



State of South Carolina
Department of Health and Human Services

Mark Sanford
Governor

Emma Forkner
Director

August 11, 2010

The Honorable Glenn E. McConnell
South Carolina Senate
27 Bainbridge Drive
Charleston, SC 29407

Dear Senator McConnell:

As summer comes to a close, I wanted to send you an update to a letter you received last month regarding the South Carolina Department of Health and Human Services' (SCDHHS) budget outlook.

Enrollment continues to grow, and our latest monthly eligibility numbers show a 2,500 increase during the month April, bringing the total monthly eligibility figure in April to 820,279. We anticipate the subsequent round of final eligibility figures will show a continuation of the growth trend. Overall, we have experienced a net increase of 90,504 since the recession officially began in December 2007.

One of the most significant developments is the recent extension of the enhanced Federal Medical Assistance Percentage (FMAP) rate. While we are grateful for the extension, it must be noted that the potential budget shortfall facing the agency surpasses the benefit the state may derive from the extension. According to early estimates, the program is poised to receive approximately \$127 million additional dollars in the second half of SFY 2011 based on the new FMAP funding formula applied by Congress. Taking all of these additional funds into account, SCDHHS still faces a potential budget shortfall this fiscal year. Part of that figure includes liabilities from SFY10 that were shifted into SFY11.

We have met with your finance staff and will continue to keep them informed of any developments. I also am convening a Medicaid Budget Forum this month to solicit direct input from the provider community on how to best to approach these budget challenges. The agency also plans follow-up meetings with individual provider groups to discuss specific cost-saving strategies. I hope these meetings will generate a series of mutually agreeable recommendations to reduce expenditures that can be presented to you this fall. You are welcome to attend any of these meetings if your schedule allows. The first meeting will be on August 24, 2010 beginning at 10:00 am and will be held at the South Carolina Department of Mental Health – William S. Hall Auditorium, 1800 Colonial Drive, Columbia, SC. Directions are enclosed.

Please do not hesitate to contact me about this or any other Medicaid matter.

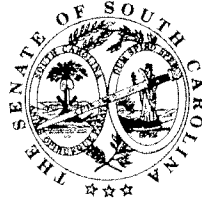
Sincerely,

A handwritten signature in cursive script that reads "Emma Forkner".

Emma Forkner
Director

EF:jp
Enclosure

SENT 8/18



STATE OF SOUTH CAROLINA
THE SENATE
COLUMBIA

GLENN F. M. CONNELL
PRESIDENT *PRO TEMPORE*

P. O. BOX 142
COLUMBIA, SC 29202
TELEPHONE : (803) 212-6610

Emma Forkner
Director, Department of Health and Human Services
P.O. Box 8206
Columbia, South Carolina 29202-8206

Dear Director Forkner:

I am in receipt of your letter dated August 11, 2010, and based upon my reading of that letter I feel compelled to respond. Your letter outlines the budget difficulties experienced and faced by the Department of Health and Human Services. You further state that your agency faces a potential budget shortfall this year. You also note that the potential budget shortfall includes liabilities from SFY 2010 that were shifted into SFY 2011.

I appreciate the hardships that your Department is facing. However, those hardships are not isolated at Health and Human Services and are being felt across state government and in the lives of the citizens that our government serves. These are difficult times, and we as state must do only what we can afford to do. Living within our means is something that each family has to do in tough times and it can be no different for state agencies. If we cannot afford to do something, it cannot be done. It is as simple as that. We cannot pass the buck into the future and hope that things will get better.

I am concerned with your statement that liabilities were passed from one year to the next especially knowing how dire this year's budget situation will be. It seems to me that this type of accounting practice does nothing to remedy the underlying issues that the agency is facing and is simply a method to live beyond your means. If there was a shortfall last year, steps should have been taken then to ensure that the department's budget ended the year balanced. I would like to know under what authority the department was able to transfer liabilities in one year's budget to the next budget and why no steps were taken to address obvious shortfalls between your funding and your expenses.

