

EXHIBIT 2



SIDLEY AUSTIN LLP
1501 K STREET, N.W.
WASHINGTON, D.C. 20005
+1 202 736 8000
+1 202 736 8711 FAX

AMERICA • ASIA PACIFIC • EUROPE

WSARRAILLE@SIDLEY.COM
+1 202 736 8195

December 4, 2018

By Email

Hugh Gilmore
Director, Freedom of Information Group
Centers for Medicare & Medicaid Services
Mailstop N2-20-16-7500
Security Blvd.
Baltimore, MD 21244

Re: FOIA Request

Dear CMS FOIA Office:

Pursuant to the Freedom of Information Act (“FOIA”), 5 U.S.C. § 552, we are requesting that the Centers for Medicare and Medicaid Services (“CMS”) provide copies of the records that are described below.

1. All FOIA requests that CMS has received since November 1, 2018 regarding the proposed CMS rule entitled “*Proposed Rule: Medicare and Medicaid Programs; Policy and Technical Changes to the Medicare Advantage, Medicare Prescription Drug Benefit, Program of All-Inclusive Care for the Elderly (PACE), Medicaid Fee-for-Service, and Medicaid Managed Care Programs for Years 2020 and 2012*” (the “Proposed Rule”). See 83 Fed. Reg. 54,982. This request excludes the FOIA request that I submitted on November 9, 2018 (Request Control No. 110920187047), but it includes, but is not limited to, all other FOIA requests that have been submitted by any other party regarding the Proposed Rule.
2. All records, documents, data, or any other forms of information that CMS has produced or will produce in response to the FOIA requests described in paragraph 1.
3. All data, analyses, and other records regarding any protocol or statistical analysis plan that CMS developed prior to conducting the study described in the Proposed Rule related to the extrapolation and risk adjustment issues addressed in the Proposed Rule.
4. All data, analyses, and other records regarding whether CMS combined data from multiple Comprehensive Error Rate Testing (CERT) audits in developing the Proposed Rule (reference Proposed Rule, Technical Appendix).

SIDLEY

December 4, 2018
Hugh Gilmore
Page 2

5. All data, analyses, and other records regarding how CMS created its subset of CERT data as described in the Proposed Rule (reference Proposed Rule, Technical Appendix).
6. All data, analyses, and other records regarding which specific diagnosis codes were found to be discrepant in CMS' review of its CERT subset (reference Table 2A of the Technical Appendix of the Proposed Rule).
7. All data, analyses, and other records regarding CMS' decision to estimate "beneficiary-level" discrepancy rates (reference Proposed Rule, Executive Summary, footnote 8).
8. All data, analyses, and other records from CMS' prior review of CERT data that was relied upon in connection with the Proposed Rule (reference Proposed Rule, Executive Summary, footnote 8).
9. All data, analyses, and other records regarding the methodologies for the "fifty simulations" described in the Proposed Rule.
10. All data, analyses, and other records regarding the recalculated coefficients resulting from the simulations described in the Proposed Rule.
11. All data, analyses, and other records regarding the normalization methodology described in the Technical Appendix of the Proposed Rule (reference Proposed Rule, Technical Appendix).
12. All data, analyses, and other records regarding how the "MA Sample" mentioned in the Proposed Rule was created (reference Proposed Rule, Technical Appendix).

In order to help you determine our status for the purpose of assessing fees, you should know that we are a private business, and we are seeking information for business purposes. We are willing to pay fees for this request up to a maximum of \$5,000. If you estimate that the fees will exceed this limit, please inform us first. We ask that the requested records be provided in electronic format.

We further ask that this request receive expedited processing. Under the Proposed Rule, comments must be submitted no later than 5:00 pm on December 31, 2018 or they will not be considered. We need the records specified in this FOIA request so that we can prepare comments on the Proposed Rule and submit them by the December 31, 2018 deadline. To do this, we must have the records sufficiently in advance of the deadline so as to review the records, consult with experts, and prepare our comments. Accordingly, we request that you provide all of

SIDLEY

December 4, 2018
Hugh Gilmore
Page 3

the requested records no later than 5:00 pm on December 10, 2018, and to the extent that CMS produces additional documents in response to the other FOIA requests described in paragraph 1 after December 10, 2018, please produce those to us at the same time they are produced to the requestor.

If we do not receive the requested records as soon as possible, it will significantly impact our ability to submit comments in response to the Proposed Rule, and we believe it would be in violation of the Administrative Procedure Act.

If you have any questions about handling this request, you may email me at wsarraille@sidley.com or call me at 202-736-8195. Thank you for your assistance.

Sincerely,

/s/ William A. Sarraille
William A. Sarraille
Partner