EXHIBIT 6

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December 18, 2018

By Email (FOIA_Request@cms.hhs.gov)

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 No. 110920187047

Dear Mr. Gilmore:

We are writing with regard to FOIA Request No. 110920187047 (the "Request"). Yesterday afternoon, we received CMS's "First Interim Response Letter" regarding the Request. Based on our review of the documents that were produced with the letter, it appears that the overwhelming majority, if not all, of the documents are not responsive to the Request.

It is disappointing that, almost at the end of the comment period, we have not received the responsive materials that we have requested. At this point, with the holidays looming and only a very short period left before the comment deadline, our client, Cigna, is irreparably prejudiced in its ability to offer meaningful comment to the Proposed Rule.

We submitted the Request to CMS on November 9, 2018, over five weeks ago. The Request provided multiple examples of responsive categories of documents, *which related directly to CMS's proposed risk adjustment methodology in the Proposed Rule*. These included:

- Records relating to how CMS created a "subset" of CERT data for analysis (see Tech. App'x 6);
- Records providing details regarding the International Classification of Disease codes that were mapped to HHCs (see Fed. Reg. at 55,037);
- The medical records that CMS obtained for the analysis, including those that were reviewed and any that were obtained but not reviewed;
- Records relating to the calculation of "average claims per beneficiary" in the 2004-2005 fee-for-service dataset (see Tech. App'x 5);
- Records relating to the calculation of claim and beneficiary discrepancy rates (see Tech. App'x 6-12);

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- Records relating to the bases for CMS's conclusion that each claim has an independent and equal probability of being unsupported;
- Records relating to the 50 simulations and how they were developed and modeled (see Tech. App'x 15);
- Records relating to the results from each such simulation (see Tech. App'x 15-16);
- Other data and analyses conducted in the course of the Proposed Rule, including data, analyses, or other data sets for other time periods; and
- Other data and analyses that CMS considered in undertaking its review in connection with the Proposed Rule;
- Communications, reports, analyses and other records received from or exchanged with third parties, including (but not limited to) consultants, the Department of Justice, or other parties related to the Proposed Rule.

Moreover, in our November 5, 2018 and November 27, 2018 letters, as well as our subsequent conversations with the agency, we have repeatedly emphasized the urgent need for CMS to provide the requested records so that we can meaningfully comment on CMS's proposed overhaul of the Medicare Advantage risk adjustment process and the related extrapolations proposals.

Despite these requests, CMS's "First Interim Response Letter" and the documents produced with it consist of an irrelevant collection of already public documents on various topics, none of which appear to be related to the Proposed Rule or, more specifically, CMS's proposed risk adjustment methodology. The documents that CMS produced yesterday include:

- A folder of 13 documents that are related to the HEDIS measures (*e.g.*, technical specifications, measure guidelines, user manuals, and appendices);
- Clinical practice guidelines for high blood pressure;
- Two Federal Register Notices;
- The final announcement of Medicare Advantage capitation rates for 2018 (released April 3, 2017);
- The final announcement of Medicare Advantage capitation rates for 2019 (released April 2, 2018);
- Two documents related to the May 31, 2018 technical expert panel on STAR ratings hosted by RAND;
- A FEMA website about disasters; and
- A list of waivers under SSA section 1135 that seem to be related to natural disasters.

None of these documents is even arguably responsive to the Request.

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As noted in the Request, the Proposed Rule purports to rely, among other things, on various data and analyses that the Agency contends support CMS's position. CMS did not disclose these, as they should have, under the Administrative Procedure Act. In order for us to submit substantive comments on the Proposed Rule, we must have access to the complete set of requested records with enough time for us to review, consult with experts, and prepare comments. CMS understood the urgency of the Request when it agreed to give the Request expedited processing; however, in the five weeks that have passed, CMS has produced only one set of irrelevant, non-responsive, already public documents.

By delaying production of the documents that we requested, CMS has significantly compromised our client's ability to comment meaningfully on the rulemaking. Each additional day of delay in producing the complete set of documents that we requested adds to the prejudice and makes the need for an extension of time for interested parties to submit comments all the more apparent. We therefore renew our request for the records that we requested in our November 9, 2018 FOIA Request, as well as the subsequent FOIA requests that we filed on December 4, 2018 and December 13, 2018.

Thank you for your assistance.

Sincerely,

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

cc: Jay K. Olin (James.Olin@cms.hhs.gov)
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