IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

AMERICANS FOR PROSPERITY FOUNDATION

Plaintiff,

v.

CENTERS FOR MEDICARE & MEDICAID SERVICES

Defendant.

COMPLAINT EXHIBIT 1

United States Senate
COMMITTEE ON FINANCE
WASHINGTON, DC 20510–6200

March 1, 2019

VIA ELECTRONIC TRANSMISSION

The Honorable Seema Verma
Administrator
Centers for Medicare and Medicaid Services

Dear Administrator Verma:

Section 1903(u) of the Social Security Act requires, except in certain limited cases, that the federal government recoup Medicaid eligibility-related improper payments in excess of three percent made by states. A series of disturbing reports by the Department of Health and Human Services Office of the Inspector General (HHS OIG) and the Louisiana Auditor General suggest that the government needs to do more to uphold Section 1903(u) and safeguard the integrity of the Medicaid program.

Collectively, the fifty-six Medicaid programs in our states and territories make up one of the largest health insurance programs in the developed world, covering an estimated 97 million individuals in 2018, including an average of 76 million in any given month. It represents a considerable investment on behalf of the American taxpayer with an anticipated $7.8 trillion in spending over the next decade, of which approximately $4.8 trillion will be paid by the federal government. To maintain public confidence in such a large commitment of national resources, it is essential to ensure these dollars are spent as Congress intended—namely, to provide specified health and long-term care services for low-income Americans, with a historical focus on the aged, disabled, children, and families.

Unfortunately, throughout its history, governmental efforts to ensure Medicaid payments are spent prudently have fallen short. In 2018, the rolling national Medicaid improper payment rate was 9.79 percent.[1] This stunning error rate actually represented an improvement upon the prior year, which itself was an improvement upon 2016. For context, Medicaid often makes more erroneous payments than Congress appropriates for the entire budget of the National Institutes of Health.[2]

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[1] Centers for Medicare and Medicaid Services, *Payment Error Rate Measurement Program (PERM) Medicaid Improper Payment Rates*, https://www.cms.gov/Research-Statistics-Data-and-Systems/Monitoring-Programs/Medicaid-and-CHIP-Compliance/PERM/Downloads/2018PERMMedicaidImproperPaymentRates.pdf.

[2] NIH spending was $37.31 billion for 2018. *See* National Institutes of Health, *History of Congressional Appropriations, Fiscal Years 2000-2018*, https://officeofbudget.od.nih.gov/pdfs/FY19/Approp%20History%20by%20IC%20FY%202000%20-%20FY%202018.pdf; Office of Management and Budget, *Historical Tables*, https://www.whitehouse.gov/omb/historical-tables/; Congressional Budget Office, *Medicaid—CBO's April 2018 Baseline*, https://www.cbo.gov/system/files?file=2018-06/51301-2018-04-medicaid.pdf

Section 1903(u) of the Social Security Act requires the government to "make no payment for such period or fiscal year with respect to so much of erroneous excess payments as exceed such allowable [eligibility] error rate of 0.03," but CMS determined more than twenty years ago to focus "on prospective improvements in eligibility determinations rather than disallowances" and there have been no efforts made to recoup payments since 1992.[3] In fact, on July 5, 2017, CMS finalized a rule on the Medicaid Eligibility Quality Control and Payment Error Rate Measurement (PERM) programs that specifies efforts to actually recoup funding in compliance with Section 1903(u) will not even *begin* until next year, and even then only in limited circumstances when a state has failed to even make vaguely defined "good faith" efforts to improve eligibility determinations. Finally, in the exceptional circumstance when a state does not make a "good faith" effort to improve eligibility determinations, CMS has indicated it will at most pursue disallowances in one out of every three years.[4]

The apparent lack of effort in recouping misspent federal money is problematic. Recent reviews by HHS OIG of beneficiaries made newly eligible by the Patient Protection and Affordable Care Act (P.L. 111-148, as amended), also known as Obamacare, found more than seven percent of beneficiaries were potentially ineligible in Kentucky,[5] more than 25 percent were potentially ineligible in California,[6] and more than 30 percent were potentially ineligible in New York.[7] In Louisiana, a state Department of Health audit found an astounding 82 percent of recipients ineligible in a random sample.[8]

Diligent federal oversight and legitimate threats of enforcement and disallowances like those specified under Section 1903(u) are essential in Medicaid because the statutory funding mechanism naturally reduces incentives for states to pursue rigorous program integrity efforts. For every dollar saved by states on traditional beneficiaries, the states on average only get to