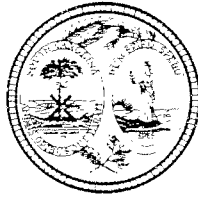
I am also concerned with your statement that there is a potentiality for a budget shortfall this year. While I understand that the department may request authorization to run a deficit, I do not believe this is a good practice for any person much less a state agency. Therefore, I would ask for your plans to address any shortfalls that may occur in your department's budget this year. Specifically I would ask that you provide me with a list of programs that may need to be cut or reduced in order to remedy any potential budget shortfall.

Thank you for your update as to the department's budgetary status and I look forward to your response.

Sincerely,

A handwritten signature in black ink, appearing to read "Glenn F. McConnell". The signature is written in a cursive style with a prominent "G" and "M".

Glenn F. McConnell



State of South Carolina
Department of Health and Human Services

Mark Sanford
Governor

August 30, 2010

Emma Forkner
Director

The Honorable Glenn F. McConnell
President and Pro Tempore
Post Office Box 142
Columbia, South Carolina 29202

Dear Senator McConnell:

Thank you for your response to my August 11 letter concerning the South Carolina Department of Health and Human Services' finances. I'm grateful that members of the state's legislative leadership recognize the importance of maintaining a strong Medicaid program for the needy residents of our state.

Frankly, I share your central concern regarding the precarious financial position of SCDHHS at the close of SFY10. We were forced to apply less than ideal temporary solutions in order to close out the year with a positive balance, yet long-term challenges remain. In the last two fiscal years, the agency's budget has been reduced by a total of \$228 million in state dollars. Over the past three budget cycles, reserve funds the agency had maintained as a backstop against unanticipated enrollment increases have been used both by the agency to offset these general fund reductions and reallocated by the General Assembly to other government functions. Funds transferred from the agency to other entities total more than \$500 million (see attached chart). Unfortunately, now that we are faced with steep enrollment increases as a result of the recession, we lack both the reserve funds and the necessary flexibility to significantly reduce expenditures.

Generally, there are three major areas in which Medicaid expenditure growth can be affected, positively or negatively, to any significant degree: eligibility, provider rates, and management of services. The following describes the constraints on each of these important cost levers:

Eligibility: As I noted in my previous letter, the state's Medicaid rolls have grown by more than 90,000 beneficiaries since the recession began (see attached enrollment chart). Medicaid now covers approximately 43% of all children in South Carolina, and pays for approximately 53% of all births. Between 2,500 and 5,000 beneficiaries are being added each month, and many of these new enrollees incur greater health care expenditures than

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August 30, 2010
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existing beneficiaries. The newly enacted federal Patient Protection and Affordable Care Act makes it virtually impossible for states to reduce Medicaid eligibility. Specifically, states cannot enact any “eligibility standards, methodologies or procedures” that make eligibility more restrictive. This restriction was previously a condition of accepting additional federal dollars through the American Recovery and Reinvestment Act.

Provider Rates: While reducing any provider payment rate must be approached with care and deference to maintaining access to necessary services, modest adjustments are frequently made by other states to help ameliorate budget shortfalls. Approximately 40 states have reduced Medicaid provider rates over the past two years as a way to curb expenditures, including our neighbors in Georgia and North Carolina. South Carolina is the only state with a legislative prohibition against rate reductions, which was enacted in October 2008. As you may recall, Proviso 89.87 states, among other things, “the Department of Health and Human Services shall not decrease provider reimbursement rates from their current levels.” It is worth noting that South Carolina’s Medicaid physician rates are benchmarked at 86% of Medicare rates, with some specialties receiving as much as 120% of Medicare. This is significantly higher than many other states reimburse for services.

Service Management: The majority of service expenditures paid under Medicaid are for federally mandated services, such as physician visits, hospitalization, nursing home care and non-emergency transportation. States also can provide an array of optional services, such as prescription drugs, hospice care, chiropractic services and family planning services. In SFY09, SCDHHS sought to lower certain provider rates and reduce or eliminate a number of optional services in an effort to reduce expenditures. These included a program designed to curb teen pregnancy (MAPPS), Medicaid-only hospice care and others. Several of these reductions were later restored through state legislation. The agency has been successful in implementing a number of other service reductions, including increasing prior authorizations. Many of these are detailed in the attached Growth Management document.

