

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

ACTION REFERRAL

TO <i>Snigler</i>	DATE 4/27/09
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DIRECTOR'S USE ONLY	ACTION REQUESTED
1. LOG NUMBER 100602	<input type="checkbox"/> Prepare reply for the Director's signature DATE DUE _____
2. DATE SIGNED BY DIRECTOR	<input type="checkbox"/> Prepare reply for appropriate signature DATE DUE _____
<p><i>Copy: Frankenstein sent Cleared 10/21/09, e-mail attached.</i></p> <p align="center"></p>	
<input type="checkbox"/> Necessary Action DATE DUE <u>5-11-09</u>	

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.			

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APR 27 2009

Moore & VanAllen

April 24, 2009

SCDHHS
Office of General Counsel

Donald Bancroft Meyer
Attorney at Law

**VIA FACSIMILE AND
CERTIFIED MAIL: RETURN RECEIPT REQUESTED**

T 843 579 7010
F 843 579 8700
donaldmeyer@mvalaw.com

Mr. Bruce D. Carter
Assistant General Counsel
South Carolina Department of
Health and Human Services
P.O. Box 8206
Columbia, SC 29202-8206

Mr. David Frank
Centers for Medicare & Medicaid
Services
Director, Medicaid Integrity Group
7500 Security Boulevard, MS B2-15-24
Baltimore, MD 21244

Moore & Van Allen PLLC
Suite 300
40 Calhoun Street
Charleston, SC 29401-3535
Mailing Address:
Post Office Box 22828
Charleston, SC 29413-2828

Ms. Maureen C. Hunt
Booz Allen Hamilton
One Preserve Parkway
No. 2088
Rockville, MD 20852

Re: McLeod Regional Medical Center
Provider Number: 459938
Medicaid Integrity Program ("MIP")
MVA File No. 014314.3

Dear Mr. Frank, Mr. Carter and Ms. Hunt:

This firm represents McLeod Regional Medical Center of the Pee Dee, Inc. ("MRMC"). MRMC has had a very positive relationship with the South Carolina Medicaid program and desires to maintain such a positive relationship and fully cooperate in the MIP audit. However, on a repeated basis, MRMC has asked of Booz Allen Hamilton ("Booz Allen") as the contractor for the MIP audit program in South Carolina to comply with the audit and field work standards of the Generally Accepted Government Auditing Standards and to provide MRMC with information legally required to be provided to MRMC under the CMS Institutional Comprehensive Auditing Protocols (the "General Protocols"). Booz Allen has repeatedly refused to comply with these requirements and continues to place unreasonable and unlawful demands upon MRMC. We will be forced to seek judicial protection restraining all further Booz Allen activities unless Booz Allen begins to strictly adhere to the Centers for Medicare and Medicaid Services ("CMS") audit guidelines.

For example, not withstanding repeated written and oral requests that Booz Allen provide MRMC with information about the specific purpose of its review of hundreds of MRMC in-patient medical records, i.e., what is the focus of the audit of the inpatient hospital claims, Booz Allen refuses to provide such information. Section 5 of Step #3 and Section 4 of Step #4 of the General Protocols specifically require Booz Allen to provide this information to MRMC. MRMC as recently as April 23, 2009 again asked representatives of Booz Allen, to include Ms. Hunt, to adhere to Section 4 of Step #4 of the General Protocols by explaining the purpose of the review and the Booz Allen representatives adamantly refused to do so. Please also see the attached notification letters from Booz Allen which do not comply with the notice requirements of the

General Protocols. In fact the Booz Allen letter of February 24, 2009 does not even reference any general purpose or scope of the audit, but just demands that additional medical records be produced.

Without setting forth a specific purpose or scope of the audit, Booz Allen has asked MRRMC for more than eight hundred (800) medical records.

Since November 11, 2008, this firm has also submitted several previous requests under both the Federal and South Carolina Freedom of Information Acts for the specific protocols that were legally required to be developed by Booz Allen and submitted to CMS as required by Step #2 of the General Protocols (the "Specific Protocols"). To date, this firm has not received any such Specific Protocols from Booz Allen or the South Carolina Department of Health and Human Services. Repeated requests by MRRMC to Booz Allen for the Specific Protocols have also been denied by Ms. Hunt as recently as April 23, 2009. We renew our prior requests for the Specific Protocols.

