
Fwd: FOIA request - CMS FAQ related to Fees

1 message

----- Forwarded message -----

From: **Alex Shteynshlyuger** <dralex@newyorkurologyspecialists.com>

Date: Mon, Apr 13, 2020 at 12:43 PM

Subject: FOIA request - CMS FAQ related to Fees

To: CMS FOIA Request <FOIA_Request@cms.hhs.gov>

Hello,

Please accept the attached PDF file with my Freedom of information request.

Please **confirm receipt** of this FOIA request by email.

I would prefer to receive the case number and other communications by email. If you have any questions please do not hesitate to contact me.

Sincerely,

Alex Shteynshlyuger MD
Director of Urology

New York Urology Specialists
[33 W. 46th St. 5th Fl](#)
[New York, N.Y. 10036](#)

Phone: 646-663-5252

Fax: 718-285-8555



FOIA_FAQs_4-13-2020-revised-final-signed-combined.pdf

268K



Alex Shteynshlyuger M.D.
Board Certified Urologist

Urology Care for Men and Women

Freedom of Information Act Request

April 13, 2020

Attn: Hugh Gilmore

Director of Division of Freedom of Information, Office of Strategic Operations and Regulatory Affairs
Centers for Medicare & Medicaid Services, Mailstop N2-20-16

7500 Security Boulevard

Baltimore, MD 21244

Via email: FOIA_Request@cms.hhs.gov

Dear Sir/Madam:

Pursuant to the Freedom of Information Act (5 U.S.C. § 552), Alex Shteynshlyuger MD requests that the CMS (Centers of Medicare and Medicaid Services and the Department of Health and Human Services) produce **all records** from **1/1/2015 to 4/10/2020** regarding:

- CMS EFT FAQ FAQ22297 (FAQ 22297)
- CMS FAQ22285 (FAQ 22285)
- CMS FAQ22281 (FAQ 22281)
- CMS FAQ22297 (FAQ 22297)

Please produce all correspondence, memoranda, documents, reports, records, statements, audits, lists of names, applications, diskettes, letters, expense logs and receipts, calendar or diary logs, facsimile logs, telephone records, call sheets, tape recordings, phone call recordings, video/movie recordings, notes, examinations, opinions, folders, files, books, manuals, pamphlets, forms, drawings, charts, photographs, electronic mail, and other documents and things that refer to the above mentioned records in any way.

To aid your search, but not to limit the search in any way, it is my understanding that the following offices at CMS may have responsive records. Please note that additional offices may have responsive records as well:

1. The **office of the CMS Administrator**: Ms. Seema Verma
2. Office of Strategic Operations and Regulatory Affairs - **Kathleen Cantwell, Director**
 - a. https://www.cms.gov/About-CMS/Agency-Information/CMSLeadership/Office_OSORA.html

3. The **Office of Information Technology Program Management and National Standards Group - Cora Tracy, Director**
 - a. https://www.cms.gov/About-CMS/Agency-Information/CMSLeadership/Office_OIT.html

It is my understanding that **the following CMS employees and the staff they supervise have intimate knowledge of the responsive documents**, including those that may be found at other subdivisions at CMS:

1. **Ms. Cora Tracy**, a trained **lawyer**, has intimate knowledge of the responsive documents. Office of Information Technology
2. **Mr. George C. Hoffman**, Office of Information Technology
3. **Mr. Janet Vogel**, Deputy CIO & Deputy Director for Operations
4. **Mr. Scott Shippy** Office of Information Technology
5. **Mr. Madhu Annadata** Office of Information Technology
6. **Ms. Christine Gerhardt** Office of Information Technology
7. **Ms. Kathleen Cantwell** - Office of Strategic Operations and Regulatory Affairs; a trained **lawyer** who understands her FOIA responsibilities
8. **Mr. Rajiv Uppal** - Office of Information Technology
9. **Ms. Seema Verma** – CMS Administrator
10. **Ms. Kimberly Brandt** – CMS Principal Deputy Administrator for Policy & Operations
11. **Ms. Marilyn Tavenner** - CMS Administrator 2011-2015
12. **Mr. Andrew M. Slavitt** – CMS Administrator 2015-2017
13. **Mr. Matthew Albright** – CMS Director and Deputy Director Administrative Simplification Group, Office of Ehealth Standards 2010-2014
14. **Christine Stahlecker** Director, Administrative Simplification Group at CMS 2012-2012

Please note that the materials responsive to this complaint reside **at the national CMS office in Baltimore, Maryland**. This complaint does **NOT** belong in the regional New York office.

If any responsive record or portion thereof is claimed to be exempt from production under FOIA, sufficient identifying information (with respect to each allegedly exempt record or portion thereof) must be provided to allow the assessment of the propriety of the claimed exemption. *Vaugh v. Rosen*, 484 F.2d 820 (D.C. Cir 1973), cert denied, 415 U.S. 977 (1974). Additionally, any reasonably segregable portion of a responsive record must be provided to me after the redaction of any allegedly exempt material, as the law requires. 5 U.S.C. § 552(b).

In order to help to determine my status for purposes of determining the applicability of any fees, you should know that I am a physician and a specialist in health economics with publications in peer-reviewed journals such as: Cost-effectiveness of PSA Screening. **I have been an advocate for**



Alex Shteynshlyuger M.D.
Board Certified Urologist

Urology Care for Men and Women

administrative simplification in healthcare. I am willing to pay fees up to the amount of \$250. If the fees will exceed this amount, please inform me before fees are incurred.