Although administrative costs make up less than 3% of the agency’s overall budget, with personnel costs accounting for about 1%, I agree that we must be austere and seize opportunities to operate more efficiently. We have taken many steps over the past several years to live up to this standard. The agency’s job vacancy rate is currently at 15%, the highest level in SCDHHS’ history. We also have implemented numerous furloughs, and earlier this month executed a lay-off of our 44 employees. Additionally, we have streamlined operations and enhanced program integrity efforts. These efforts also are outlined in the Growth Management document.

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The agency is currently engaged in a dialogue with Medicaid providers and other stakeholders concerning additional ways in which we can significantly reduce expenditures. We have scheduled individual meetings with groups to explore specific options that can be shared with members of the General Assembly later this year. It is my belief that we can arrive at politically palatable solutions only by working cooperatively with our Medicaid partners and ensuring they recognize the gravity of the program's budget situation. I would invite you to visit www.scdhhs.gov/budgetproject to learn more.

Thank you again for your inquiry on these important issues. I would be happy to meet with you or your staff to further explain any aspect of the Medicaid program.

Sincerely,



Emma Forkner
Director

Attachments:

Agency Fund Transfers

Population Trends

Current Restrictions

Growth Management Efforts

Base Reductions and Transfers

SFY 2009

- July 2008 – Base Reduction = \$2.8 million
- October 2008 - 8.1% Cut = \$76.7 million
- December 2008 - 7% Cut = \$61.1 million
- April 2009 - 2% Cut = \$16.2 million
- Transfers - \$90.8 million

SFY 2010

- July 2009 – Incorporated \$16.2 million from April
- September 2009 – 4% Cut = \$32.2 million
- December 2009 – 5% Cut = \$38.3 million
- Transfers - \$370.9

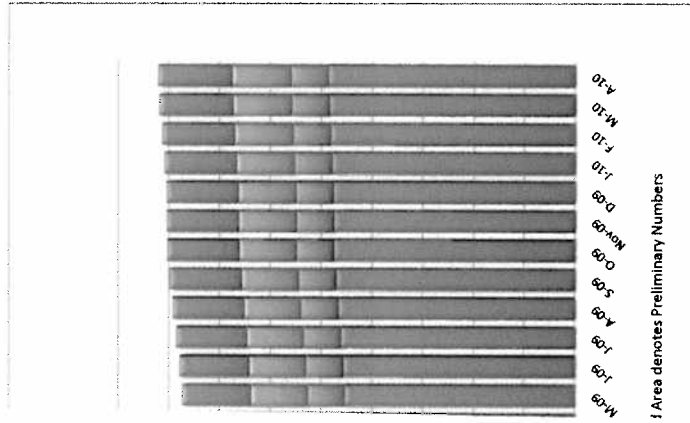
SFY 2011

- July 2011 – Base Reduction \$1.08 million
- Transfers - \$90.7

Total

- SFY 09 = \$247.6 million
- SFY 10 = \$441.4 million
- SFY 11 YTD = \$91.8 million
- **\$ 780.8 Million Total**

	M-08	J-08	A-08	S-08	O-08	M-08	D-08	J-08	F-08	M-08	A-08	S-08	O-08	M-08	A-08	J-08	J-08	M-08	A-08	S-08	O-08	Nov-08	D-08	F-10	M-10	A-10	
08																											
53	418,428	418,945	422,568	426,860	430,648	434,340	434,887	436,657	440,353	444,452	449,300	451,669	452,364	455,835	459,886	464,912	469,821	473,917	474,583	474,992	477,387	477,387	480,395	480,395	483,425	484,619	484,619
34	74,331	74,170	74,200	74,232	74,250	74,140	74,024	72,985	73,066	73,113	73,142	73,074	73,101	73,186	73,186	73,186	73,101	73,101	73,074	73,074	73,074	73,074	73,369	73,574	73,665	73,772	73,896
59	107,666	108,080	108,333	108,563	108,834	108,936	109,048	109,599	109,456	110,119	110,765	111,030	111,459	111,892	112,167	112,597	112,802	113,295	113,686	113,956	114,512	114,512	115,106	115,106	115,888	116,412	116,412
15	138,967	137,920	138,394	138,895	138,737	139,305	138,394	137,933	138,722	139,990	139,198	135,539	135,004	136,622	138,521	140,188	140,948	142,225	141,772	141,441	142,517	143,660	143,660	144,927	145,352	145,352	145,352
M1																											
62	739,412	739,115	743,495	748,550	752,469	756,721	756,339	758,213	761,496	766,628	772,376	771,380	771,901	777,450	783,760	791,070	796,853	802,721	803,341	803,758	807,990	807,990	812,826	812,826	818,013	820,279	820,279
21	739,412	739,115	743,495	748,550	752,469	756,721	756,339	758,213	761,496	766,628	772,376	771,380	771,901	777,450	783,760	791,070	796,853	802,721	803,341	803,758	807,990	807,990	812,826	812,826	818,013	820,279	820,279
388	7,485	7,164	6,035	6,076	6,137																						
753	9,840	10,025	10,963	10,917	10,850																						
341	17,325	17,189	16,998	16,993	16,987																						



