

DEPARTMENT OF HEALTH AND HUMAN SERVICES  
OFFICE OF DIRECTOR

**ACTION REFERRAL**

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|--------------------|------------------------|
| TO<br><i>Myers</i> | DATE<br><i>4-21-09</i> |
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| <p align="center"><b>DIRECTOR'S USE ONLY</b></p> <p>1. LOG NUMBER : <i>.100591</i></p> <p>2. DATE SIGNED BY DIRECTOR<br/><i>CC: Mrs. Forlmer</i><br/><i>Cleared 5/12/09 after attached</i></p> | <p align="center"><b>ACTION REQUESTED</b></p> <p><input type="checkbox"/> Prepare reply for the Director's signature<br/>DATE DUE _____</p> <p><input checked="" type="checkbox"/> Prepare reply for appropriate signature<br/>DATE DUE <i>4-20-09</i></p> <p>DATE DUE _____</p> <p><input type="checkbox"/> Necessary Action</p> |
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| APPROVALS<br>(Only when prepared for director's signature) | APPROVE | * DISAPPROVE<br>(Note reason for disapproval and return to preparer.) | COMMENT |
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**RECEIVED**

APR 21 2009

Department of Health & Human Services  
OFFICE OF THE DIRECTOR

*Promoting and protecting the health of the public and the environment.*

C. Earl Hunter, Commissioner

April 17, 2009

Ms. Nicole Mitchell Threath, Department Head  
Department of Facility Services  
SCDHHS  
P O Box 8206  
Columbia, SC 29201

Dear Nicole:

This letter is written as a follow up to the conference call held on April 2, 2009 between DHEC and SC DHHS regarding the rates allowed for FFP of State personnel who conduct survey activities and certify facilities for participation in Medicaid and its impact on the South Carolina survey and certification activities specified under the 1864 Agreement between the State of South Carolina and Secretary of the Department of Health and Human Services.

It is our understanding that after allowing a 75/25 Federal State split for the above personnel, for at least to my knowledge, the past 18 years I have been the State Director for the SC State Survey Agency, SC DHHS is now requiring that the above survey staff be funded at a 50/50 Federal State match. I understand that a reference was made to CFR 432.20 Definitions as the basis for this decision, specifically addressing the definition of skilled professional medical personnel.

We respectfully disagree with this interpretation and refer you to Sections 2706 – SA Survey Team Composition, and Sections 4009 A&B- Persons Covered & Health Professional Qualifications of the CMS State Operations Manual as well as CFR 432 Subpart C- Staffing and Training Expenditures 432.45 which speaks to the rates of FFP of State personnel who conduct survey activities and certify facilities for participation in Medicaid. These references speak to the qualifications the State Survey Agency must follow in hiring and staffing.

CFR 432.20 defines skilled professional medical personnel as “physicians, dentists, nurses, and other specialized personnel who have training in the field of medical care .....” We offer that our social workers, nutritionists, and qualified mental retardation specialists fall under this category as well, and should be funded at the 75/25 split. All have four-year college degrees, the nutritionists are licensed, the social workers are master prepared and licensed. All DHEC survey staff that survey nursing homes are credentialled beyond their professional education, as they are SMQT qualified per CMS mandate. CMS advises, because of the strong emphasis on resident’s rights, the psychosocial model of care, and rehabilitative aspect of care in the regulation and in the survey process, that the team should include social workers, registered dietitians, pharmacists, activity professionals, or rehabilitation specialists, when possible. It is unconscionable to imply that these personnel are Sub professional staff and do not merit the appropriate funding associated with the performance of their work from which SC Medicaid recipients benefit.

SOUTH CAROLINA DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL

Health Regulation

2600 Bull Street • Columbia, SC 29201 • [www.scdhcc.gov](http://www.scdhcc.gov)



C. Earl Hunter, Commissioner

*Promoting and protecting the health of the public and the environment*

Please confirm that SCDHHS' expectation is that DHEC submit a revised FY 2009 budget for provision of survey and certification services at the FY 2008 State Match funding level of \$599,270.00. It is our understanding that with this revised budget a 50/50 match must be utilized for the staffing and training funding levels of those positions, which SC DHHS deems, do not qualify as skilled professional medical personnel.

If the state match remains at the FY 2008 level and SCDHHS holds us to the 50/50 state match, this will have a serious and negative impact on survey and certification activities for the State of South Carolina. DHEC will be unable to meet salary obligations and will have to RIF staff. We will not have sufficient operating costs to run the program. The bottom line is we will be unable to meet the statutory workload of the IMR and Nursing Home survey and certification requirements as well as the PTRF surveys and be unable to respond to complaints due to insufficient staff and operating capital. This in turn will cause DHEC to lose Federal Title 18 & 19 monies. CMS will reduce the Federal allocations in FY 2010 for not meeting the FY 09 statutory workload and for the State not supporting the funding for Title 19 State Match. Furthermore, uncertified facilities will cause an additional burden to the state and will impact Medicaid Provider Contracts.

Your response to the questions and suppositions addressed in this letter is needed quickly. We are already more than halfway through the contract fiscal year, and have operated the program expecting SC DHHS to fulfill the terms of the contract previously sent to you, as has been the practice in the past. We believe the survey and certification activities provide value to the healthcare systems in our state. We would like to continue to provide the quality and frequency of survey activities in South Carolina as our contractual agreements with CMS and SC Medicaid expects.

Sincerely,

*Karen M. Price*

Karen M. Price, Director  
Certification Bureau  
SCDHEC  
2600 Bull Street  
Columbia, SC 29201

CC: Earl Hunter, Commissioner, SC DHEC  
Pam Dukes, Deputy Commissioner, Health Regulation, SC DHEC  
~~\_\_\_\_\_~~

BUREAU OF CERTIFICATION



2600 Bull Street  
Columbia, SC 29201

Return Service Requested

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APR 21 2009

Department of Health & Human Services  
OFFICE OF THE DIRECTOR

Ms. Emma Fortner, Director  
SC Dept. of Health & Human Services  
PO Box 8206  
Columbia, SC 29201



State of South Carolina  
Department of Health and Human Services

Log # 591



Mark Sanford  
Governor

Emma Fortner  
Director

May 12, 2009

Karen M. Price, Director  
Certification Bureau  
South Carolina Department of Health and Environmental Control  
2600 Bull Street  
Columbia, South Carolina 29201

Dear Ms. Price:

Thank you for your letter regarding Federal Financial Participation match rates allowed for personnel who perform survey and certification activities. Specifically, I have reviewed with Executive and legal staff the 42 CFR 432.2 definition of skilled professional medical personnel. The decision was made to continue reimbursement for the contract year October 1, 2008 – September 30, 2009 at the 75/25 match rate.

Due to budget shortfalls, we are unable to increase funds. Therefore, state funds will be matched at the current funding level of \$599,270. Please submit a revised budget promptly to proceed with contract negotiations.

If you have any questions, please contact Nicole Mitchell-Threatt at (803) 898-2689.

Sincerely,

A handwritten signature in black ink, appearing to read "F. Myers".

Felicity Myers, Ph.D.  
Deputy Director, Medical Services

FM/whtk