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[3] Federal Register, *Changes to the Medicaid Eligibility Quality Control and Payment Error Rate Measurement Programs in Response to the Affordable Care Act,* Vol. 82, No. 127 at 31160, https://www.govinfo.gov/content/pkg/FR-2017-07-05/pdf/2017-13710.pdf

[4] *Id.* at 31177. *Comment:* One commenter requested clarification for whether payment reductions and disallowances would also be applied to the years between PERM cycles for a state whose last PERM eligibility improper payment rate was above the 3 percent threshold, and that state failed to demonstrate a good faith effort.
Response: The disallowance of FFP for states whose PERM eligibility improper payment rate is over the 3 percent threshold and who fail to demonstrate a good faith effort applies to each state only in the state's PERM year. Although this rate remains frozen until the state's next PERM eligibility improper payment rate, the disallowance will not be extended to the 2 years between a state's PERM years. For clarification purposes, we have added language to § 431.1010(a)(2) to specifically state the period of payment reduction/disallowance.

[5] Department of Health and Human Services Office of the Inspector General, *Kentucky Did Not Correctly Determine Medicaid Eligibility For Some Newly Enrolled Beneficiaries*, Report No. A-04-15-08044 (May 2017), https://oig.hhs.gov/oas/reports/region4/41508044.pdf

[6] Department of Health and Human Services Office of the Inspector General, *California Made Medicaid Payments on Behalf of Newly Eligible Beneficiaries Who Did Not Meet Federal and State Requirements*, Report No. A-09-16-02023 (February 2018), https://oig.hhs.gov/oas/reports/region9/91602023RIB.pdf

[7] Department of Health and Human Services Office of the Inspector General, *New York Did Not Correctly Determine Medicaid Eligibility For Some Newly Enrolled Beneficiaries*, Report No. A-02-15-01015 (January 2018), https://oig.hhs.gov/oas/reports/region2/21501015.pdf

[8] Louisiana Department of Health Medicaid Audit Unit, *Medicaid Eligibility: Wage Verification Process of the Expansion Population* (November 8, 2018), https://lla.la.gov/PublicReports.nsf/1CDD30D9C8286082862583400065E5F6/$FILE/0001ABC3.pdf

keep 43 cents.[9] For reducing one dollar on waste, fraud, or legitimate errors in the expansion population made eligible by Obamacare, the states save only 7 cents (10 cents starting in 2020).[10] Furthermore, if states accidentally enroll an individual as an expansion enrollee instead of a traditional enrollee, states are perversely, and significantly, rewarded for their error, unless the federal government subsequently takes action to recoup those mistakenly paid funds.

Our offices would like to work with you on our shared goal of ensuring that the government complies with the intent and plain language of Section 1903(u) of the Social Security Act by discouraging systematic and routine errors in Medicaid eligibility determinations by states. We believe that CMS' past actions have ignored its requirements under the law and are concerned that the July 5, 2017 final rule will perpetuate many of the weaknesses that characterized the previous enforcement regime. Accordingly, please provide answers to the following questions by March 15, 2019:

1. Has CMS attempted to recoup any improper payments related to erroneous eligibility determinations under Section 1903(u) of the Social Security Act since 1992? If so, please identify the overpayment amount and the recoveries by state and year.

2. What are the state by state Medicaid eligibility error rates since the PERM program began tracking this metric in 2008?

3. What are the state by state Medicaid eligibility error rates for traditional eligibility pathways versus the newly eligible pathway created by the Patient Protection and Affordable Care Act since the expansion in 2014?

4. What additional statutory authorities would be beneficial for the purpose of enforcing Section 1903(u)?

Thank you for your attention to these important matters. Should you have questions, please contact Josh Flynn-Brown of Chairman Grassley's Committee staff at 202-224-4515 or Theo Merkel of Senator Toomey's staff at 202-224-4254.

Sincerely,

Charles E. Grassley
Chairman
Committee on Finance

Patrick J. Toomey
Chairman, Subcommittee on Health Care
Committee on Finance

[9] Medicaid and CHIP Payment and Access Commission, *Matching Rates*, https://www.macpac.gov/subtopic/matching-rates/
[10] *Id.*

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AMERICANS FOR PROSPERITY FOUNDATION

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Defendant.

COMPLAINT EXHIBIT 2

United States Senate
WASHINGTON, DC 20510

December 22, 2020

The Honorable Seema Verma
Administrator
Centers for Medicare and Medicaid Services
200 Independence Avenue, S.W.
Washington, DC 20201

Dear Administrator Verma:

Over the last several years, we have highlighted areas where the Medicaid program is plagued by waste, abuse, and misspending.[1] On November 16, 2020, the Centers for Medicare and Medicaid Services (CMS) reported its annual improper payment rates to Congress.[2] This report validated our prior concerns regarding the rapid growth of Medicaid abuse and misspending following the passage and implementation of Obamacare.