In addition, I would like to **request a fee waiver**:

1. The records are sought for their informative value with respect to specifically identified government operations or activities. CMS has issued decisions that may be contrary to law and publicly stated policies. CMS may have improperly closed complaints and engaged in other corrupt activities. Public examination of these records may shine a light on fraud, abuse, and waste perpetrated and/or abetted by the federal government.
2. The disclosure of these records is likely to **contribute to an understanding of government operations and activities** including possible improper activities. I plan to distribute the information via my website, social media, blog, and interested members of the Media, which include AMA Newswire, Reuters Health, and interested organizations, which include the MGMA (Medical Group Management Association), AMA (American Medical Association) among others.
3. The disclosure will **contribute to public understanding** of the factors involved in the agency's decisions related to electronic transactions. The disclosure is **of interest to the general public**. This issue has been addressed by multiple public organizations including the American Medical Association, which represents close to a million physicians in the United States. Low-cost electronic transactions are in public interest since they lower the cost of healthcare, a major public concern.
4. I have **no significant commercial interest in the disclosure**. The decisions that impair electronic transactions have a marginal cost of less than \$500 per year in gross expenses. In comparison, these **costs amount to hundreds of millions of dollars in unnecessary costs to healthcare providers nationwide that are passed on to the consumers of healthcare services**. Administrative costs account for up to 20% of healthcare insurance premiums in the US, on the order of \$3923 per family per year according to the National Conference of State Legislatures (<http://www.ncsl.org/research/health/health-insurance-premiums.aspx>).

I can be contacted at 718-395-6464 or by email: dralex@newyorkurologyspecialists.com, if necessary to discuss any aspect of this request.

I would prefer to receive the requested information in a **digital format, preferable downloadable via the internet**. I look forward to receiving the requested documents and a full fee waiver within twenty (20) business days.



Alex Shteynshlyuger M.D.
Board Certified Urologist

Urology Care for Men and Women

Sincerely,

 Recoverable Signature

X Alex Shteynshlyuger

Alex Shteynshlyuger MD

Director of Urology

Signed by: d4aa26c7-f0c1-4b84-8cb9-1bcedd7cfccb

New York Urology Specialists

33 W. 46th St. 5th Fl, New York, N.Y. 10036



Regulations & Guidance – HIPAA Administrative Simplification Operating Rules

<https://questions.cms.gov/faq.php?id=5005&rtopic=1851&rsubtopic=8597>

1. How do I, as a provider, get my payments via Electronic Funds Transfer (EFT)?

Health plans are required to deliver your health care claim payments via EFT through the Automated Clearinghouse (ACH) Network upon your request, in accordance with 45 CFR 162.925. This provision states that if an entity requests a health plan to conduct a transaction as a standard transaction, the health plan must do so. The ACH Network, which is administered by NACHA – the Electronic Payments Association, is the network through which the transaction must be sent in accordance with the regulations at 45 CFR 162.1602. Providers are encouraged to contact their health plans to enroll in their individual EFT programs. Operating rules, which were adopted for the HIPAA EFT transaction at 45 CFR 162.1603, include specific rules to support the data elements for EFT enrollment. These operating rules were adopted to make the enrollment for conducting the EFT transaction consistent across all health plans, which was not the case prior to their adoption. To obtain a free copy of the Phase III operating rules, go to the CAQH CORE website at <http://www.CAQH.org> (FAQ22289)

2. What fees may apply to the HIPAA Electronic Funds Transfer (EFT) transaction?

Fees that may apply to a HIPAA EFT transaction for a provider include a banking transaction fee, which is the small charge applied by the provider's bank. According to NACHA – the Electronic Payments Association, the typical bank fee is around \$.34 nationally. If providers contract with vendors for additional "value-added services" such as reassociation with the electronic remittance advice (ERA), they should be aware that other fees may be charged by those vendors. However, providers are not required to contract for these additional services. Value added services may include customer service, 24-hour hotline numbers, consolidation of payments, prompt payments, special output of the remittance advice, and other similar services. Providers and their financial management staff are encouraged to review vendor contracts and agreements, including opt-in/opt-out clauses, and ensure they have a thorough understanding of the value of the additional services and additional costs of the fees that will be assessed. Health plans that function as or use clearinghouses are prohibited from charging fees or costs for normal telecommunications in excess of the fees they incur when they directly transmit or receive a standard transaction, in accordance with 45 CFR 162.925(a)(5). (FAQ22297)

3. Can a health plan require a provider to accept Virtual Credit Card payments?

No. A health plan cannot require a provider to accept virtual credit card payments. In addition, payment vendors contracted by a health plan to conduct payment activities on their behalf are business associates of the health plan and, as such, are also not permitted to require providers to accept virtual credit card payments. A provider has the right to request that a health plan use the Electronic Funds Transfer (EFT) transaction. If a provider makes the request, the health plan must comply, in accordance with 45 CFR 162.925(a). This provision states that if an entity requests a health plan to conduct a transaction as a standard transaction, the health plan must do so. If a provider is concerned that a health plan or its business associate has failed to meet the requirements of the HIPAA regulations, a complaint may be filed through the on-line complaint system at <https://www.cms.gov/Regulations-and-Guidance/Administrative-Simplification/Enforcements/FileaComplaint.html> (FAQ22285)

4. Is the use of virtual credit cards for health care claim payments covered by HIPAA transactions requirements?

No. HHS adopted Electronic Funds Transfer (EFT) standards that apply only to health care claim payments made via EFT through the Automated Clearinghouse (ACH) Network. Virtual credit card payments are made outside of the ACH Network and therefore are not covered by the HIPAA EFT standards. The ACH Network, which is administered by the National Automated Clearing House Association (NACHA), is the processing and delivery system for many EFT. If a provider requests to receive health care claim payments via EFT through the ACH Network, a health plan must comply with that request. Health plans should not charge providers communications fees for the use of the HIPAA EFT transaction, nor should health plans' payment vendors, which are business associates of the health plans, do so. Any fees charged to a provider for an EFT transaction are banking transaction fees, which should be applied only by the provider's financial institution. According to [NACHA](#), these fees are typically around \$.034 per transaction nationally. This amount is current as of 2017 information. (FAQ22281)

