elaine Elmore on programmatic issues. Ms. Elmore can be reached at (404) 562-7408.

Sincerely,



~~per~~ Renard L. Murray, D.M.  
Associate Regional Administrator  
Division of Medicaid & Children's Health



*State of South Carolina*  
*Department of Health and Human Services*

Mark Sanford  
Governor

Susan B. Bowling  
Acting Director

May 24, 2007

Mr. Renard L. Murray  
Associate Regional Administrator  
Center for Medicare and Medicaid Services  
Division of Medicaid & Children's Health  
Atlanta Regional Office  
61 Forsyth Street, SW-Suite 4T20  
Atlanta, Georgia 30303-8909

Re: South Carolina Title XIX State Plan Amendment SC 06-009

Dear Mr. Murray:

On July 10, 2006, SC submitted State Plan Amendment SC 06-009. The State has been operating an Estate Recovery Program since July 1, 1994. In our 1997 legislative session, SC §46-7-460 was amended to incorporate undue hardship provisions.

We received your request for additional information dated September 28, 2006 and made the following changes to our pending state plan.

1) The State has deleted the \$100,000 threshold. If the family member meets the criteria for an undue hardship then the State will grant a waiver on the homestead. However, the homestead must be of modest value, and modest value is defined as fifty percent (50%) or less of the average price of homes in the county where the homestead is located as of the date of the beneficiary's death. To the extent the value of the home property exceeds this modest value, that portion is subject to recovery by the department.

2) The State has changed its definition of an immediate family member. The surviving spouse, surviving child under age 21 and a child (any age) who is blind or permanently and totally disabled have been excluded from the definition. In regards to the identity of who makes the decision about hardship and the timeframes involved, the assigned case analyst has 15 days from receipt of all requests for waivers. This information is outlined on page 4 of attachment 4.17-A under item number 6.

*Log 0279*

Mr. Renard L. Murray, D.M.  
May 24, 2007  
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As stated above, South Carolina's hardship provisions were codified in 1997 and these changes will require legislation to amend the statute.

If you have any questions, please contact Dave Schaefer, Bureau of Fiscal Affairs at (803) 898-1084 or Milton German, Division of Third Party Liability at (803) 898-2630.

Sincerely,

//S//

Susan B. Bowling  
Acting Director

SBB/wsgn

Enclosures