

DEPARTMENT OF HEALTH AND HUMAN SERVICES
OFFICE OF DIRECTOR

ACTION REFERRAL

TO	DATE
Roberts/Hepler/FOIA	5/15/13

DIRECTOR'S USE ONLY	ACTION REQUESTED
1. LOG NUMBER <i>000354</i>	<input type="checkbox"/> Prepare reply for the Director's signature DATE DUE _____
2. DATE SIGNED BY DIRECTOR <i>cc: Cox</i> <i>Cleared 6/5/13, letter attached</i>	<input type="checkbox"/> Prepare reply for appropriate signature DATE DUE _____
	<input checked="" type="checkbox"/> FOIA DATE DUE <i>5/30/13</i>
	<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.			

Brenda James

From: Rick Hepfer
Sent: Tuesday, May 14, 2013 7:19 PM
To: Brenda James
Subject: FW: FOIA Request - Genesis Health Care, Inc.
Attachments: FOIA Request 04-14-2013.pdf.pdf

RECEIVED

MAY 15 2013

Department of Health & Human Services
OFFICE OF THE DIRECTOR

Can you please get this logged as an FOIA and send it back to me?

From: Tony R. Megna [<mailto:tmegna@gmail.com>]
Sent: Tuesday, May 14, 2013 12:41 PM
To: Rick Hepfer
Subject: FOIA Request - Genesis Health Care, Inc.

Rick-

Please find attached a Freedom of Informaiton Rewuest on behalf of Genesis Health Care, Inc.

Thanks, Tony

Please send all written correspondence to:

Tony R. Megna, Esquire
3400 West Avenue
Columbia, SC 29203
tmegna@gmail.com
Office telephone: 803.254.3676

This message is intended for the use of the person or entity to which it is addressed and may contain information, including legal and/or health information, that is privileged, confidential, and the disclosure of which is governed by applicable law. If the reader of this message is not the intended recipient, or the employee or agent responsible to deliver it to the intended recipient, you are hereby notified that any dissemination, distribution or copying of this information is STRICTLY PROHIBITED. If you have received this in error, please notify us immediately and destroy the related message. Thank you.

Matthews and Megna, LLC

Attorneys and Counselors at Law
3400 West Avenue
Columbia, SC 29203
TELEPHONE: 803-799-1700
E-mail: tmegna@gmail.com

May 14, 2013

FREEDOM OF INFORMATION REQUEST

Richard G. Hepfer
Office of General Counsel
Department of Health and Human Services
PO Box 8208
Columbia, SC 29202-8206
Via email to Hepfer@scdhhs.gov

Re: Genesis Health Care, Inc. v. SCDHHS

Dear Rick:

This letter is a request for access to public records pursuant to the SC Freedom of Information Act. I respectfully request the following:

1. All communications (electronic or otherwise) as well as all other documents, regardless of the format, within the Department's possession and/or control mentioning, evidencing and/or discussing why and/or when and/or how the "(other than nursing facilities)" language was inserted into paragraph A on page 3 of Supplement 1 to Attachment 4.19-B of the state Medicaid plan (effective date of August 9, 2011 - TM No: SC 11-012 that supersedes SC 10-007).
2. All communications (electronic or otherwise) as well as all other documents, regardless of the format, within the Department's possession and/or control mentioning, evidencing and/or discussing any person or all persons involved in any capacity in any and all discussions concerning how and/or why and/or when "(other than nursing facilities)" language was inserted in paragraph A on page 3 of Supplement 1 to Attachment 4.19-B of the state Medicaid plan (effective date of August 9, 2011 - TM No: SC 11-012 that supersedes SC 10-007).
3. All communications (electronic or otherwise) as well as all other documents, regardless of the format, within the Department's possession and/or control mentioning, evidencing and/or discussing the public notice or lack of public notice needed for the "(other than nursing facilities)" language as inserted in paragraph A on page 3 of Supplement 1 to Attachment 4.19-B of the state Medicaid plan (effective date of August 9, 2011 - TM No: SC 11-012 that supersedes SC 10-007).

