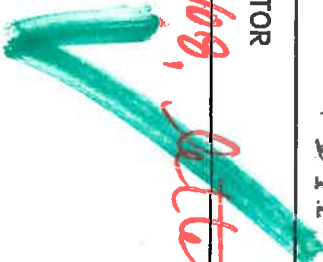


**DEPARTMENT OF HEALTH AND HUMAN SERVICES  
OFFICE OF DIRECTOR**

**ACTION REFERRAL**

TO  <i>Singleton</i>	DATE  <i>9-12-08</i>
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DIRECTOR'S USE ONLY	ACTION REQUESTED
1. LOG NUMBER  <i>00141</i>	<input type="checkbox"/> Prepare reply for the Director's signature DATE DUE _____  <input checked="" type="checkbox"/> Prepare reply for appropriate signature DATE DUE <i>9-17-08</i>  <input type="checkbox"/> FOIA DATE DUE _____  <input type="checkbox"/> Necessary Action
2. DATE SIGNED BY DIRECTOR  <i>Cleared 9/16/08, letter attached.</i> <i>C: Jankovic</i> 	

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

**PYE & TALLEY, P.A.**

Attorneys at Law

959 John B. White Sr. Blvd.  
Spartanburg, South Carolina 29306  
Telephone (864) 583-5658  
Fax (864) 583-5672

**RECEIVED**

SEP 1 2008

Department of Health & Human Services  
**OFFICE OF THE DIRECTOR**  
Scott F. Talley

Chadwick D. Pye

September 10, 2008

Emma Forkner, Director,  
S. C. Department of Health &  
Human Services  
Post Office Box 8206  
Columbia, SC 29202

Re: Gerrish A. Smith, CEO / Affiliated Counseling and Psychotherapy Centers  
Our File No. 2197

Dear Ms. Forkner:

I have been retained by Affiliated Counseling and Psychotherapy Centers, LLP regarding the Medicaid Bulletin issued on October 31, 2001 and further clarified on November 30, 2002, both of which are attached hereto and the suspension of payments for services for children from December 1, 2001 through October, 2002. It has recently been brought to my client's attention based on correspondence obtained between CMS in Atlanta and the Department of Health and Human Services staff in 2002, that this suspension was, and still is, unlawful based on the laws of the United States of America. Specifically, I am attaching an email indicating that the State of South Carolina was certainly within its right to limit the number of providers a physician could supervise to three. You could not entirely eliminate coverage for these services. The mandate DHHS dated December 1, 2001 has caused our client to sustain a loss over \$130,000 in actual claims that, would have and should have been, paid in addition to having to close six offices based on the non-payment for services they provided for our State's most vulnerable and needy services. Please review this information and contact my office at your earliest opportunity. I would ask that you contact me within seven (7) days from the date of this letter so we can further discuss this matter. I look forward to hearing from you.

With kind regards, I remain

Yours very truly,  
**PYE & TALLEY, P.A.**

  
Scott F. Talley

SFT/jm

South Carolina

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Post Office Box 8206

Columbia, South Carolina 29202-8206

[www.dhhs.state.sc.us](http://www.dhhs.state.sc.us)

October 8, 2002

# MEDICAID BULLETIN

MHRC-ADA	02-04
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MHRC-MHC	02-04
MHRC-MRC	02-01
MHRC-PMHC	02-03
PHY-ALG	02-04
PHY-ANES	02-05
PHY-CARD	02-04
PHY-DERM	02-04
PHY-ENT	02-04
PHY-ER	02-05
PHY-MSP-CBP	02-07
PHY-MSP-HBP	02-07
PHY-OPHT	02-06
PHY-PATH	02-04
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PHY-PC-GER	02-05
PHY-PC-INT	02-05
PHY-PC-NEO	02-06
PHY-PC-OG	02-09
PHY-PC-PED	02-07
PHY-PS	02-04
PHY-RAD	02-04
PHY-S	02-04
PHY-SPEC	02-05
PHY-SURG	02-05

TO: Physicians, Behavioral Health

SUBJECT: Counseling and Behavioral Health Services

Pursuant to Proviso 8.36, the Department of Health and Human Services (DHHS) will reinstate counseling and behavioral health services for children and adults rendered under the supervision of a physician. This bulletin transmits policy revisions implemented to effectively and efficiently administer this program.

An allied professional, formerly referred to as paraprofessionals, working under the supervision of a physician must meet one of the following qualifications in order to render counseling services:

- Ph.D. Psychologist
- Licensed Master Social Worker
- Licensed Independent Social Worker
- Licensed Marital and Family Therapist
- Licensed Professional Counselor

All services must be rendered by individuals licensed in South Carolina and all services must be rendered in accordance with the South Carolina statutes and regulations governing the particular practice.