5. What fees may apply to the HIPAA Electronic Funds Transfer (EFT) transaction?

Fees that may apply to a HIPAA EFT transaction for a provider include a banking transaction fee, which is the small charge applied by the provider's bank. According to NACHA – the Electronic Payments Association, the typical bank fee is around \$.34 nationally. If providers contract with vendors for additional "value-added services" such as reassociation with the electronic remittance advice (ERA), they should be aware that other fees may be charged by those vendors. However, providers are not required to contract for these additional services. Value added services may include customer service, 24-hour hotline numbers, consolidation of payments, prompt payments, special output of the remittance advice, and other similar services. Providers and their financial management staff are encouraged to review vendor contracts and agreements, including opt-in/opt-out clauses, and ensure they have a thorough understanding of the value of the additional services and additional costs of the fees that will be assessed. Health plans that function as or use clearinghouses are prohibited from charging fees or costs for normal telecommunications in excess of the fees they incur when they directly transmit or receive a standard transaction, in accordance with 45 CFR 162.925(a)(5). (FAQ22297)

6. Can a health plan require a provider to use the health plan's own proprietary Claims Adjustment Reason Code (CARC) and Remittance Advice Remark Code (RARC) combinations?

No. A health plan cannot require a provider to use the health plan's proprietary Claims Adjustment Reason Code (CARC) and Remittance Advice Remark Code (RARC) combinations. All covered entities must comply with the adopted Phase III operating rule requirements, which include specific CARC and RARC combinations to be used in EFT or ERA transactions. Payers are allowed to use (proprietary) combinations of CARCs and RARCs that are not in the CORE Operating rule as long as those combinations do not conflict with or fall within the 4 business scenarios and the combinations allowable under those scenarios.

Suggested changes and/or additional combinations for regular CARCs and RARCs outside of the CORE Rules may be submitted using [the Washington Publishing Company's \(WPC\) change request form](#). These CARC and RARC lists are updated 3 times a year at WPC. However, any change requests for new CARC/RARC combinations allowable under the CORE Rules should be submitted to CAQH-CORE via the yearly Market-Based Adjustment process. These change requests should not be submitted to WPC. (FAQ22301)

7. What should a provider be aware of when updating or reviewing contracts for the HIPAA Electronic Funds Transfer (EFT) transaction?

When updating, renewing, or signing contracts with health plans for any services, including enrolling for EFT transactions, providers should carefully read all of the provisions to identify any additional or unexplained costs associated with special services from health plans, their business associates and sub-contracted vendors. In 2016, the Workgroup for Electronic Data Interchange (WEDI) published a white paper titled [Electronic Payments: Guiding Principles](#) which provides helpful guidance for both health plans and providers regarding language, transparency, and terminology. This document may be useful to covered entities when implementing the HIPAA EFT transaction. (FAQ22385)

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

Request has been assigned: Control Number **041320207068** and PIN **HPZE**

4/13/2020

Alex Shteynshlyuger MD
New York Urology Specialists
33 W. 46th St. 5th Fl.
New York, NY 10036

Dear Dr. Shteynshlyuger,

The purpose of this letter is to acknowledge receipt of your Freedom of Information Act (FOIA) request (5 U.S.C. § 552) and to provide you with a tracking number for your request. Your FOIA request, dated **4/13/2020** was received on **4/13/2020** by the Centers for Medicare & Medicaid Services (CMS). To check the status of your request as it is being processed, please refer to the CMS FOIA website <http://www.cms.gov/apps/FOIA> and enter the control number and PIN (listed above) that have been assigned to your request.

Once we complete our initial analysis of your request, we will initiate a search for responsive records. If however, we determine that your request needs clarification, we will contact you. Additionally, if our searching units advise us that you have requested a voluminous amount of records that require extensive search, production and review, we will contact you to discuss options for narrowing the scope of your request in order to process your request as quickly and efficiently as possible.

Please note that CMS receives a very high volume of FOIA requests. The following unusual circumstances, as defined by Federal FOIA Regulations, may impact our ability to fulfill a FOIA request within 20 business days. These include circumstances such as (1) the request requires us to search for and collect records from multiple components and/or field offices; (2) the request involves a voluminous amount of records that must be located, compiled, transferred to this office, and reviewed. In addition, given our high volume of requests, and in accordance with federal regulations, our processing policy includes factors such as the date of the request as well as the complexity of the request.

The FOIA law assumes that requesters are willing to pay fees up to \$25.00. If estimated fees to process your request exceed \$25.00, we will notify you and may suspend processing until we receive written confirmation that you are willing to pay the estimated fees. Additionally, for requests in which the estimated fees exceed \$250.00, the law authorizes us to collect the fees *in advance* prior to processing the request.

If your request sought a fee waiver or expedited processing, we will send additional communication to provide you with our determination decision(s).

If you are not satisfied with any aspect of the processing and handling of this request, please contact Sybil Anderson.

You also have the right to seek dispute resolution services from:

Joseph Tripline
CMS FOIA Public Liaison
Centers for Medicare & Medicaid Services
7500 Security Blvd., MS N2-20-16
Baltimore, Maryland 21244-1850
Telephone: (410) 786-5353 fax (443)-380-7260

and/or:

Office of Government Information Services
National Archives and 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

Sincerely yours,

A handwritten signature in black ink that reads "Joseph Tripline". The signature is written in a cursive, flowing style.