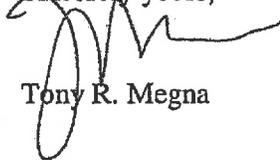
Richard G. Hepfer
Office of General Counsel
Department of Health and Human Services
Page 2 of 2

4. All electronic communications (emails, etc.) as well as all other documents, regardless of the format, within the Department's possession and/or control mentioning, evidencing and/or discussing any matter with William A. Prince related to any and all amendments regarding the state Medicaid plan from January, 2011 forward, including but not limited to the "(other than nursing facilities)" language as inserted in paragraph A on page 3 of Supplement 1 to Attachment 4.19-B of the state Medicaid plan (effective date of August 9, 2011 - TM No: SC 11-012 that supersedes SC 10-007).

For your assistance, I have attached a copy of the amendment to the state Medicaid plan that includes page 3 of Supplement 1 to Attachment 4.19-B of the state Medicaid plan (effective date of August 9, 2011 - TM No: SC 11-012 that supersedes SC 10-007).

I respectfully request you expedite this copying and forwarding of these documents to me as soon as possible. Again, please feel free to scan the documents and send them to as a pdf document by email to tmegna@gmail.com or contact me on my mobile number, 803.606.5983. I will make arrangements for the documents to be picked up.

Sincerely yours,



Tony R. Megna

TRANSMITTAL AND NOTICE OF APPROVAL OF STATE PLAN MATERIAL		1. TRANSMITTAL NUMBER: SC 11-012	2. STATE South Carolina
FOR: HEALTH CARE FINANCING ADMINISTRATION		3. PROGRAM IDENTIFICATION: TITLE XIX OF THE SOCIAL SECURITY ACT (MEDICAID)	
TO: REGIONAL ADMINISTRATOR HEALTH CARE FINANCING ADMINISTRATION DEPARTMENT OF HEALTH AND HUMAN SERVICES		4. PROPOSED EFFECTIVE DATE August 9, 2011	
5. TYPE OF PLAN MATERIAL (Check One):			
<input type="checkbox"/> NEW STATE PLAN <input type="checkbox"/> AMENDMENT TO BE CONSIDERED AS NEW PLAN <input checked="" type="checkbox"/> AMENDMENT			
<i>COMPLETE BLOCKS 6 THRU 10 IF THIS IS AN AMENDMENT (Separate Transmittal for each amendment)</i>			
6. FEDERAL STATUTE/REGULATION CITATION: SSA1902(a)(25) 42CFR 433.139 CMS Pub 45 Section 3904.7		7. FEDERAL BUDGET IMPACT: a. FFY 2011 (\$233,467) b. FFY 2012 (\$1,404,800)	
8. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT: Supplemental 1 to Attachment 4.19-B Pages 1, 2, &3		9. PAGE NUMBER OF THE SUPERSEDED PLAN SECTION OR ATTACHMENT (If Applicable): Supplemental 1 to Attachment 4.19-B, Pages 1, 2 & 3	
10. SUBJECT OF AMENDMENT: "Patient responsibility" amount on claims where a beneficiary has third party coverage, including Medicare.			
11. GOVERNOR'S REVIEW (Check One):			
<input type="checkbox"/> GOVERNOR'S OFFICE REPORTED NO COMMENT		<input checked="" type="checkbox"/> OTHER, AS SPECIFIED:	
<input type="checkbox"/> COMMENTS OF GOVERNOR'S OFFICE ENCLOSED		Mr. Keck was designated by the Governor	
<input type="checkbox"/> NO REPLY RECEIVED WITHIN 45 DAYS OF SUBMITTAL		to review and approve all State Plans	
12. SIGNATURE OF STATE AGENCY OFFICIAL:		16. RETURN TO:	
13. TYPED NAME: Anthony E. Keck		South Carolina Department of Health and Human Services Post Office Box 8206 Columbia, South Carolina 29202-8206	
14. TITLE: Director			
15. DATE SUBMITTED: August 1, 2011			
FOR REGIONAL OFFICE USE ONLY			
17. DATE RECEIVED: 08/02/11		18. DATE APPROVED: 10/17/11	
PLAN APPROVED - ONE COPY ATTACHED			
19. EFFECTIVE DATE OF APPROVED MATERIAL: 08/09/11		20. SIGNATURE OF REGIONAL OFFICIAL:	
21. TYPED NAME: Jackie Glaze		22. TITLE: Associate Regional Administrator Division of Medicaid & Children Health Ops	
23. REMARKS: Approved with the following changes to item 6 as authorized by State Agency on email dated 09/27/11: Block 6 changed to read: SSA 1902(a)(1) through (3)			

