

EXHIBIT I

Torres, Christopher

From: Briscoe, Brittany <foiarequest@hhs.gov>
Sent: Wednesday, November 22, 2023 2:11 PM
To: Torres, Christopher
Subject: Final Response 2023-01153-FOIA-OS
Attachments: Final Response Letter - Deny in Full (DIF).pdf

Hello Christopher Torres,

Attached is the final response to your FOIA request **2023-01153-FOIA-OS**. If you have any questions, please contact ASA- OCIO Queue Arianne.Perkins@hhs.gov or email our office at foiarequest@hhs.gov

Sincerely,
Brittany Briscoe



DEPARTMENT OF HEALTH & HUMAN SERVICES

Office of the Secretary

Assistant Secretary for Public Affairs
Washington, D.C. 20201

Case No. 2023-01153-FOIA-OS

November 22, 2023

Sent via email:

Christopher Torres
 Chief of Civil Litigation, AHCA
 Florida Agency for Health Care Administration
 2727 Mahan Drive, MS #3
 Tallahassee, FL 32308
christopher.torres@ahca.myflorida.com

Dear Christopher Torres:

This letter is the final response to your August 28, 2023 Freedom of Information Act (FOIA) request. Specifically, you requested the following records:

“The Requester requests records and/or communications related to the U.S. Department of Health and Human Services (“HHS”) and the Florida Health Justice Project (“FHJP”), the National Health Law Program (“NHLP”), and their attorneys, agents, and employees, (as counsel of record for Plaintiffs), regarding the subject matter of litigation that was recently brought against both AHCA and the Florida Department of Children and Families (“DCF”), Chianne D, et al. v. Weida, et al., No. 3:23-cv-00985 (M.D. Fla.), challenging Medicaid redeterminations of recipient eligibility pursuant to 42 U.S.C. § 1396a(3) and its implementing regulation, 42 C.F.R. § 431.210(b). Specifically, the Requester requests the following Records in the possession of HHS and/or the HHS Office for Civil Rights from January 1, 2023, through the date of production of the Records: 1. Records related to or containing HHS’s communications with or regarding the Florida Health Justice Project and/or the National Health Law Program and litigation challenging Florida’s Medicaid redeterminations of recipient eligibility, including (but not limited to): the adequacy of recipient notification of determination of ineligibility, adequacy of recipient notification for reasons of recipient ineligibility, and recipient income standards. 2. Records related to or containing HHS’s internal communications concerning Florida’s Medicaid redeterminations of recipient eligibility, including (but not limited to): the adequacy of recipient notification of determination of ineligibility, adequacy of recipient notification for reasons of recipient ineligibility, and recipient income standards. 3. Records related to or containing HHS’s communications concerning Florida’s Medicaid redeterminations of recipient eligibility with the following individuals: Katy DeBriere, Miriam Harmatz, Lynn Hearn, Sarah Grusin, Miriam Heard, Amanda Avery, and Jane Perkins. Florida Health Justice Project (“FHJP”): a. Katy DeBriere – Legal Director, debriere@floridahealthjustice.org b. Miriam Harmatz – Director of Advocacy, harmatz@floridahealthjustice.org c. Lynn Hearn – Senior Attorney, hearn@floridahealthjustice.org National Health Law Program (“NHLP”) North Carolina Office: a. Sarah Grusin – Senior Attorney, grusin@healthlaw.org b. Miriam Heard- Senior Attorney, heard@healthlaw.org c. Amanda Avery- Senior Attorney, avery@healthlaw.org d. Jane Perkins- Litigation Director, Senior Advisor to the Executive Director,

perkins@healthlaw.org 4. Records related to litigation CMS or HHS is currently involved in regarding States' Medicaid redeterminations of recipient eligibility.”

The Office of the General Counsel (OGC) reviewed the 276 pages of responsive records. After a careful review of the requested information, we have found that it is reasonably foreseeable that disclosure would harm an interest protected by one or more of the exemptions to the FOIA's general rule of disclosure and/or that disclosure is prohibited by law; therefore, we have determined to withhold the information in its entirety, pursuant to Exemption of the FOIA (5 U.S.C. §552).

FOIA exemption (b)(5) protects inter-agency or intra-agency memoranda or letters which would not be available by law to a party other than an agency in litigation with the agency. This exemption protects documents that would be covered by any privilege an agency could assert in a civil proceeding. These privileges include, among others, the deliberative process privilege, the attorney-client privilege, and the attorney work-product privilege.

Your request was also sent to several other program areas for search. The Office for Civil Rights (OCR), and The Office of the Chief Information Officer (OCIO) conducted a search and reports there are no records responsive to your request.

While we believe an adequate search of the appropriate files was conducted for the records requested, you have the right to appeal this finding that no responsive records exist within (OCR) or (OCIO). If you believe that the information withheld by (OGC) should not be exempt from disclosure, or this response constitutes an adverse determination, you may appeal. By filing an appeal, you preserve your rights under FOIA and give the agency a chance to review and reconsider your request and the agency's decision.

Please mark the correspondence, “Freedom of Information Act Appeal.” Your appeal must be transmitted within 90 days from the date of receipt of this letter to:

William H. Holzerland
Deputy Agency Chief FOIA Officer
U.S. Department of Health and Human Services
Office of the Assistant Secretary for Public Affairs
HHS.ACFO@hhs.gov

If you choose to mail your appeal, please clearly mark both the envelope and your letter “Freedom of Information Act Appeal.” The mailing address is: Room 729H, 200 Independence Avenue, SW, Washington, DC 20201. Please note the entire office is working remotely and appeals sent by mail may receive delayed receipt dates. If you would like to discuss our response before filing an appeal to attempt to resolve your dispute without going through the appeals process, you may contact the HHS FOIA Public Liaison for assistance at:

HHS FOIA/PA Public Liaison
FOI/Privacy Acts Division
Assistant Secretary for Public Affairs (ASPA)
Office of the Secretary (OS)



DEPARTMENT OF HEALTH & HUMAN SERVICES

Office of the Secretary

Assistant Secretary for Public Affairs
Washington, D.C. 20201

U.S. Department of Health and Human Services (HHS)
200 Independence Avenue, SW, Suite 729H
Washington, DC 20201
Telephone: (202) 690-7453
Fax: (202) 690-8320
E-mail: [HHS FOIA Public Liaison@hhs.gov](mailto:HHS_FOIA_Public_Liaison@hhs.gov)

If you are unable to resolve your FOIA dispute through our FOIA Public Liaison, the Office of Government Information Services (OGIS), the Federal FOIA Ombudsman's office, offers mediation services to help resolve disputes between FOIA requesters and Federal agencies. The contact information for OGIS is:

Office of Government Information Services
National Archives and Records Administration
8601 Adelphi Road-OGIS
College Park, MD 20740-6001
Telephone: 202-741-5770
Toll-Free: 1-877-684-6448
E-mail: ogis@nara.gov
Fax: 202-741-5769

There are no charges in this instance because the billable costs are less than our threshold of \$25.

Sincerely yours,

Nusheen Sikandar

on behalf of Arianne Perkins
Director, Initial FOIA Requests
FOI/Privacy Act Division