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

Estimated completion date for FOIA requests

1 message

Alex Shteynshlyuger <dralex@newyorkurologyspecialists.com>
To: CMS FOIA Request <FOIA_Request@cms.hhs.gov>
Bcc: eun@loevy.com

Fri, Aug 14, 2020 at 1:00 PM

Hello,

I would like an update for the **estimated completion date** for the following requests:

- 1) FAQ Removal - Tracking No 041320207068 (PIN: HPZE), submitted on 4/13/2020
- 2) Zelis - Tracking No 050720207010 (PIN: 2MJ), submitted on 5/7/2020
- 3) Fee investigation - Tracking No 051820207004 (PIN: 8GD8), submitted on 5/15/2020
- 4) Vpay Echohealth - Tracking No 061120207021 (PIN:T5SB), submitted on 5/12/2020

Sincerely,

Alex Shteynshlyuger MD
Director of Urology

New York Urology Specialists
[33 W. 46th St. 5th Fl](#)
New York, N.Y. 10036

Estimated completion date for FOIA requests

Alex Shteynshlyuger <dralex@newyorkurologyspecialists.com>
To: CMS FOIA Request <FOIA_Request@cms.hhs.gov>
Bcc: eun@loevy.com

Fri, Aug 14, 2020 at 2:29 PM

Hello,

I think you have significant **confusion** about FOIA requests **041320207068 (PIN: HPZE)** and **042320207001**.

These are **separate** and **non-duplicate** requests. Each addresses different responsive materials.

The theme of FOIA **041320207068** centers on information relevant to **CMS FAQ removal** described in that FOIA request.

The theme of FOIA **042320207001** centers on information related to **Horizon BCBS** electronic transaction complaints.

Please provide the status and estimated date of completion for FOIA **041320207068** as previously requested.

Sincerely,

Alex Shteynshlyuger MD

--

Alex Shteynshlyuger MD
Director of Urology

On Fri, Aug 14, 2020 at 3:13 PM CMS FOIA Request <FOIA_Request@cms.hhs.gov> wrote:

Dear Requester:

Please see the status of the case listed below:

All of the analyst assigned to the cases have been notified of your inquiry.

FAQ Removal - Tracking No 041320207068 (PIN: HPZE), duplicate request to control no: 042320207001

2) Zelis - Tracking No 050720207010 (PIN: 2MJ), Still processing

3) Fee investigation - Tracking No 051820207004 (PIN: 8GD8), Still processing

4) Vpay Echohealth - Tracking No 061120207021 (PIN:T5SB), Still processing

[Quoted text hidden]

Freedom of Information Act Request

May 4, 2020

Attn: Hugh Gilmore

Director of Division of Freedom of Information, Office of Strategic Operations and Regulatory Affairs
Centers for Medicare & Medicaid Services, Mailstop N2-20-16

7500 Security Boulevard

Baltimore, MD 21244

Via email: FOIA_Request@cms.hhs.gov

Dear Sir/Madam:

Pursuant to the Freedom of Information Act (5 U.S.C. § 552), Alex Shteynshlyuger MD requests that the CMS (Centers of Medicare and Medicaid Services and the Department of Health and Human Services) produce **all records** from **1/1/2015 to 5/1/2020** regarding:

- Nixon Peabody
- W. Scott O'Connell
- Parthenon Capital or "Parthenon"
- Bain Capital or "Bain", Bain Capital Ventures
- Kirkland & Ellis
- AKIN GUMP STRAUSS HAUER & FELD
- Julie E. Nolan of AKIN GUMP STRAUSS HAUER & FELD
- Heide Bajnrauh of AKIN GUMP STRAUSS HAUER & FELD
- Todd Tuten of AKIN GUMP STRAUSS HAUER & FELD
- JOHN BOZEMAN & ASSOCIATES
- BOZEMAN, JOHN H of of GEORGIALINK PUBLIC AFFAIRS GROUP
- EDGE IV, ARTHUR B of GEORGIALINK PUBLIC AFFAIRS GROUP
- GEORGIALINK PUBLIC AFFAIRS GROUP
- MARTIN III, JOHN S (TRIP) of GEORGIALINK PUBLIC AFFAIRS GROUP
- FRALICK, LAUREN WILKES of GEORGIALINK PUBLIC AFFAIRS GROUP
- PETTIT III, HUGH BOYD of GEORGIALINK PUBLIC AFFAIRS GROUP
- GRELLER, MATTHEW
- MATTHEW N GRELLER ESQ LLC
- LEWIS, RON E of Ron Lewis & Associates

To aid your search, but not to limit the search in any way, these are some additional search keywords that may help identify responsive materials:

- W. Scott O'Connell, O'Connell, Oconnell
- soconnell@nixonpeabody.com
- Nixon Peabody, nixonpeabody.com
- 617-345-1150, 866-947-1393, 617-345-1000
- parthenoncapital.com
- akingump.com
- 202-887-4203, ttuten@akingump.com, 202-887-4288
- Julie E. Nolan, jnolan@akingump.com, 202-887-4213, 202-887-4288
- Heide Bajnrauh, hbajnrauh@akingump.com, 202-887-4206, 202-887-4288
- (917) 345-0005 matt@mattgreller.com
- georgialink.com, trip@georgialink.com
- Ron Lewis, ronlewis@austin.rr.com, (512)-473-0100

Please produce all correspondence, memoranda, documents, reports, records, statements, audits, lists of names, applications, diskettes, letters, expense logs and receipts, calendar or diary logs, facsimile logs, telephone records, call sheets, tape recordings, phone call recordings, video/movie recordings, notes, examinations, opinions, folders, files, books, manuals, pamphlets, forms, drawings, charts, photographs, electronic mail, and other documents and things that refer to the above mentioned records in any way.

