

DEPARTMENT OF HEALTH AND HUMAN SERVICES
OFFICE OF DIRECTOR

ACTION REFERRAL

TO	DATE
<i>Wells/Cannon</i>	<i>9-2-10</i>

DIRECTOR'S USE ONLY	ACTION REQUESTED
1. LOG NUMBER <i>.101101</i>	<input checked="" type="checkbox"/> Prepare reply for the Director's signature DATE DUE <i>9-13-10</i>
2. DATE SIGNED BY DIRECTOR	<input type="checkbox"/> Prepare reply for appropriate signature DATE DUE _____
<i>cc: Ms. Forkner cleared 9/13/10, letter attached.</i>	<input type="checkbox"/> FOIA DATE DUE _____
	<input type="checkbox"/> Necessary Action

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

Kelly Cothran
PO Box 531
Sandy Springs, SC 29677
August 30, 2010

RECEIVED

SEP 02 2010

Department of Health & Human Services
OFFICE OF THE DIRECTOR

Mike Cannon
Director of Administrative Services
DHSS
PO Box 8206
Columbia SC, 29202

Dear Mike Cannon:

My name is Kelly Cothran I am writing you in regards to my daughter Olivia Cothran's Appeals' Case # 10-MAO-193 (TEFRA D CDR). To start from the beginning I must take you back to the month of May. On Monday May 24th, 2010 I spoke to Mr. Jeff Bryson concerning the hearing that was scheduled for June 21st, 2010. Following a recent appointment with my physician, to my dismay, my doctor had scheduled a complete hysterectomy for June 10th, 2010. Mr. Jeff Bryson very professionally asked me several questions concerning the surgery and asked that I call him back on June 30th, 2010 so that we may reevaluate the situation. Per our conversation I contacted Mr. Jeff Bryson on June 30, 2010 and this is when he rescheduled the hearing for August the 18th, 2010.

On the morning of August 16, 2010 I had to go for one of my final exams. At this visit my physician found something that she did not like and scheduled an appointment for an ultrasound on the 17th, of August. The morning of August 17th I contacted Mr. Jeff Bryson to inform him of what was transpiring. I did not speak to Mr. Jeff Bryson however left him a very detailed message explaining the physicians' visit. About an hour later I received a very pleasant message from Robert French returning my call concerning my message. Unfortunately this would be the only time through out the day that Robert French was pleasant.

You must realize up until this point I had only dealt with Mr. Jeff Bryson who is professional, polite and efficient. Mr. Jeff Bryson and I shared the same goal; to set a date for the hearing that corresponded with both of our schedules and do it expediently so the matter at hand could be taken care of. I returned Robert French's phone call in transit to my doctors' appointment thinking he too would be professional, polite and efficient. This was a big mistake on my part. He informed me that our case had been transferred to him due to scheduling conflicts. I explained what was transpiring and I was in transit to my doctors' appointment. He says, "So what you are saying is that you are going to be unable to attend your hearing on August 18, 2010." I informed Robert French that I was unsure and that I would know more after the doctors' appointment. I was under the impression that prior to contacting me he had been briefed concerning the detailed

message that I had left Mr. Jeff Bryson in which I informed Mr. Jeff Bryson that there was a chance that the doctors would have to do more surgery.

Robert French went on to tell me that he would need something in writing from my physicians' office basically echoing what I was telling him. His explanation for wanting this information was that SC TEFRA was paying expenses for my daughter Olivia Cothran until the hearing took place. In turn, I told him I was well aware of this. That is why at the beginning of this whole process I had written a letter and submitted it to Rhonda Tucker, Olivia's TEFRA coordinator, stating that any medical expenses accrued during the appeals process that my husband and I would be completely responsible for.

This was a total invasion of my privacy. However wanting to be in compliance I told Robert French I would get the information he had requested. After my visit with my physician I contact Robert French and told him that I had gotten the information he had requested. He asked me well, "what does it say". Baffled, I go on to tell him that I was seeing a surgeon the next day and would not be able to be in Columbia. I told him I would fax him the information when I returned to my office.