Allied professionals rendering the service cannot be directly reimbursed under the Medicaid physician services program. They must be under the direct supervision of the physician to whom reimbursement is made. A physician is limited to supervising no more than three allied professionals who meet the qualifications to render counseling services. The names and credentials of the three allied professionals being supervised must be submitted to the Division of Medical Services in writing and updated as necessary or at least every twelve months. The mailing address is:

Division of Medical Services  
Post Office 8206  
Columbia, South Carolina 29202

Supervision of these allied professionals is defined as the clinical support and review necessary to assure that services provided are appropriate and medically necessary to the patient. The physician must spend as much time as is necessary with each allied professional to assure the quality of services as stipulated in the Medicaid Provider Manual for Physicians. The physician must meet with allied professionals providing counseling services to discuss treatment issues (progress summaries) as needed, but no less than every three months with a maximum of three in three months. Progress summaries should address the patient's progress towards treatment objectives, appropriateness of the services being furnished, and recommendations for the continued need for services.

In all cases, the physician must assume all professional liability for services rendered by staff under his/her supervision. In the event of a post payment review, the physician who is reimbursed by Medicaid is responsible for all records. Credentials of allied professionals who provide services must be on file and will be a part of the post payment review. If the allied professional credentials are not on file or do not meet the qualifications, monies will be recouped.

Effective for dates of services on or after October 1, 2002, the following procedure codes will be reinstated for allied professionals working under the supervision of a physician:

- S0150 - Group Counseling
- S0151 - Family Counseling
- S0152 - Individual Counseling (20-40 minutes)
- S0153 - Individual Counseling (45-60 minutes)

**When billing for either S0152 or S0153, it is important to note that only one code can be billed per day.**

Family Counseling is a face-to-face encounter between the allied professional, patient, and the family unit or significant others. Billing for telephone calls is not allowable. Additionally, Family Counseling should not be billed along with Pharmacological Management. Documentation of family counseling should address the patient's problems or issues, and the reduction or resolution of those identified problems and/or issues.

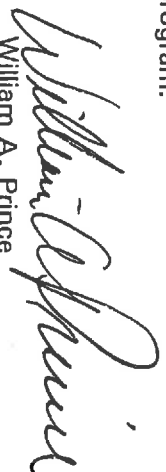
Parenting classes are not reimbursable by Medicaid. Parenting classes and parenting education should not be billed as Family Counseling (S0151) or Individual Counseling (S0152 or S0153).

The following CPT Codes should only be billed when a physician performs the service:

- 90882 - Environmental intervention for medical management purposes
- 99371 - Telephone calls for consultation, medical management, or coordinating medical management with other health care professionals

All other policies and guidelines outlined in the Medicaid Provider Manual for Physicians Services, 1999 edition, still apply when billing for mental health services.

If you have any questions regarding this Medicaid bulletin or any other Medicaid billing or policy questions, please contact your program representative at (803) 898-2660. Thank you for your continued support of the South Carolina Medicaid program.

  
William A. Prince  
Director

South Carolina  
 DEPARTMENT OF HEALTH AND HUMAN SERVICES  
 Post Office Box 8206  
 Columbia, South Carolina 29202-8206  
[www.dhs.state.sc.us](http://www.dhs.state.sc.us)  
 October 31, 2001

## MEDICAID BULLETIN

	MHRC-ADA	01-17
	MHRC-GOC	01-09
	MHRC-MHC	01-18
	MHRC-MRC	01-05
	MHRC-PMHC	01-11
	PHY-ALG	01-14
	PHY-ANES	01-12
	PHY-CARD	01-13
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	PHY-ENT	01-14
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	PHY-MSA-CBP	01-20
	PHY-MSR-HEP	01-20
	PHY-OPHT	01-14
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	<del>PHY-PC-FPGP</del>	01-22
	<del>PHY-PC-GER</del>	01-19
	PHY-PC-INT	01-18
	PHY-PC-NEO	01-18
	PHY-PC-OG	01-21
	PHY-PC-PED	01-22
	PHY-PS	01-15
	PHY-RAD	01-13
	PHY-S	01-13
	PHY-SPEC	01-17
	PHY-SURG	01-18
TO:	Physicians, Behavioral Health	
SUBJECT:	Counseling and Mental Health Programs	

The South Carolina Department of Health and Human Services, over the past several months, has undertaken a complete review of our programs in order to more effectively and efficiently manage our limited resources. As a result of this study, effective for dates of service on or after December 1, 2001, DHHS will eliminate counseling and behavioral health services by paraprofessionals under the supervision of a physician. Medicaid recipients may still receive mental health services either through the Community Mental Health centers or through a practicing psychiatrist.

If you have any questions regarding this Medicaid bulletin or any other Medicaid billing or policy questions, please contact your program representative at (803) 898-2660.