Page 6 of the General Protocols requires each state to develop specific audit steps as part of the General Protocols "for each particular audit as it involves a specific program's regulations and rules at the local level." Under Step #2 of the General Protocols, Booz Allen was to develop prior to notifying MRRMC of the MIP audit a "Provider Audit Program" and submit the same to CMS. Also in Step #2 of the General Protocols Booz Allen was to "develop and document an audit approach to include the testing plan". We ask again for the above documentation. Additionally, Step #1 of the General Protocols requires Booz Allen to "develop [a] medical necessity review threshold by having [the] MIC Medical review practitioner set up [a] threshold based on State criteria for medical necessity." We request this threshold documentation as well. We also ask again for a copy of the joint operating agreement between CMS and Booz Allen. To date, we have only been provided by the South Carolina Department of Health and Human Services with a draft unsigned copy.

Booz Allen has in the past demanded, again without setting forth any specific purpose or scope of the review, that hundreds of medical records be produced within time periods of fifteen (15) and thirty (30) days. Step #3 of the General Protocols requires Booz Allen to determine and implement South Carolina law to establish mandatory time periods for the production of documents under this Medicaid initiative. Booz Allen has not cited the legal authority for these mandatory time periods in its notice letters and furthermore, we do not believe South Carolina law sets forth mandatory time periods for the production of these documents. We would again ask for Booz Allen to provide MRRMC with South Carolina statutory authority related to any mandatory time period to produce any additional medical records.

Additionally, as CMS has acknowledged and recognizes in the administration of the RAC program and in other audits, the demand for records cannot place an undue burden on the provider. We would ask that Booz Allen follow the same professional standards and courtesy that CMS adheres to in its treatment of a long-standing quality health care provider. After the recent moratorium on the MIP audits was lifted, MRRMC received two (2) lists for ninety-four (94) and one hundred (100) medical records respectively and Ms. Hunt demanded all records be made available at the same time. On April 23, 2009, Ms. Hunt also asserted the position that these requests relate to different audit issues, yet still refuses to advise MRRMC what the two (2) separate issues are. Furthermore, Ms. Hunt advised MRRMC representatives that she could send MRRMC ten (10) lists listing one hundred (100) medical records each in one (1) request and she could require MRRMC to produce one thousand (1,000) medical records. This is another instance of Booz Allen's unreasonableness.

Again, MRMCM remains committed to working with CMS in this MIP audit process, but needs to be treated with fairness, afforded its statutory rights, and have assurances that CMS guidelines are being followed by Booz Allen. MRMCM has been a participant in the Medicare RAC program and has been fully cooperating with all published guidance it has received from Medicare.

Prior to making any additional documentation available to Booz Allen, MRMCM needs to receive the above requested information (it has been five (5) months since this information was initially requested) and receive written notice as to the specific purpose and scope of the audit. All requests for information above are made pursuant to the Federal Freedom of Information Act, 5 U.S.C. §552 and the South Carolina Freedom of Information Act, S.C. Code of Laws 30-4-10, et. seq.

If Booz Allen continues its improper treatment of MRMCM and continues not to adhere to the requirements of the General Protocols, MRMCM will, in addition to seeking a restraining order, initiate a request for a United States Senatorial inquiry into its treatment by Booz Allen.

We hope you will treat MRMCM fairly and adhere to the Freedom of Information Act and General Protocol requirements. Thank you.

Sincerely,

Moore & Van Allen, PLLC



Donald B. Meyer

DBM/mpd

cc: Mrs. Emma Forkner
Mr. Brad Willbanks
Mr. Drew Hamilton

Attachments – as stated

DEPARTMENT OF HEALTH & HUMAN SERVICES
Centers for Medicare & Medicaid Services
Center for Medicaid and State Operations



MEDICAID INTEGRITY GROUP

October 17, 2008

Provider Number: 459938

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APR 27 2009

Mr. Robert L. Colones, CEO
McLeod Regional Medical Center
555 East Cheves Street
Florence, South Carolina 29501

SCDHHS
Office of General Counsel

Dear Mr. Colones:

This is to inform you that you or your facility has been selected for an audit of claims billed to Medicaid with dates of services from January 1, 2004 through September 19, 2007. The objective of our audit is to determine whether the inpatient hospital claims were billed and paid in accordance with applicable Federal and South Carolina Medicaid laws, regulations, policies, and rules.

Section 6034 of the Deficit Reduction Act of 2005 (DRA) established the Medicaid Integrity Program, through which the Centers for Medicare & Medicaid Services (CMS) shall conduct reviews and audits of claims submitted by Medicaid providers. As a Medicaid provider and a recipient of funds under the South Carolina Medicaid program, McLeod Regional Medical Center is subject to these reviews and audits. The DRA authorizes CMS to utilize contractors, including Booz Allen Hamilton, to conduct such reviews and audits.