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3. The **Office of Information Technology Program** Management and National Standards Group - **Cora Tracy, Director**
 - a. https://www.cms.gov/About-CMS/Agency-Information/CMSLeadership/Office_OIT.html

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4. **Mr. Scott Shippy** Office of Information Technology
5. **Mr. Madhu Annadata** Office of Information Technology
6. **Ms. Christine Gerhardt** Office of Information Technology
7. **Ms. Kathleen Cantwell** - Office of Strategic Operations and Regulatory Affairs; a trained **lawyer** who understands her FOIA responsibilities
8. **Mr. Rajiv Uppal** - Office of Information Technology
9. **Ms. Seema Verma** – CMS Administrator
10. **Ms. Kimberly Brandt** – CMS Principal Deputy Administrator for Policy & Operations
11. **Ms. Marilyn Tavenner** - CMS Administrator 2011-2015
12. **Mr. Andrew M. Slavitt** – CMS Administrator 2015-2017
13. **Mr. Matthew Albright** – CMS Director and Deputy Director Administrative Simplification Group, Office of Ehealth Standards 2010-2014
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In order to help to determine my status for purposes of determining the applicability of any fees, you should know that I am a physician and a specialist in health economics with publications in peer-reviewed journals such as: Cost-effectiveness of PSA Screening. **I have been an advocate for administrative simplification in healthcare**. I am willing to pay fees up to the amount of \$250. If the fees will exceed this amount, please inform me before fees are incurred.

In addition, I would like to **request a fee waiver**:

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- other corrupt activities. Public examination of these records may shine a light on fraud, abuse, and waste perpetrated and/or abetted by the federal government.
2. The disclosure of these records is likely to **contribute to an understanding of government operations and activities** including possible improper activities. I plan to distribute the information via my website, social media, blog, and interested members of the Media, which include AMA Newswire, Reuters Health, and interested organizations, which include the MGMA (Medical Group Management Association), AMA (American Medical Association) among others.
 3. The disclosure will **contribute to public understanding** of the factors involved in the agency's decisions related to electronic transactions. The disclosure is **of interest to the general public**. This issue has been addressed by multiple public organizations including the American Medical Association, which represents close to a million physicians in the United States. Low-cost electronic transactions are in public interest since they lower the cost of healthcare, a major public concern.
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Sincerely,

 Recoverable Signature

X Alex Shteynshlyuger

Alex Shteynshlyuger MD
Director of Urology
Signed by: d4aa26c7-f0c1-4b84-8cb9-1bcedd7cfccb

New York Urology Specialists

33 W. 46th St. 5th Fl, New York, N.Y. 10036

Fwd: FOIA Request - Nixon Peabody etc

----- Forwarded message -----

From: **CMS FOIA Request** <FOIA_Request@cms.hhs.gov>
Date: Mon, May 4, 2020 at 3:18 PM
Subject: RE: FOIA Request - Nixon Peabody etc
To: Alex Shteynshlyuger <dralex@newyorkurologyspecialists.com>

Good Afternoon,

This request was received and entered for processing, **CTRL# 050420207041 PIN B94C**.

Thank You, and Have a Great & Healthy Day!

From: Alex Shteynshlyuger [<mailto:dralex@newyorkurologyspecialists.com>]
Sent: Monday, May 4, 2020 2:22 PM
To: CMS FOIA Request <FOIA_Request@cms.hhs.gov>
Subject: FOIA Request - Nixon Peabody etc

Hello,

Please accept the attached PDF file with my Freedom of information request.

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I would **prefer to receive the case number and other communications by email**. If you have any questions please do not hesitate to contact me.


Sincerely,

Alex Shteynshlyuger MD
Director of Urology

New York Urology Specialists
[33 W. 46th St. 5th Fl](#)
[New York, N.Y. 10036](#)

Phone: 646-663-5252

Fax: 718-285-8555

 **FOIA_5-4-2020-Nixon-Peabody.pdf**
222K

Fwd: 050420207041

On Fri, May 8, 2020 at 9:05 AM Davis, Doris A. (CMS/OSORA) <Doris.Davis@cms.hhs.gov> wrote:

Dear Requester:

Please see the attached letter related to you FOIA request.

Thank you,

Doris Davis

Government Information Specialist

📞 410.786.5915 ✉️ doris.davis@cms.hhs.gov

7500 Security Blvd., C5-11-18/Mailstop C5-11-06
Baltimore, MD 21244-1850

Centers for Medicare & Medicaid Services (CMS)

Office of Strategic Operations & Regulatory Affairs
(OSORA),

Division of FOIA Analysis – A


If you need to speak with someone regarding a pending FOIA request, please contact the coordinator assigned the request submitted. The contact name and phone number of the coordinator can be located on the acknowledgement letter forwarded by our office.

For answers to general FOIA related questions, please visit our web-based FOIA Service Center at <http://www.cms.gov/center/freedom-of>

Exhibit 7

information-act-center.html.

To check the status of your existing FOIA request with your CMS FOIA Control and Pin, go to <http://www.cms.gov/apps/FOIA/>.

 FOIA_5-15-2020-Nixon-Peabody-revised-clarification-5-20-2020.pdf
227K

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 050420207041 and PIN B94C

5/5/2020

Alex Shteynshlyuger MD
New York Urology Specialists
33 W. 46th St. 5th Fl
New York NY 10036

Dear Mr. Shteynshlyuger:

I am responding to your 5/4/2020 Freedom of Information Act (FOIA) request, which was addressed to the Centers for Medicare and Medicaid Services (CMS), or one of our agency's Medicare contractors. This letter is to obtain clarification regarding the subject matter of your FOIA request. We are unable to ascertain from your request which particular agency records you wish to obtain. Specifically, you requested that the Centers of Medicare and Medicaid Services and the Department of Health and Human Services produce all records from 1/1/2015 to 5/1/2020 regarding. Please specify the subject matter regarding these emails.