Revision: HCFA-PM-91-4 (BPD)
AUGUST 1991

Supplement 1 to ATTACHMENT 4.19-B
Page 1
OMB No.: 0938-

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT

State/Territory: South Carolina

METHODS AND STANDARDS FOR ESTABLISHING PAYMENT RATES -
OTHER TYPES OF CARE

Payment of Medicare Part A, Part B and Part C Deductible/Coinsurance

Except for a nominal recipient copayment (as specified in Attachment 4.18 of this State plan), if applicable, the Medicaid agency uses the following general method for payment:

1. Payments are limited to State plan rates and payment methodologies for the groups and payments listed below and designated with the letters SP.

For specific Medicare services which are not otherwise covered by this State plan, the Medicaid agency uses Medicare payment rates unless a special rate or method is set out on Page 3 in item D of this attachment (see 3. below).

2. Payments are up to the full amount of the Medicare rate for the groups and payments listed below, and designated with the letters MR.
3. Payments are up to the amount of a special rate, or according to a special method, described on Page 3 in items A, B and C of this attachment, for those groups and payments listed below and designated with the letters NR.
4. Any exceptions to the general methods used for a particular group or payment are specified on Page 3 in item A of this attachment (see 3. above).

TN No. SC 11-012

Supersedes

TN No. SC 10-007

Approval Date: 10-17-11

Effective Date: 08/09/11

HCFA ID: 7982E

Revision: HCFA-PM-91-4 (BPD)
AUGUST 1991

Supplement 1 to ATTACHMENT 4.19-B
Page 2
OMB No.: 0938-

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT

State/Territory: South Carolina

METHODS AND STANDARDS FOR ESTABLISHING PAYMENT RATES
OTHER TYPES OF CARE

Payment of Medicare Part A, Part B and Part C Deductible/Coinsurance

QMBs:	Part A <u>NR</u>	Deductibles	<u>NR</u>	Coinsurance
	Part B <u>NR</u>	Deductibles	<u>NR</u>	Coinsurance
	Part C <u>NR</u>	Deductibles	<u>NR</u>	Coinsurance

Other	Part A <u>NR</u>	Deductibles	<u>NR</u>	Coinsurance
Medicaid	Part B <u>NR</u>	Deductibles	<u>NR</u>	Coinsurance
Recipients	Part C <u>NR</u>	Deductibles	<u>NR</u>	Coinsurance

Dual	Part A <u>NR</u>	Deductibles	<u>NR</u>	Coinsurance
Eligible	Part B <u>NR</u>	Deductibles	<u>NR</u>	Coinsurance
(QMB Plus)	Part C <u>NR</u>	Deductibles	<u>NR</u>	Coinsurance

TN No. SC 11-012

Supersedes

TN No. SC 10-007

Approval Date: 10-17-11

Effective Date: 08/09/11

HCFA ID: 7982E

Revision: HCFA-PM-91-4 (BPD)
AUGUST 1991

Supplement 1 to ATTACHMENT 4.19-B
Page 3
OMB No.: 0938-

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT

State/Territory: South Carolina

METHODS AND STANDARDS FOR ESTABLISHING PAYMENT RATES
OTHER TYPES OF CARE

Payment of Medicare Part A, Part B and Part C Deductible/Coinsurance

- A. Effective with claims processed on or after August 9, 2011, payment for Medicare Part A coinsurance and deductibles (other than nursing facilities) will be reimbursed as follows:

The Medicaid payment will amount to the Medicaid claim payment less the amount paid by Medicare not to exceed the sum of the Medicare coinsurance and deductible. The Medicaid claim payment amount will be calculated in accordance with Attachment 4.19-A of the South Carolina State Plan.

- B. Effective with claims processed on or after August 9, 2011, payment for Medicare Part B coinsurance and deductibles will be reimbursed as follows:

The Medicaid payment will amount to the Medicaid claim payment less the amount paid by Medicare not to exceed the sum of the Medicare coinsurance and deductible.

- C. Effective with claims processed on or after August 9, 2011, payment for Medicare Part C coinsurance and deductibles will be reimbursed as follows:

The Medicaid payment will amount to the Medicaid claim payment less the amount paid by Medicare not to exceed the sum of the Medicare coinsurance and deductible (and/or co-payments and deductibles).