*William A. Prince*

William A. Prince  
 Director

WAP/jt

South Carolina  
DEPARTMENT OF HEALTH AND HUMAN SERVICES  
Post Office Box 8206  
Columbia, South Carolina 29202-8206

## MEDICAID BULLETIN

**DRAFT**  
Approved  
At 12/6/01

TO: Providers of Psychological Services for Children Under Age 21  
Physicians, Behavioral Health and Child Placing State Agencies

SUBJECT: Clarification Regarding Psychological Services for Children

We have received a number of inquiries regarding the elimination of Medicaid reimbursement for counseling and behavioral health services for children and adults rendered under the supervision of a physician. Pursuant to the October 31, 2001, Medicaid Bulletin, the following procedure codes will be non-covered effective December 1, 2001:

- S0150 - Group Counseling
- S0151 - Family Counseling
- S0152 - Individual Counseling 30 minutes
- S0153 - Individual Counseling 50 minutes

However, the Psychological Services Program for Children is not impacted by these changes. The following procedure codes remain covered pursuant to Medicaid policy:

- S9585 – Psychological Testing and Evaluation
- S9586 – Individual Counseling
- S9587 – Family Counseling
- S9588 – Group Counseling
- S9589 – Consultation

Under this program, reimbursement for psychological services is available to Medicaid enrolled psychologists for services provided to Medicaid eligible clients under twenty-one years of age. In order to become eligible to provide Medicaid reimbursable psychological services a psychologist must: 1) hold a Ph.D. in Psychology from an accredited college or university, 2) hold a valid and current license with a specialty in clinical, counseling, or school psychology as approved by the State of South Carolina Board of Examiners in Psychology, and 3) be enrolled as a South Carolina Medicaid provider.

Medicaid Bulletin

Page 2

Services must be medically necessary, and clients must be referred by an authorized referral entity via a *Referral Form/Authorization for Psychological Services (Form 252)*. Currently, authorized referral entities are: Department of Social Services, Department of Mental Health, Department of Juvenile Justice, Department of Education, Department of Disabilities and Special Needs, Department of Health and Environmental Control, and the Continuum of Care for Emotionally Disturbed Children. There is also a provision for reimbursement for these services rendered under the direct supervision of a licensed psychologist if conditions outlined in Medicaid policy are met.

Questions regarding the Psychological Services Program for Children should be directed to Mr. Jeff Bryson, Program Manager, at (803) 898-2565. All other questions, please contact Mr. Jonathan Tapley, Specialty Care Supervisor at (803) 898-2660.

Sincerely,

William A. Prince  
Director

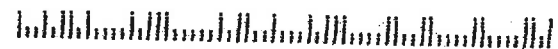
WAP/jmc

PYE & TALLEY, P.A.  
ATTORNEYS AT LAW  
959 JOHN B. WHITE SR. BLVD.  
SPARTANBURG, SC 29306



Emma Forkner, Director,  
S. C. Department of Health &  
Human Services  
Post Office Box 8206  
Columbia, SC 29202

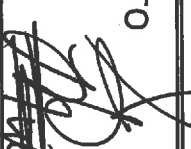
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**DEPARTMENT OF HEALTH AND HUMAN SERVICES  
OFFICE OF DIRECTOR**

**ACTION REFERRAL**

TO  <del>Director</del> Singleton	DATE 9-18-08
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<b>DIRECTOR'S USE ONLY</b>	<b>ACTION REQUESTED</b>
1. LOC NUMBER 100141	<input type="checkbox"/> Prepare reply for the Director's signature DATE DUE _____
2. DATE SIGNED BY DIRECTOR  C:  Myler	<input checked="" type="checkbox"/> Prepare reply for appropriate signature DATE DUE 9-17-08
	<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.			
2.			
3.			
4.			



State of South Carolina  
Department of Health and Human Services

Mark Sanford  
Governor

Emma Forkner  
Director

September 16, 2008

Scott F. Talley, Esquire  
Pye & Talley, PA  
959 John B. White Sr. Blvd  
Spartanburg, South Carolina 29306

Re: Gerrish Smith

Dear Mr. Talley:

Your recent letter to Ms. Forkner was referred to me. In your letter, you reference an email from CMS in Atlanta to DHHS that allegedly informed the Department that the actions taken to eliminate counseling and behavioral health services by paraprofessionals under the supervision of a physician effective December 1, 2001 were contrary to law. You further state that you are attaching this email. I regret that this attachment did not arrive with your letter and I am therefore unable to comment upon or respond to your letter.

If you would forward this correspondence from CMS, I would be most happy to examine it and give you my thoughts.

Sincerely,

A handwritten signature in cursive script, reading "George R. Burnett".

George R. Burnett  
Assistant General Counsel

GRB/b

Office of General Counsel  
P. O. Box 8206 Columbia South Carolina 29202-8206  
(803) 898-2795 Fax (803) 255-8210

Log # 141  
✓