In its report, CMS estimated that $86.49 billion, or more than 21 percent of Medicaid payments were improper in fiscal year 2020.[3] This compares to $57.36 billion (14.9 percent) in Fiscal Year 2019 - a 50.8 percent increase. As with prior years, the report confirmed that the dramatic increases of improper payments are mostly due to insufficient documentation to verify eligibility and income, or non-compliance with eligibility redetermination requirements.[4] This improper payment estimate includes eligibility audits for only two-thirds of states. According to recent reports, a complete accounting of the entire program would reveal an improper payment rate closer to 27 percent, or more than $100 billion in improper federal Medicaid spending.[5]

Unfortunately, these same issues have plagued Medicaid for some time. For example, a 2019 report demonstrated the widespread problems in Medicaid expansion states like California, Kentucky, New Mexico, New York, and West Virginia.[6] In total, it was estimated that between

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[1] *See, e.g.,* Letter from Sen. Ron Johnson, Chairman, S. Comm. on Homeland Sec. & Governmental Affairs, to Hon. Seema Verma, Admin'r, Ctr. For Medicare and Medicaid Serv. (Jun. 26, 2019), https://www.hsgac.senate.gov/imo/media/doc/2019-06-25%20RHJ%20to%20CMS%20re%20Medicaid%20Program%20Integrity%20One-Year%20Anniversary.pdf.

[2] CENTER FOR MEDICARE AND MEDICAID SERVICES, Newsroom, *2020 Estimated Improper Payment Rates for Center for Medicare and Medicaid Services (CMS) Programs* (Nov. 16, 2020), https://www.cms.gov/newsroom/fact-sheets/2020-estimated-improper-payment-rates-centers-medicare-medicaid-services-cms-programs.

[3] *Id.*

[4] *Id.*

[5] Brian Blasé, *Medicaid is Hemorrhaging $100B on Americans Ineligible for the Program*, NY Post (Nov. 28, 2020, 1:01 PM), https://nypost.com/2020/11/28/medicaid-hemorrhaging-100b-on-americans-ineligible-for-the-program/.

[6] Brian Blase and Aaron Yelowitz, *Why Obama Stopped Auditing Medicaid*, Wall Street Journal (Nov. 18, 2020, 7:05 PM), https://www.wsj.com/articles/why-obama-stopped-auditing-medicaid-11574121931.

2.3 million and 3.3 million people in Medicaid expansion states have income above the eligibility thresholds.[7] The authors warned that within the Medicaid expansion states, there are disturbing hotspots, such as New York City and Los Angeles, where "the problem appears so large that it suggests purposeful and fraudulent abuse on the part of local officials and the medical industry."[8]

As the authors noted, Obamacare "created an incentive for states to view the Medicaid expansion population as a cash cow."[9] Additionally, by canceling eligibility audits for four years, CMS removed the oversight necessary for states to administer Medicaid "responsibly or lawfully."[10] The result of Medicaid expansion without proper accountability is staggering: Medicaid's improper payment rates have more than tripled—from 6 percent to at least 21 percent—since the expansion of Medicaid under Obamacare in 2014.[11]

The magnitude of improper payments amplifies and reinforces the problems in the Medicaid program. Unfortunately, CMS has not taken steps to increase accountability, including withdrawing certain proposed corrective efforts and never completing others. This inaction has left Medicaid perpetually vulnerable to fraud and misuse and threatens the viability of the program for Americans truly in need.[12] To better understanding how CMS is ensuring accountability in the Medicaid program, please provide the following information and material:

1. Please provide the improper payment rates, including the eligibility component of the rate, for all 50 states and the District of Columbia. This means the estimated improper payment rate by state for the one-third of states reviewed in 2017, the one-third of states reviewed in 2018, and the one-third of states reviewed in 2019.

2. In areas where there is an above average level of improper Medicaid spending, please explain what actions that CMS has taken to date to ensure that only people who meet eligibility requirements are enrolled in the program. Separately, please describe what CMS plans to do in the future to ensure that only people who meet eligibility requirements are enrolled in the program.

3. Please describe what steps, if any, that CMS has taken to recover the more than $143 billion of improper Medicaid payments identified by the 2019 and 2020 reports. Please provide the actions CMS has taken or plans to take to ensure corrective action in states where there is an above average level of Medicaid improper payments.

