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July 8, 2015

VIA EMAIL:

Andy.Slavitt@cms.hhs.gov

Andrew Slavitt
Acting Administrator
Centers for Medicare and Medicaid Services
7500 Security Boulevard
Baltimore, MD 21244

Re: **FOIA Requests Submitted by David Blaszczak, Control Nos. #051620137004
and #030720147033**

Dear Mr. Slavitt:

I represent David Blaszczak. Mr. Blaszczak submitted two Freedom of Information Act (“FOIA”) requests to the Centers for Medicare and Medicaid Services (“CMS”) on March 5, 2013 and March 6, 2014, respectively(See Control Numbers above). I am writing to appeal the failure of CMS to respond to these requests.

To date, he has received a single 2-page document in response to these two requests, which was sent to him on March 20, 2013. He has sent numerous emails and made numerous telephone calls over the past several years to the FOIA Office at CMS in an effort to determine the status of these requests and has received no response whatsoever other than the single document referred to above. He recently checked the CMS FOIA website which disclosed that, in both cases, responsive documents were returned to the FOIA Office for review and disclosure analysis.

By letter dated June 26, 2015 to Hugh Gilmore, Director of Division of Freedom of Information, I requested on behalf of Mr. Blaszczak that a written determination to grant or deny access to the documents covered by these two FOIA requests be issued immediately. A copy of this letter is attached for your reference. To date, I have received no response to my June 26, 2015 letter.

Andrew Slavitt
Acting Administrator
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The FOIA requires an agency to respond to a request within 20 days. See 5 U.S.C. §552(a)(6)(A)(i). Therefore, CMS's response to Mr. Blaszcak's first request was due on April 2, 2013 and CMS's response to his second request was due on April 3, 2014. The failure of CMS to respond substantively to the FOIA requests of Mr. Blaszcak within the time period required, by FOIA therefore constitutes a constructive denial of the requests and Mr. Blaszcak is deemed to have exhausted his administrative remedies. See 5 U.S.C. §552(a)(6)(C)(i).

Mr. Blaszcak respectfully requests that you respond to this appeal within 20 days of the date of this letter. See 5 U.S.C. §552(a)(6)(A)(ii). If you have any question or require any additional information please contact me at (202) 661-7011.

Very truly yours,

A handwritten signature in cursive script that reads "William E. Donnelly". The signature is written in dark ink and is positioned above the printed name.

William E. Donnelly

cc: David Blaszcak