

EXHIBIT Y

DEPARTMENT OF HEALTH & HUMAN SERVICES
Centers for Medicare & Medicaid Services
7500 Security Boulevard, Mail Stop C5-11-06
Baltimore, Maryland 21244-1850



Office of Strategic Operations and Regulatory Affairs /Freedom of Information Group

Refer to: Control Number: 052220187046 and PIN UDL9
052220187048 and PIN QQF2
052220187050 and PIN 9SMF
052320187007 and PIN YV3U
052320187013 and PIN 4BZY

March 26, 2020

Kandi Hidde
Frost Brown Todd LLC
201 N. Illinois Street, Suite 1900
P.O. Box 44961
Indianapolis, IN 46244

Dear Ms. Hidde:

This is the sixth interim response to your Freedom of Information Act (5 U.S.C. § 552) requests dated May 21, 2018. In your request, you sought material relating to several records as they relate to records released to Petrillo & Powell, Fred Schulte as well as records regarding Government Accountability Office (GAO), Risk Adjustment Payments System (RAPS), Medicare Advantage Organizations (MAO) and copies of other related matters in your requests for the timeframe of January 1, 2007 through the date of your requests.

Our agency initiated a search for records falling within the scope of your request, and of your request in CMS' Medicare Plan Payment Group in the Centers for Medicare compiled and forwarded approximately 1,513 pages of responsive records and has processed the records as follows. After careful review and processing of a total of the 1,513 pages, I have determined to release 1337 pages to you in their entirety, without deletions. Also, I have determined to deny you access in part to seven (7) pages, and to deny access in their entirety to 163 pages, pursuant to Exemption (b)(5) and (b)(6) of the FOIA (5 U.S.C. § 552(b)(5) and (5 U.S.C. § 552(b)(6)). Six pages are provided but are intentionally blank and not redactions.

Exemption (b)(5) permits the withholding of "inter-agency or intra-agency memorandums or letters which would not be available by law to a party other than an agency in litigation with the agency." Among the several bases upon which records may be withheld under this exemption, the deliberative process privilege applies to the materials withheld in this case. The privilege protects internal communications that are pre-decisional and contain staff advice, opinions and recommendations that are part of the agency's deliberative decision-making process

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Exemption (b)(6) permits a Federal agency to withhold information and records about individuals in “personnel and medical files and similar files, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.” I have weighed the public interest in disclosure against the harm to the privacy interest of the subject individuals. I have taken into consideration that the Supreme Court has held public interest in disclosure to be limited, in this context, to the public interest that would be served by shedding light on the agency’s performance of its statutory duties. I have concluded that the personal privacy interests of the subject individuals outweigh the public interest in disclosure in this particular matter.

The CMS office will need additional time to process additional documents to determine which portions of those records therefore may be released in response to your requests. An interim of additional non-exempt documents or portions of documents will be forwarded to you upon completion of that review every 60 days.

Sincerely yours,

A handwritten signature in cursive script that reads "Joseph Tripline".

Joseph Tripline
Director, Division of FOIA Analysis – A
Freedom of Information Group

**DEPARTMENT OF
HEALTH AND HUMAN SERVICES**
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