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[7] *Id.*
[8] *Id.*
[9] *Id.*
[10] *Id.*, *see also, e.g.*, RHJ 2019 letter.
[11] *Id.*
[12] Administrator Seema Verma (@SeemaCMS), Twitter (Sep. 14, 2020, 3:45 PM), https://twitter.com/SeemaCMS/status/1305608634165010443.

4. On February 12, 2020, you wrote that some estimates of the fiscal impact from the Medicaid Fiscal Accountability Rule were alarmist and overblown.[13] However, in your announcement that the rule would be withdrawn, you noted concerns raised by state and provider partners about potential unintended consequences of the proposed rule that required further study.[14] Please explain the potential unintended consequences and the factors that changed CMS' position on the rule.

Please provide this material as soon as possible but no later than 5:00 p.m. on January 6, 2020. Thank you for your attention to this matter.

Respectfully,

Ron Johnson
United States Senator

Rand Paul, M.D.
United States Senator

James M. Inhofe
United States Senator

James Lankford
United States Senator

Mike Braun
United States Senator

Cindy Hyde-Smith
United States Senator

[13] CENTER FOR MEDICARE AND MEDICAID SERVICES, Blog, *2020 Medicaid Fiscal Integrity: Protecting Taxpayers and Patients* (Feb. 12, 2020), https://www.cms.gov/blog/medicaid-fiscal-integrity-protecting-taxpayers-and-patients.
[14] *Supra* note 11.

Rick Scott
United States Senator

Marsha Blackburn
United States Senator

Mike Lee
United States Senator

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COMPLAINT EXHIBIT 3

AMERICANS FOR PROSPERITY FOUNDATION

May 21, 2021

VIA E-MAIL

FOIA Officer
Centers for Medicare & Medicaid Services
FOIA Office Service Center
7500 Security Blvd
Baltimore, Maryland 21244
E-mail: FOIA_Request@cms.hhs.gov

Re: Freedom of Information Act Request

Dear FOIA Officer:

I write on behalf of Americans for Prosperity Foundation ("AFPF"), a 501(c)(3) nonpartisan organization dedicated to educating and training Americans to be courageous advocates for the ideas, principles, and policies of a free and open society.[1] As part of its mission to educate the public, AFPF pursues government transparency via records requests. Pursuant to the Freedom of Information Act ("FOIA"), 5 U.S.C. § 552, AFPF requests all records reflecting[2]:

1. CMS recovery efforts for the $143 billion of improper Medicaid payments identified in the 2019 and 2020 "Estimated Improper Payment Rates for Centers for Medicare & Medicaid Services (CMS) Programs" Fact Sheets.[3] The time period for this request item is January 1, 2019, to the present. [4]

2. CMS recovery efforts for improper payments related to erroneous eligibility determinations under Section 1903(u) of the Social Security Act. Responsive records

[1] *See* AMS. FOR PROSPERITY FOUND., www.americansforprosperityfoundation.org (last visited May 19, 2021).

[2] For purposes of this request, the term "record" means any medium of information storage in the form and format maintained by the agency at the time of the request. If any portion of a "record," so defined, is responsive to AFPF's request, then the agency should process and disclose the record in its entirety. If the agency considers a medium of information storage to contain multiple records that can be segmented on the basis of the subject-matter or scope of AFPF's request, AFPF explicitly seeks access to those separate "records" as well. They should not be treated as "non-responsive."

[3] *See* CENTERS FOR MEDICARE & MEDICAID SERVICES, 2020 ESTIMATED IMPROPER PAYMENT RATES FOR CENTERS FOR MEDICARE & MEDICAID SERVICES (CMS) PROGRAMS (Nov. 16, 2020), *available at* https://go.cms.gov/3bG6iAt and CENTERS FOR MEDICARE & MEDICAID SERVICES, 2019 ESTIMATED IMPROPER PAYMENT RATES FOR CENTERS FOR MEDICARE & MEDICAID SERVICES (CMS) PROGRAMS (Nov. 18, 2019), *available at* https://go.cms.gov/3bX4gfJ.

[4] For purposes of this request, the term "present" should be construed as the date on which the agency begins its search for responsive records. *See Pub. Citizen v. Dep't of State*, 276 F.3d 634 (D.C. Cir. 2002).

should include the overpayment amount and the recoveries by state and year. The time period for this request item is January 1, 2019, to the present.

3. Medicaid improper payment rates for all 50 states and the District of Columbia between 2012 and 2020.[5] The time period for this request item is January 1, 2012, to the present.