Nixon Peabody
W. Scott O'Connell
Parthenon Capital or "Parthenon"
Bain Capital or "Bain", Bain Capital Ventures
Kirkland & Ellis
Akin Gump Strauss Hauer & Feld
Julie E. Nolan of Akin Gump Strauss Hauer & Feld
Heide Bajnrauh of Akin Gump Strauss Hauer & Feld
Todd Tuten of Akin Gump Strauss Hauer & Feld
John Bozeman & Associates
Bozeman, John H of Georgialink Public Affairs Group
Edge IV, Arthur B of Georgialink Public Affairs Group
Georgialink Public Affairs Group
Martin III, John S (TRIP) of Georgialink Public Affairs Group
Fralick, Lauren Wilkes of Georgialink Public Affairs Group
Pettit III, Hugh Boyd of Georgialink Public Affairs Group
Greller, Matthew
Matthew N Greller Esq. LLC
Lewis, Ron E of Ron Lewis & Associates

The FOIA allows the public to request access to "reasonably described" existing agency records (subject to any applicable FOIA exemptions to disclosure), rather than simply information. This means you must describe the category of records you are seeking or the actual document(s), and provide sufficient details to permit a search with reasonable effort, utilizing existing indices and search tools. Unfortunately, you have not described the records with enough specificity to allow us to continue with the processing of your request.

At this time, we have placed your request in "tolled" status. Therefore, please clarify and describe the records you are seeking, by writing to our office at the above address. After you further advise us what records you are seeking, we can begin to process your FOIA request.

If you have not contacted our office within 10 business days from the date of this letter, your request will be administratively closed.

Thank you for your time and cooperation in this matter.

Sincerely yours,

A handwritten signature in black ink that reads "Joseph Tripline". The signature is written in a cursive, flowing style.

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

Fwd: 050420207041

----- Forwarded message -----

From: **Alex Shteynshlyuger** <dralex@newyorkurologyspecialists.com>
Date: Wed, May 20, 2020 at 12:25 PM
Subject: Re: 050420207041
To: Davis, Doris A. (CMS/OSORA) <Doris.Davis@cms.hhs.gov>

Dear Doris,

I am enclosing a revised version with clarification of the records that I am seeking. Please let me know if you have any other questions.

Sincerely,
Alex Shteynshlyuger MD

--

Alex Shteynshlyuger MD
Director of Urology

On Fri, May 8, 2020 at 9:05 AM Davis, Doris A. (CMS/OSORA) <Doris.Davis@cms.hhs.gov> wrote:

Dear Requester:

Please see the attached letter related to you FOIA request.

Thank you,

Doris Davis

Government Information Specialist

📞 410.786.5915 ✉ doris.davis@cms.hhs.gov

7500 Security Blvd., C5-11-18/Mailstop C5-11-06
Baltimore, MD 21244-1850

Centers for Medicare & Medicaid Services (CMS)

Office of Strategic Operations & Regulatory Affairs
(OSORA),

Division of FOIA Analysis – A


If you need to speak with someone regarding a pending FOIA request, please contact the coordinator assigned the request submitted. The contact name and phone number of the coordinator can be located on the acknowledgement letter forwarded by our office.

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Exhibit 8

[information-act-center.html](#).

To check the status of your existing FOIA request with your CMS FOIA Control and Pin, go to <http://www.cms.gov/apps/FOIA/>.

 FOIA_5-15-2020-Nixon-Peabody-revised-clarification-5-20-2020.pdf
227K

Freedom of Information Act Request

May 4, 2020

Attn: Hugh Gilmore

Director of Division of Freedom of Information, Office of Strategic Operations and Regulatory Affairs
Centers for Medicare & Medicaid Services, Mailstop N2-20-16

7500 Security Boulevard

Baltimore, MD 21244

Via email: FOIA_Request@cms.hhs.gov

Dear Sir/Madam:

Pursuant to the Freedom of Information Act (5 U.S.C. § 552), Alex Shteynshlyuger MD requests that the CMS (Centers of Medicare and Medicaid Services and the Department of Health and Human Services) produce **all records** from **1/1/2015 to 5/1/2020** regarding **(1) HIPAA administrative simplification requirements including but not limited to 45 CFR Parts 160, 162, and 164; (2) fees and costs of electronic transactions including but not limited to ERA (electronic remittance advice), EFT (electronic funds transfer), credit cards, virtual payment cards, prepaid cards and debit cards, checks, (3) electronic transactions including but not limited to ERA, EFT, electronic attachments, 835 transactions, 270/271 eligibility and benefit verification transactions, claim submissions, (4) Any aspects of HIPAA administrative simplification requirements including but not limited standard transactions, fees for standard transactions, enforcement of CMS regulations, guidance, payment methods, telecommunication fees**, that involve the following:

- Nixon Peabody
- W. Scott O'Connell
- Parthenon Capital or "Parthenon"
- Bain Capital or "Bain", Bain Capital Ventures
- Kirkland & Ellis
- AKIN GUMP STRAUSS HAUER & FELD
- Julie E. Nolan of AKIN GUMP STRAUSS HAUER & FELD
- Heide Bajnrauh of AKIN GUMP STRAUSS HAUER & FELD
- Todd Tuten of AKIN GUMP STRAUSS HAUER & FELD
- JOHN BOZEMAN & ASSOCIATES
- BOZEMAN, JOHN H of of GEORGIALINK PUBLIC AFFAIRS GROUP
- EDGE IV, ARTHUR B of GEORGIALINK PUBLIC AFFAIRS GROUP
- GEORGIALINK PUBLIC AFFAIRS GROUP
- MARTIN III, JOHN S (TRIP) of GEORGIALINK PUBLIC AFFAIRS GROUP
- FRALICK, LAUREN WILKES of GEORGIALINK PUBLIC AFFAIRS GROUP