Since Robert French up until this point has not even mentioned us rescheduling the hearing, I do go on to ask him some questions. He stops me mid sentence and says, "Mrs. Cothran I can not go over the case with you over the phone." I said I completely understand, however when we found out Olivia had End Stage Renal Disease I became her advocate and have been responsible for most of her care, not my husband. Therefore, there are a few questions I wanted to be clear on so that my husband would have the correct information if in fact he is going to be coming to Columbia in my absence. I tell Robert French I will fax him the information shortly and hung up.

I faxed Robert French the information from my doctors' office (enclosed) and I called to confirm that Robert received the fax. When he answers I said Robert this is Kelly Cothran I wanted to confirmed you received the fax? His reply- Do I know you? I said I beg your pardon? He said Mrs. Cothran I am YOUR HEARING OFFICER. My only conclusion to his anger was that once he had received the information he realized I was not a liar which he had been insinuating all day.

Mr. Cannon I have never dealt with anyone as unprofessional, disrespectful, demeaning, discriminating and lastly just plain rude especially under the circumstances. I thought long and hard before writing this letter but in the end it had to be done. All I could think about is how many other families that have chronically ill children has he treated this way and they did not have the voice or the courage to do anything about it. Robert French acted as if everything he did was a favor to my family. In actuality I along with every other South Carolinian who pay their taxes are responsible for Robert French's salary. He questioned my intelligence, integrity and my character. His behavior was completely inexcusable and unacceptable. Due to everything I have enclosed in the letter I am requesting to be appointed a new hearing officer. Robert French would not be able to give my family an undiscriminating and fair hearing. Since my conversation with Robert French on August 17, 2010 he has sent me an ORDER TO PRODUCE (enclosed).

Unfortunately, I had to undergo more surgery on August 26, 2010. Due to my health complications my husband and I are in the process of obtaining council in Columbia.

Thank you in advance for your time and I look forward to hearing for you. You may contact me @ 864-934-1632.

Sincerely,

A handwritten signature in black ink, appearing to read "Kelly Cottrane". The signature is written in a cursive style with a long horizontal line extending to the right.

Kelly Cottrane

Enclosure

cc: Senator Kevin L. Bryant

FAX

TO: ROBERT FRENCH

FAX NUMBER : 803-255-8206

FROM: KELLY COTHRAN

PHONE NUMBER: 803-398-2714

DATE: 8-17-2010

**REGARDING: SC TEFRA HEARING SCHEDULED
FOR AUGUST 18, 2010/ OLIVIA COTHRAN**

**TOTAL NUMBER OF PAGES INCLUDING
COVER: 2**

**PHONE NUMBER FOR FOLLOW-UP: 864-934-
1632**

**COMMENTS: IF THE INFORMATION ENCLOSE IS
NOT SUFFICIENT PLEASE CONTACT ME @ THE
NUMBER LISTED ABOVE. THANK YOU IN
ADVANCE FOR YOUR TIME.**

ANMED HEALTH
SCHOOL / WORK RELEASE

OB-GYN Associates
2000 East Greenville Street, Suite 4500, Anderson, SC 29621
386 College Avenue, Clemson, SC 29631
864.512.4500 Fax 864.512.4505

TODAY'S DATE: 8/17/18

(PATIENT'S NAME): Kelly Cotman IS TO BE OUT OF WORK / SCHOOL
FROM _____ UNTIL _____

REMARKS: Her under care for persistent right lower quadrant abdominal
pain, this has become incapacitating. This is being a surgeon on
August 18. She will be unable to travel to Columbia.

Mary Kellings-Ruthe M.D./NP



August 22, 2010

CERTIFIED AND FIRST CLASS MAIL

Kelly Cothran
P. O. Box 531
Sandy Springs, SC 29677

RE: Fair Hearing of Olivia Cothran v. SCDHHS
Appeals' Case #10-MAO-193 (TEFRA-D)

Dear Ms. Cothran:

Enclosed is an Order to Produce. Please read carefully, as you must file a response as directed by a date certain: September 8, 2010.

If there are any questions, please contact me at 803-898-2714.