- D. For services which are covered by Medicare but are not covered by the SC State Plan, the Medicaid claim payment referenced in paragraphs A, B and C above, will be 75% of the Medicare rate for QMB recipients. There will be no payment for non-covered SC State Plan services for non-QMBs. See section 4.19-D of the Medicaid State Plan for the limitation on nursing home coinsurance payments.

TN No. SC 11-012
Supersedes
TN No. SC 10-007

Approval Date: 10-17-11

Effective Date: 08/09/11
HCFA ID: 7982

Department of Health & Human Services
Centers for Medicare & Medicaid Services
61 Forsyth Street, SW, Suite 4T20
Atlanta, Georgia 30303-8909



October 17, 2011

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

Re: South Carolina Title XIX State Plan Amendment, Transmittal #11-012

Dear Mr. Keck:

We have reviewed South Carolina's State Plan Amendment (SPA) 11-012, which was submitted to require providers to include the "patient responsibility" amount on claims where a beneficiary has third party coverage, including Medicare. CMS asked the State to simplify the language used to describe the process of how claims are paid. CMS received sufficient information which clarified the State Plan section.

Based on the information provided, we would like to inform you that South Carolina SPA 11-012 was approved on October 17, 2011. The effective date is August 9, 2011. The signed CMS-179 and the approved plan pages are enclosed. If you have any questions regarding this amendment, please contact Tandra Hodges at (404) 562-7409.

Sincerely,

/s/

Jackie Glaze
Associate Regional Administrator
Division of Medicaid & Children's Health Operations

Enclosures



TO:

FROM:

SUBJECT: Cost of Processing FOIA Request #

The South Carolina Department of Health and Human Services has received and processed your FOIA request. The cost for processing this information is as follows:

Staff processing time at \$10.00 per hour	_____ Hours	\$ _____
Pages copied at \$.10 per page	_____ Pages	\$ _____
Pages faxed at \$.20 per page	_____ Pages	\$ _____
Shipping and Handling Costs		\$ _____
Other costs associated with the FOIA request:	_____	\$ _____
Total Amount Due SCDHHS:		\$ _____

Please remit the above amount to the following address:

Bureau of Fiscal Affairs
South Carolina Department of Health and Human Services
Post Office Box 8297
Columbia, South Carolina 29202-8297

Please contact _____ should you have any questions.

Signature

Date:



June 5, 2013

Tony R. Megna, Esquire
3400 West Avenue
Columbia, SC 29203

Re: Most Recent FOIA

Thank you for your FOIA request associated with your appeal of the Department's "Patient Responsibility" policy. Enclosed is the information you requested organized as follows:

1) Documents discussing why and/or when and/or how the "(other than nursing facilities)" was added to the Title XIX State Plan.

Please see the folder "other than" on the enclosed disc. This was a sweep of all agency e-mails still retained by the agency including the language in the e-mail or attached documents.

2) Documents evidencing any persons involved in discussions regarding adding the "(other than nursing facilities)" language in the State Plan.

Please see the folder "other than" on the enclosed disc.

3) All documents discussing the need for public notice for the "(other than nursing facilities)" in the State Plan.

Please see the hard copy documents, which are copies of the official State Plan Amendments including the phrase "(other than nursing facilities)."

4) All documents regardless of format discussing any matter with William A. Prince related to the "(other than nursing facilities)."

We could find no such documents. We think that Mr. Prince's tenure with the agency predated the time when the language first appeared in the State Plan.

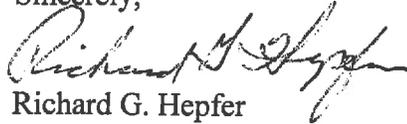
Our cost for preparing and reproducing the enclosed information is Forty-six and thirty five hundredths dollars (\$46.35). These documents are true and accurate copies of information kept in the normal course of Department business. Please make the check payable to the Department of Health and Human Services and send it to:

Department of Health and Human Services
Department of Receivables
Post Office Box 8297
Columbia, SC 29202-8297

Tony R. Megna, Esquire
June 5, 2013
Page 2 of 2

I hope this information is helpful to you. Please contact me if there are any questions. My direct is (803)

Sincerely,

A handwritten signature in cursive script, appearing to read "Richard G. Hepfer".

Richard G. Hepfer
Deputy General Counsel

Enclosures