† Area denotes Preliminary Numbers

Current Restrictions

What DHHS Is Not Allowed to Do:

■ Federal Restrictions

- Medicaid eligibility standards, methodologies or procedures cannot be made more restrictive.
- Enrollment in Medicaid waivers cannot be made more restrictive.
- Prompt pay requirements prevent slowing down or delaying provider payments

■ State Legislative Restrictions

- Proviso 89.87 prohibits DHHS from reducing or transferring funds from MAPPs, PACE and FQHC's.
- Proviso 89.87 prohibits DHHS from reducing provider rates
- Proviso 21.7 prohibits the reduction of admin/swing beds
- Proviso 21.11 requires DHHS to provide optional chiropractic services.
- Proviso 21.15 prevents DHHS from reducing pharmacy reimbursement rates.
- Proviso 21.20 prevents the use of prior authorization for drugs used to treat mental illness, HIV/AIDS or cancer.
- Proviso 90.13 requires DHHS to restore a variety of provider rates and optional services that had previously been reduced.

Growth Management Efforts

Changes Attempted or Implemented	Type of Change	Was This Change Implemented, Blocked, or Restored?
Set daily frequency limits for Lab/Radiological Exam Code 71010	Service Management	Implemented
Implemented Diabetic Supplies Preferred Point of Sale Program	Service Management	Implemented
Change from 34 to 31-Day Pill supply	Service Management	Implemented
Pharmacy Services Override rate reduced to 6	Service Management	Implemented
After Hours Reimbursement Rate Elimination	Service Management	Implemented
Discontinuation of Group OT/PT	Service Management	Implemented
Discontinued Cough and Cold Medicines	Service Management	Implemented
Completed HCC planned rollout; 60% members assigned to PCP	Service Management	Implemented
Program Integrity - Overpayments	Fraud & Abuse	Implemented
Program Integrity - Recoveries, All Sources (Provider, Bene., Global)	Fraud & Abuse	Implemented
Third Party Liability Recoveries (Medicare, Health, Casualty, Estate)	Recovery	Implemented
Organ Transplant Procedures moved In-House	Administrative	Implemented
Reduce Child Abuse Response Program Contract	Administrative	Implemented
New Vision Eyewear Contract negotiated	Administrative	Implemented
Encouraged Electronic Claims Payments	Administrative	Implemented
Switch from paper to e-Bulletins	Administrative	Implemented
SFY 2010		
Changes to Medicaid Eligibility Categories to Reduce Rolls	Eligibility	MOE - ARRA; MOE ACA
Administrative Days/Swing Beds Reduction	Service Reduction	Proviso 21.7 prohibits DHHS from reducing these services
Chiropractic Services Elimination	Service Reduction	Proviso 21.11 prohibits DHHS from reducing Chiropractic
Prescription Reimbursement Payment Reductions	Rate Reduction	Proviso 21.18 prohibits DHHS from reducing Rx rates
Prior Authorization of Mental Health, HIV/AIDS, Cancer Drugs	Service Management	Proviso 21.23 prohibits DHHS from managing these drugs
All Other Provider Rates	Rate Reduction	Proviso 89.96 prohibits DHHS from reducing rates
Updated Inpatient Retrospective Review standards	Service Management	Implemented
Pharmacy Care Coordination Pilot - Antipsychotics for Children	Service Management	Implemented
Dose Removal/Dermal Anolamies - Utilization Control	Service Management	Implemented
Lesion Optimization: Refilling Prescriptions in Cost-Effective Quantity	Service Management	Implemented
Prior Authorization of Hospice Placements	Service Management	Implemented
CLTC Waiver Slots- Capped at Levels Allowed Under ARRA (2008 Levels)	Service Management	Implemented
Clarified reimbursement policy for Visual Evoked Potential Procedure	Service Management	Implemented
70% of eligible beneficiaries assigned to PCP	Service Management	Implemented
Implemented utilization control for atypical antipsychotics for children under 7 yrs	Service Management	Implemented
Clarified time limits for claims submissions	Administration	Implemented
Agency Vacancy Rate Maintained at 10% or More	Administration	Implemented
Transitioned to Electronic Remittance Package	Administration	Implemented
Voluntary and Mandatory Furlough Programs	Administration	Implemented
Voluntary Separation Incentive Program	Administration	Implemented
Suspension of Pay Increases, Except for Promotions/Reclassifications	Administration	Implemented
Suspension of Leave Transfer Pool, Tuition Asst., Employee Bonuses	Administration	Implemented
Reduction of Agency Worker's Compensation Premiums	Administration	Implemented
Implemented Travel Restrictions	Administration	Implemented

