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8/11/2014

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Via Certified Mail

Principal Deputy Administrator
Centers for Medicare & Medicaid Services
Room C5-16-03
Baltimore, MD 21244-1850

Dear Principal Deputy Administrator:

As a result of the Centers for Medicare & Medicaid Services (“CMS”) denial of SPA 12-015 , on May 28, 2014, Stuart Williams, acting in his official capacity as General Counsel on behalf of the State of Florida, Agency for Health Care Administration (“AHCA”), submitted a Freedom of Information Act (“FOIA”) request pursuant to 5 U.S.C. §552 to CMS. A copy of the May 28 FOIA request is attached hereto as **Exhibit A**.

CMS has failed to timely respond to AHCA’s FOIA request, received by CMS on June 4, 2014. CMS was required to respond by either fulfilling the request or denying it, within 20 working days from the date of receipt of the written request i.e., no later than July 2, 2014. 5 U.S.C. § 552. To date, CMS has provided a brief acknowledgement of the receipt of AHCA’s request dated June 25, 2014, attached hereto as **Exhibit B**. This acknowledgement indicated that CMS had commenced a search to fulfill AHCA’s request and that “unusual circumstances” would affect the response time. While the notice set forth the “unusual circumstances” giving rise to an extension, it failed to indicate a date on which it anticipated a determination, not to exceed an additional 10 working days, as required by 5 U.S.C. § 552. The extension expired on July 17, 2014. On July 28, 2014, AHCA received a second correspondence from CMS which indicated that the regional office did not have the authority to release the requested records and intended to forward the request to the Baltimore, Maryland office attached hereto as **Exhibit C**.

CMS has failed to timely respond to **Exhibit A** in compliance with applicable law. Accordingly, consider this correspondence an appeal pursuant to 45 C.F.R. § 5.34. Additionally, AHCA reserves all administrative rights associated with CMS refusal to timely comply with FOIA requirements.

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Enclosures: Exhibits A, B, and C
CC: **Hugh Gilmore, Director**
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Shena Grantham, Esq. (Via e-mail only)