Sincerely,



Robert French, Hearing Officer
Division of Appeals and Hearings

Enclosure

STATE OF SOUTH CAROLINA
COUNTY OF RICHLAND
Olivia Cothran,

) BEFORE THE APPEALS DIVISION
) OF THE SOUTH CAROLINA
) DEPARTMENT OF HEALTH AND HUMAN
) SERVICES

Petitioner,

-v-

ORDER TO PRODUCE

South Carolina Department of
Health and Human Services,

10-MAO-193

Respondent.

This matter came before me pursuant to Section 1-23-310 et seq.,
Section 44-6-90, S. C. Code, 1976, as amended, and Department of
Health and Human Services Regulation 126-150 et seq., as amended.

Via notice of April 16, 2010 the Respondent notified the
Petitioner's representative, Kelly Cothran that the Petitioner's
TEFRA Medicaid benefits will cease effective May 1, 2010 as the
Petitioner's impairments no longer meet the disability criteria.
Via letter of April 23, 2010 the Petitioner's representative
appealed the Respondent's cessation of TEFRA Medicaid benefits and
a hearing was scheduled for June 21, 2010. The Petitioner's
representative requested a continuance; therefore, the hearing was
continued to August 18, 2010. On August 17, 2010 the Petitioner's
representative again requested a continuance for medical reasons.
I find that the Respondent has continued to provide medical
benefits to the Petitioner for at least five (5) months at this
point even though the Respondent has determined that the Petitioner
does not meet the disability criteria necessary for those medical
benefits.

On or before Wednesday, September 8, 2010, Kelly Cothran is
required to submit to this Hearing Officer in writing three (3)
possible dates and times for the hearing to be held in Columbia,

South Carolina, and these hearing dates must be between Wednesday, September 29, 2010 and Wednesday, October 27, 2010. These three (3) possible hearing dates must fall on business days, i.e., non-holidays on Monday through Friday. Upon receipt of the possible hearing dates, a hearing will be scheduled depending on the Hearing Officer's individual calendar.

Pursuant to the Department of Health and Human Services' Regulation S126-154, failure to comply with the terms of this Order will constitute grounds for dismissal against the non-complying party.

AND IT IS SO ORDERED.



Robert French
Hearing Officer

DATED AT COLUMBIA,
South Carolina

August 22, 2010



Patrick Scott

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From
Kelly Cochran
PO Box 531
Sandy Springs, GA 30077

TO Mike Cannon
Director of Administrative Services
PO Box 8206
Columbia, SC 29202

Label 229, January 2008

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 South Carolina Department of
Health & Human Services



Emma Fortner • Director
Mark Sanford, Governor

Log # 101 ✓

September 13, 2010

Ms. Kelly Cottran
Post Office Box 531
Sandy Springs, SC 29677

Dear Ms. Cottran:

Thank you for your letter dated August 30, 2010 regarding the TEFRA Appeals Hearing for your daughter, Olivia. After a thorough review of your letter and your stated concerns regarding your daughter's appeal, a new Hearing Officer has been assigned to your appeal. It is my understanding that Ms. Janet Goode, your newly appointed Hearing Officer has made telephone contact with you and has scheduled your Appeal Hearing for October 18, 2010 in the CLTC Office in Anderson South Carolina.

I hope that the Hearing Officer reassignment of your appeal will resolve your concerns regarding your daughter's upcoming hearing. If you have any additional questions, or concerns please do not hesitate to contact my office at the number listed below.

Sincerely,


Robert M. Carden, Bureau Chief
Administrative Services

RMC: jym

cc: Robert French
Bryan Kost
Kendall Quinton

From: Janet Goode
To: Robert French
CC: Bryan Kost; Mike Cannon
Date: 9/9/2010 12:55 PM
Subject: 10-MAO-193 Olivia Cottran (TEFRA - D - CDR)
Attachments: Janet Goode.vcf