Growth Management Efforts

Changes Attempted or Implemented	Type of Change	Was This Change Implemented, Blocked, or Restored?
Curtailed In-House Training, Elimination of Leadership Retreats	Administration	Implemented
Automated internal reports	Administration	Implemented
RFP for Blue Cross/Blue Shield Front-End Claims Contract	Administration	Implemented
Re-negotiation of Jefferson Square, Favor Place Leases	Administration	Implemented
Started Contingency-Based Contract to Identify & Recover Overpayments	Fraud & Abuse	Implemented
Hospital Self-Audits to Recover Rx Funds Over Acquisition Costs	Fraud & Abuse	Implemented
Program Integrity - Recoveries, All Sources (Provider, Bene., Global)	Fraud & Abuse	Implemented
Third Party Liability Recoveries (Medicare, Health, Casualty, Estate)	Recovery	Implemented
Insurance Verification and Recovery Contract - Payor of Last Resort	Recovery	Implemented
SFY 2011		
Changes to Medicaid Eligibility Categories to Reduce Rolls	Eligibility	MOE - ARRA; MOE ACA
Legislature required State Plan Amendment to change pharmacy reimbursement	Rate Increase	Proviso 21.15 requires increase in Rx rates by Oct 10
Administrative Days/Swing Beds Reduction	Service Reduction	Proviso 21.7 prohibits DHHS from reducing these services
Chiropractic Services Reductions	Service Reduction	Proviso 21.11 prohibits DHHS from reducing Chiropractic
Prescription Reimbursement Payment Reductions	Rate Reduction	Proviso 21.15 prohibits DHHS from reducing Rx rates
Prior Authorization of Mental Health, HIV/AIDS, Cancer Drugs	Service Management	Proviso 21.20 prohibits DHHS from managing these drugs
All Other Provider Rates	Rate Reduction	Proviso 89.87 prohibits DHHS from reducing rates
Suspended GAPS Program	Service Reduction	Implemented
Pharmacy overrides reduced from 6 to 4	Service Reduction	Implemented
Prior authorization required for all private outpatient mental health services	Service Management	Implemented
Initiated Dental ASO for dental claims	Service Management	Implemented
HIV Waiver - Capped at Levels Allowed Under ARRA (2008 Levels)	Service Management	Implemented
Mandatory enrollment in Healthy Connections Choices	Service Management	Planned
RFP for QIO Prior Authorization System for FFS	Service Management	MMO
RFB for Hi Tech Radiology Management	Service Management	MMO
RFB for Incontinence Products	Service Management	MMO
RFP for Transportation	Service Management	MMO
RFP for NCCI Edits	HCR	Planned



STATE OF SOUTH CAROLINA
THE SENATE
COLUMBIA

GLENN F. McCONNELL
PRESIDENT *PRO TEMPORE*

P. O. BOX 142
COLUMBIA, SC 29202
TELEPHONE: (803) 212-6610

September 29, 2010

Emma Forkner
Director, Department of Health and Human Services
P.O. Box 8206
Columbia, South Carolina 29202-8206

Dear Director Forkner:

Thank you for your most recent letter detailing the predicament you feel you are in. Your explanations are one thing, but the consequences of your actions are another. For those reasons, I write again in light of your correspondence to me of August 11, 2010, and my response to you on August 18, 2010, followed by your above-referenced response. I will put my thoughts to you in blunt terms.