- PETTIT III, HUGH BOYD of GEORGIALINK PUBLIC AFFAIRS GROUP
- GRELLER, MATTHEW
- MATTHEW N GRELLER ESQ LLC
- LEWIS, RON E of Ron Lewis & Associates

To aid your search, but not to limit the search in any way, these are some additional search keywords that may help identify responsive materials:

- W. Scott O'Connell, O'Connell, Oconnell
- soconnell@nixonpeabody.com
- Nixon Peabody, nixonpeabody.com
- 617-345-1150, 866-947-1393, 617-345-1000
- parthenoncapital.com
- akingump.com
- 202-887-4203, ttuten@akingump.com, 202-887-4288
- Julie E. Nolan, jnolan@akingump.com, 202-887-4213, 202-887-4288
- Heide Bajnrauh, hbajnrauh@akingump.com, 202-887-4206, 202-887-.4288
- (917) 345-0005 matt@mattgreller.com
- georgialink.com, trip@georgialink.com
- Ron Lewis, ronlewis@austin.rr.com, (512)-473-0100

Please produce all correspondence, memoranda, documents, reports, records, statements, audits, lists of names, applications, diskettes, letters, expense logs and receipts, calendar or diary logs, facsimile logs, telephone records, call sheets, tape recordings, phone call recordings, video/movie recordings, notes, examinations, opinions, folders, files, books, manuals, pamphlets, forms, drawings, charts, photographs, electronic mail, and other documents and things that refer to the above mentioned records in any way.

To aid your search, but not to limit the search in any way, it is my understanding that the following offices at CMS may have responsive records. Please note that additional offices may have responsive records as well:

1. The **office of the CMS Administrator**: Ms. Seema Verma
2. Office of Strategic Operations and Regulatory Affairs - **Kathleen Cantwell, Director**
 - a. https://www.cms.gov/About-CMS/Agency-Information/CMSLeadership/Office_OSORA.html
3. The **Office of Information Technology Program** Management and National Standards Group - **Cora Tracy, Director**

- a. https://www.cms.gov/About-CMS/Agency-Information/CMSLeadership/Office_OIT.html

It is my understanding that **the following CMS employees and the staff they supervise have intimate knowledge of the responsive documents**, including those that may be found at other subdivisions at CMS:

1. **Ms. Cora Tracy**, a trained **lawyer**, has intimate knowledge of the responsive documents. Office of Information Technology
2. **Mr. George C. Hoffman**, Office of Information Technology
3. **Mr. Janet Vogel**, Deputy CIO & Deputy Director for Operations
4. **Mr. Scott Shippy** Office of Information Technology
5. **Mr. Madhu Annadata** Office of Information Technology
6. **Ms. Christine Gerhardt** Office of Information Technology
7. **Ms. Kathleen Cantwell** - Office of Strategic Operations and Regulatory Affairs; a trained **lawyer** who understands her FOIA responsibilities
8. **Mr. Rajiv Uppal** - Office of Information Technology
9. **Ms. Seema Verma** – CMS Administrator
10. **Ms. Kimberly Brandt** – CMS Principal Deputy Administrator for Policy & Operations
11. **Ms. Marilyn Tavenner** - CMS Administrator 2011-2015
12. **Mr. Andrew M. Slavitt** – CMS Administrator 2015-2017
13. **Mr. Matthew Albright** – CMS Director and Deputy Director Administrative Simplification Group, Office of Ehealth Standards 2010-2014
14. **Christine Stahlecker** Director, Administrative Simplification Group at CMS 2012-2012

Please note that the materials responsive to this complaint reside **at the national CMS office in Baltimore, Maryland**. This complaint does **NOT** belong in the regional New York office.

If any responsive record or portion thereof is claimed to be exempt from production under FOIA, sufficient identifying information (with respect to each allegedly exempt record or portion thereof) must be provided to allow the assessment of the propriety of the claimed exemption. *Vaughn v. Rosen*, 484 F.2d 820 (D.C. Cir 1973), cert denied, 415 U.S. 977 (1974). Additionally, any reasonably segregable portion of a responsive record must be provided to me after the redaction of any allegedly exempt material, as the law requires. 5 U.S.C. § 552(b).

In order to help to determine my status for purposes of determining the applicability of any fees, you should know that I am a physician and a specialist in health economics with publications in peer-reviewed journals such as: Cost-effectiveness of PSA Screening. **I have been an advocate for administrative simplification in healthcare**. I am willing to pay fees up to the amount of \$250. If the fees will exceed this amount, please inform me before fees are incurred.