I called Kelly Cottran (Petitioner's mother/representative) the morning of September 7, 2010 and left a message on her voice mail requesting a return phone call after speaking with Mr. Cannon and Robbie. When the call had not been returned, I made a second attempt on September 7, 2010 at approximately 6:30 prior to leaving my office. I knew I was going to be out of the office on September 8, 2010 for a disability hearing scheduled in Conway at 11:00 and wanted Ms. Cottran to have this information. I asked Ms. Cottran to look at the week of 10/18 or 10/25 as hearing date with hearing to be held in Anderson. Due to Petitioner for Conway hearing having a flat tire en route to her hearing, the hearing was significantly delayed in starting. I arrived back in Columbia at 5:00 and did not come up to my office. I checked my voice mail box from home last night and had a message from Ms. Cottran stating October 18, 2010 would be fine for the rescheduled of her daughter's hearing. She requested I call her concerning the hearing and her obtaining legal counsel. I returned her call this morning and she apologized for not calling back September 7, 2010 stating Tuesday was a hectic day and she was late getting home that day and did not get my messages until after hours as she did not have her cell phone with her. Ms. Cottran stated she had been in contact with an attorney in Columbia and was now in the process of acquiring an attorney in Anderson. She was most appreciative of the hearing being held in Anderson due to her own health conditions. She explained she had heart surgery (date not given by Ms. Cottran) and most recently had an unplanned hysterectomy due to female problems when the first hearing was scheduled by Jeff Bryson. After the hysterectomy she had to return for additional surgery to remove her appendix. Two days prior to the rescheduled hearing she had to request continuance due to severe lower abdominal pain that resulted from her gallbladder being full of stones. She underwent gallbladder surgery approximately two weeks ago and continues with discomfort. She is going back for follow-up. She lives near the CLTC in Anderson and has taken Olivia there for LOC evaluations. She stated since this is so near her home and she will not have to travel a long distance, October 18, 2010 would be perfect. During the telephone contact, Ms. Cottran expressed her concern about Olivia being evaluated and continued for TEFRA in December 2008 and then being evaluated again a year later. I checked WebXtender and it did not show that a review had been done in 2008. Upon further questioning, it was discovered that neither a medical review nor LOC had been done in 2008. Ms. Cottran stated Rhonda Tucker had her complete three applications in 2008 and she assumed after completing the third one that Olivia had been continued when she heard nothing from DHHS. She never received a decision or correspondence from DHHS until December 2009 when she was notified Olivia was being reviewed. She stated this concerned and confused her in that she was being reviewed again after what she thought had been a review in 2008. She understands that this is the Continuing Disability Review (CDR) and that a review had not been done in 2008. She will have the attorney she retains send me a letter of representation. When received, I will notify each of you in the event the Agency wishes to have representation present. Ms. Cottran stated she was told by an advocate from Greenville Memorial Hospital that once a child was placed on TEFRA, the child would remain on TEFRA until they are 19 years old and that she was totally confused as to why her daughter was being reviewed. Ms. Cottran was furnished Internet addresses for 20 CFR 416.994 a "How we will determine whether your disability continues or ends, and whether you are and have been receiving treatment that is medically necessary and available, disabled children" in addition to Listing of Impairments for Children. Ms. Cottran thanked me for the information and taking into consideration her personal health issues by holding the hearing in Anderson. I feel confident that this hearing will be held as planned with no further delays or issues unless the attorney she is retaining has a conflict. She assured me that she would let me know immediately once she speaks with an attorney if there is a conflict. She also indicated that she is going to think about not obtaining legal counsel and will decide after reviewing the CFR, Listings and Comparison Point Decision (CPD) documents that I am sending out today. These documents were in file from Robbie as he had requested the CPD documents when he found they were not in file. Due to hearing being two days from receipt of records, Robbie stated that he had planned to give the PR and Respondent copies at the hearing because they would not have received them if mailed. Ms. Cottran stated she has additional documentation that she plans to

submit prior to October 18, 2010. I will make a copy for the Respondent and mail them when received.
Please do not hesitate to call if there are questions.

Janet R Goode
Hearing Officer
DHHS-Appeals & Hearings
1801 Main Street, Suite 901
Columbia, SC 29201
(803) 898-2658
Fax (803) 255-8206