In accordance with the DRA and other applicable Federal laws, you are required to provide CMS and its contractor, Booz Allen Hamilton, with timely, unrestricted access to all documents and records that relate in any way to Medicaid claims and payments.

Upon arrival, Booz Allen Hamilton will be conducting an entrance conference, and you will need to provide a workspace for the audit team. During the entrance conference Booz Allen Hamilton will request an overview of your organization, including your Medicaid claims submission process, any policies and procedures related to this process, and an organizational chart.

In order to facilitate the audit, minimize on-site time and disruptions to your operations, we are requesting that certain information shown in the enclosed document be assembled and provided to Booz Allen Hamilton at the entrance conference or prior to the arrival of the staff of Booz Allen Hamilton on-site. The information referenced on the enclosed

7500 Security Boulevard
Mailstop: B2-15-24
Baltimore, MD 21244

document is not all-inclusive, and the auditors may require additional information during the course of the audit. The documents must be legible and arranged in an orderly manner.

Any applicable State sanctions may be imposed against you if you fail to provide the information that is requested. Depending on the laws in your State, sanctions may include, but not be limited to, vendor hold and/or exclusion from participation as a provider in the South Carolina Medicaid program, until the matter is resolved. Additionally, payments for services for which you fail to produce records to Booz Allen Hamilton will be recovered from you.

Ms. Ann Todd from Booz Allen Hamilton will be contacting you in the near future to schedule the [redacted]. At that time, Ms. Todd will let you know what information should be forwarded to Booz Allen Hamilton's office at the following address.

*Who BAN
\$11M / \$512
20086*
Booz Allen Hamilton
ATTN: Ann Todd
One Preserve Parkway, 2nd Floor
Rockville, MD 20852

*Elaine
Debra
BWM
FE 98*

We ask that at least the [redacted] and anyone you [redacted] participate in [redacted] If you have any questions regarding our review or the information requested on the attachment, please contact Ms. Ann Todd at (301) 838-3738, todd.ann@bah.com, or Mr. Arthur Dilay at (312) 353-4794, Arthur.dilay@cms.hhs.gov.

Sincerely,

David Frank
David Frank
Director

Enclosure

- 1 Provider Intake Questionnaire
- 2 Data Request
- 3 Data Format

cc: Ms. Kathleen Snider, Bureau Chief
Bureau of Compliance & Performance Review
SC Department of Health & Human Services

Ms. Ann Todd
Booz Allen Hamilton

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SCDHHS
Office of General Counsel

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One Preserve Parkway

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www.boozallen.com

February 24, 2009

Provider Number: 459938

Mr. Brad T. Willbanks
Chief Compliance Officer & Compliance Counsel
McLeod Regional Medical Center
555 East Cheves Street
Florence, South Carolina 29501

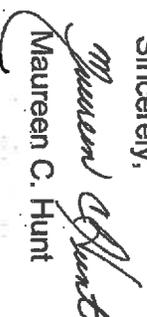
Dear Mr. Willbanks:

As part of the audit of McLeod Regional Medical Center as authorized by the Center for Medicare and Medicaid Services (CMS), Booz Allen Hamilton is requesting the full medical record, as well as, the insurance and financial related transactions (e.g., remittance advice, UB/1500/other, and patient's financial ledger, etc.) for the Medicaid beneficiaries identified in the attachment. We require the requested documents within 15 days of receipt of this letter.

Please provide electronic copies or if necessary photocopies of the medical records and related documents. Also, to validate that all requested records have been provided, please fill out the attached inventory form and save an electronic copy onto the enclosed CD. Please send all requested materials via Federal Express, to the following address:

Booz Allen Hamilton
ATTN: Maureen C. Hunt
One Preserve Parkway, 2nd Floor
Rockville, MD 20852

Sincerely,


Maureen C. Hunt

Enclosure: Attachment A
Attachment B
Electronic CD

Marie Brown - JOA with Medicaid Integrity Contractor

dog #000601
#000602

From: Bruce Carter
To: trudyrobertson@mvalaw.com; Donaldmeyer@mvalaw.com
Date: 10/21/2009 12:51 PM
Subject: JOA with Medicaid Integrity Contractor
CC: Marie Brown
Attachments: Marie Brown

Per our exchange of voice mails, attached is the pdf of the Joint Operating Agreement between the SC Department of Health and Human Services and Booz Allen Hamilton, the Medicaid Integrity Contractor. I am sorry that it took so long to get it to you. It has only been in house a couple of weeks and I just got it in the last week or so.

Please let me know if there is anything else I can do for you. I believe this is the last document we have that is associated with your Freedom of Information Act request. Please contact me if there are any problems opening the document or if you have questions.

Bruce D. Carter
Assistant General Counsel
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