In addition, I would like to **request a fee waiver**:

1. The records are sought for their informative value with respect to specifically identified government operations or activities. CMS has issued decisions that may be contrary to law and publicly stated policies. CMS may have improperly closed complaints and engaged in other corrupt activities. Public examination of these records may shine a light on fraud, abuse, and waste perpetrated and/or abetted by the federal government.
2. The disclosure of these records is likely to **contribute to an understanding of government operations and activities** including possible improper activities. I plan to distribute the information via my website, social media, blog, and interested members of the Media, which include AMA Newswire, Reuters Health, and interested organizations, which include the MGMA (Medical Group Management Association), AMA (American Medical Association) among others.
3. The disclosure will **contribute to public understanding** of the factors involved in the agency's decisions related to electronic transactions. The disclosure is **of interest to the general public**. This issue has been addressed by multiple public organizations including the American Medical Association, which represents close to a million physicians in the United States. Low-cost electronic transactions are in public interest since they lower the cost of healthcare, a major public concern.
4. I have **no significant commercial interest in the disclosure**. The decisions that impair electronic transactions have a marginal cost of less than \$500 per year in gross expenses. In comparison, these **costs amount to hundreds of millions of dollars in unnecessary costs to healthcare providers nationwide that are passed on to the consumers of healthcare services**. Administrative costs account for up to 20% of healthcare insurance premiums in the US, on the order of \$3923 per family per year according to the National Conference of State Legislatures (<http://www.ncsl.org/research/health/health-insurance-premiums.aspx>).

I can be contacted at 718-395-6464 or by email: dralex@newyorkurologyspecialists.com, if necessary to discuss any aspect of this request.

I would prefer to receive the requested information in a **digital format, preferable downloadable via the internet**. I look forward to receiving the requested documents and a full fee waiver within twenty (20) business days.

Sincerely,



Alex Shteynshlyuger M.D.
Board Certified Urologist

Urology Care for Men and Women

X

Alex Shteynshlyuger MD
Director of Urology

New York Urology Specialists

33 W. 46th St. 5th Fl, New York, N.Y. 10036

Re: 050420207041 - estimated date of completion

1 message

Alex Shteynshlyuger <dralex@newyorkurologyspecialists.com>
To: "Davis, Doris A. (CMS/OSORA)" <Doris.Davis@cms.hhs.gov>, CMS FOIA Request <FOIA_Request@cms.hhs.gov>
Bcc: eun@loevy.com

Fri, Aug 14, 2020 at 1:12 PM

Dear Doris,

I would like to confirm that you **received and processed** the revised version of the FOIA request #050420207041 (PIN: B94C) with clarification of the records that I am seeking that I submitted to you on May 20, 2020.

In addition, I would like to know the estimated date of completion of this FOIA request (050420207041).

Sincerely,

Alex Shteynshlyuger MD
Director of Urology

New York Urology Specialists
33 W. 46th St. 5th Fl
New York, N.Y. 10036

On Wed, May 20, 2020 at 12:25 PM Alex Shteynshlyuger <dralex@newyorkurologyspecialists.com> wrote:
Dear Doris,

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Sincerely,
Alex Shteynshlyuger MD

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Alex Shteynshlyuger MD
Director of Urology

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Dear Requester:

Please see the attached letter related to you FOIA request.

Thank you,

Doris Davis

Government Information Specialist

📞 410.786.5915 ✉️ doris.davis@cms.hhs.gov

7500 Security Blvd., C5-11-18/Mailstop C5-11-06
Baltimore, MD 21244-1850

Centers for Medicare & Medicaid Services (CMS)

Office of Strategic Operations & Regulatory Affairs
(OSORA),

Division of FOIA Analysis – A

Exhibit 9

If you need to speak with someone regarding a pending FOIA request, please contact the coordinator assigned the request submitted. The contact name and phone number of the coordinator can be located on the acknowledgement letter forwarded by our office.

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To check the status of your existing FOIA request with your CMS FOIA Control and Pin, go to <http://www.cms.gov/apps/FOIA/>.

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 050420207041 and PIN B94C

8/17/2020

Alex Shteynshlyuger MD
New York Urology Specialists
33 W. 46th St. 5th Fl
New York, NY 10036

Dear Mr. Shteynshlyuger:

This letter is in response to your Freedom of Information Act (5 U.S.C. §552) request of 05/04/2020, which you sent to the Centers for Medicare & Medicaid Services. Within your revised correspondence, you requested documents pertaining to CMS fees and electronic occurrences. After a search of CMS Baltimore Office files, that office located documents that were responsive to your request and forwarded the documents to me because of my responsibility under the FOIA.

After careful consideration of the documents submitted to me, a total of 28 pages, I am releasing these pages to you, as enclosed. Nineteen pages are being released to you in their entirety, without deletions. Also, nine pages are being released, in part, with redactions under Exemptions (b)(4) & (b)(6) of the FOIA (5 U.S.C. § 552(b)(4) (b)(6)).

Exemption 5 of the FOIA protects “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 an agency.” More specifically, we are withholding this information because it contains inter-agency and intra-agency information that is pre-decisional

Exemption 6 of the FOIA permits a Federal agency to withhold information contained 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 (which the Supreme Court has held to be limited in this context to the public interest that would be served by shedding light in the agency’s performance of its statutory duties) against the harm to the privacy of the individuals identified in these records and have concluded that the privacy interest of the subject individuals outweighs the public interest in disclosure in this particular matter.

If you believe that the information withheld 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.

Your appeal must be mailed within 90 days from the date of receipt of this letter, to:

Principal Deputy Administrator
Centers for Medicare and Medicaid Services
Room C5-16-03
7500 Security Blvd.
Baltimore, Maryland 21244-1850

Please clearly mark both the envelope and your letter "Freedom of Information Act Appeal."

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 Jason Mastropaolo OR the HHS FOIA Public Liaison for assistance at:

Joseph Tripline
CMS FOIA Public Liaison
Centers for Medicare & Medicaid Services
7500 Security Boulevard, Room N2-20-16
Baltimore, MD 21244

E-mail: FOIA_Request@cms.hhs.gov
Telephone: (410) 786-5362

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

Sincerely yours,

A handwritten signature in black ink that reads "Joseph Tripline". The signature is written in a cursive, flowing style.

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

Enclosure (s)