The most important thing to realize is that you were appropriated a set amount of dollars to perform the functions and responsibilities for your agency. After hearing from you and representatives of your agency about your needs for the next fiscal year, an amount was appropriated to operate your agency for the next fiscal year. That appropriation is absolute as it relates to how much money you have available to spend. This is Columbia, South Carolina and not Washington, D.C., and if that budget does not allow you to do all you wish to do then we cannot do it. We cannot print more money or create a deficit for our children and grandchildren to deal with when times get better. The Constitution of our State requires a balanced budget process, and we are sworn to uphold the Constitution.

There is only one method that I am aware of to run a deficit in South Carolina, and that is to gain approval of the Budget and Control Board to authorize a deficit. Without that approval by the Budget and Control Board, you do not have the authority to spend any money more than you were authorized in the Appropriations Act, and you cannot run a deficit to move the problem to taxpayers down the road. Despite the clear rules of the road on this matter, I opine from your comments that you expect and have expected a deficit in the near future. If you believe that now, why have you waited to ask the Budget and Control Board for authority to run a deficit?

Frankly, I am tired of State agencies spending too much and then asking for forgiveness and permission to run a deficit they knew was coming. Creating a crisis and having those who rely on your services to bombard legislators and members of the Budget and Control Board with correspondence to justify deficit spending is no way to operate an agency. I prefer you balance your books and make the hard

choices on the front end, and I believe that is what our Constitution simply requires. Furthermore, I believe that is what the taxpayers expect of you.

I am tired of excuses. You are the Director and have a constitutional duty to be in balance until such time as the Budget and Control Board acts differently. You were appropriated a set number of dollars to spend, and you must act today as if those dollars will be gone. You do not have the constitutional authority, I believe, to go beyond that. Only the General Assembly can appropriate this revenue, and you are bound by what is set. I reject your idea that you are powerless and must spend because of federal requirements. If the federal money is not enough to cover the expense of the program, it is not enough and, therefore, it must stop. You cannot fix that by your agency simply continuing to spend and by sending a deficit to the taxpayers to pay the next year. Your obligation, as I see it under the Constitution, is first and foremost to the taxpayers of this State and not to bureaucrats in Washington, D.C.

I understand that making hard choices or cutting services is not easy to do. The easy thing to do is to continue to provide services to everyone and pass the pain to another day. However, we are not an administration of comfort. We are a government of laws created by a constitution that our founders said shall only spend what it can afford. It may be hard to say no, but that is what your oath of office requires. The federal government may have provided additional dollars for services, but their dollars and their requirements do not supersede the Constitution of South Carolina. We agreed to accept their money and to expand eligibility, but only in context of our balanced budget requirement so that when those dollars are gone so are the services basic and additional together. It may be a good lesson for our leaders and bureaucrats in Washington to know that when more people are added to the roles with only slightly more money that it will be those who are in dire need of governmental assistance that will be hurt. It is time that state officials stand up for balanced budgets and against deficits. It is time to stand up for constitutional government rather than administration by comfort. It is time for our federal government to imitate the fiscal responsibility of the states rather than the states imitate the reckless spending of the federal government.

In conclusion, without approval by the Budget and Control Board, you and your agency cannot run a deficit. We must adhere to the requirement for a balanced budget. Simply, let's tell Washington we can do no more than what is appropriated by elected representatives. Lastly, let's stand up for our Constitution and tell these federal bureaucrats that it is a usurpation of State sovereignty to require us to spend beyond what was appropriated and matched.

It is time for principle and the rule of law -- not excuses or blame.

Sincerely,

A handwritten signature in black ink, appearing to read "Glenn F. McConnell". The signature is written in a cursive, flowing style.

Glenn F. McConnell