4. State Medicaid eligibility error rates for all 50 states and the District of Columbia between 2012 and 2020.[6] The time period for this request item is January 1, 2012, to the present.

5. Communications between CMS and states regarding efforts to recover Medicaid improper payments from January 1, 2019 to the present.

6. CMS's responses, and all internal and external communications regarding CMS's responses, to a March 11, 2019 letter[7] from Senators Toomey and Grassley and a December 22, 2020 letter[8] from Senator Ron Johnson regarding Medicaid improper payments and recovery efforts. The time period for this request is March 11, 2019, to January 19, 2021.

For the purposes of this request, please omit daily news clippings or other mass mailings unless there is commentary related to them. For all items of this request, if the agency uncovers responsive email records, AFPF's request specifically seeks the entirety of any email chain, any portion of which contains an individual email message responsive to this request, *i.e.*, the entire email chain is responsive. If the agency identifies responsive records that it deems outside its legal control (*e.g.*, congressional records), AFPF requests that the agency inform AFPF that such records exist.

Request for a Public Interest Fee Waiver

AFPF requests a waiver of any and all applicable fees. The FOIA and applicable regulations provide that the agency shall furnish requested records without or at reduced charge if "disclosure of the information is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government and is not primarily in the commercial interest of the requester."[9]

In this case, the requested records unquestionably shed light on the "operations or activities of the government" as they relate to efforts by CMS to recover improperly spent taxpayer dollars,

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[5] Please note that AFPF does not seek records reflecting the blended or combined rates for multiple states known as cohorts, but rather the specific improper payment rate for each state (*e.g.*, Georgia's improper payment rate is x.x%).

[6] *Id.*

[7] SENATOR PAT TOOMEY, TOOMEY, GRASSLEY SLAM 27 YEARS OF IMPROPER MEDICAID PAYMENTS (Mar. 11, 2019), *available at* https://bit.ly/33YFYO0.

[8] SENATOR RON JOHNSON, JOHNSON, SENATORS SEND LETTER TO CMS RAISING ALARM OVER GROWING MEDICAID IMPROPER PAYMENTS (Dec. 22, 2020), *available at* https://bit.ly/3f1A1pN.

[9] 5 U.S.C. § 552(a)(4)(A)(iii); *see also Cause of Action v. Fed. Trade Comm'n*, 799 F.3d 1108, 1115–19 (D.C. Cir. 2015) (discussing proper application of public-interest fee waiver test).

which is required by law.[10] Responsive records will significantly contribute to public understanding because, to date, CMS has released neither improper payment rates by state nor full evidence of its attempts to recover improper payments.

AFPF intends to educate the public with the results of this FOIA request. It has the intent and ability to make those results available to a reasonably broad public audience through various media. Its staff has significant experience and relevant expertise; AFPF professionals will analyze responsive records, if any, use their editorial skills to turn raw materials into a distinct work, and share the resulting analysis with the public. AFPF is a non-profit organization as defined under Section 501(c)(3) of the Internal Revenue Code, and it has no commercial interest in making this request.

Request to Be Classified as a Representative of the News Media

In addition to a public interest fee waiver, AFPF requests that it be classified as a "representative of the news media" for fee purposes.[11] As the D.C. Circuit has explained, the "representative of the news media" test is properly focused on the requestor, not the specific FOIA request at issue.[12] AFPF satisfies this test because it gathers information of potential interest to a segment of the public, uses its editorial skills to turn raw materials into a distinct work, and distributes that work to an audience. Although not required, AFPF gathers the news it publishes from a variety of sources. It does not merely make raw information available to the public, but distributes distinct work product, including press releases, blog posts, reports, and other informative materials.[13] These distinct works are distributed to the public through various online outlets, such as websites, Twitter, and Facebook. The statutory definition of a "representative of the news media" contemplates that organizations such as AFPF, which electronically disseminate information and publications via "alternative media[,] shall be considered to be news-media entities."[14]

Record Production and Contact Information

In an effort to facilitate document review, please provide the responsive documents in electronic form, preferably in their native format, in lieu of a paper production. If a certain portion of responsive records can be produced more readily, AFPF requests that those records be produced first and the remaining records be produced on a rolling basis as circumstances permit.

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[10] *See, e.g.*, 42 U.S.C. § 1396b.

[11] 38 U.S.C. § 1.561(b)(7).

[12] *See Cause of Action*, 799 F.3d at 1121.

[13] *See, e.g.*, *Government documents reveal Export-Import Bank fails to protect taxpayers … again*, AMS. FOR PROSPERITY (Oct. 30, 2020), *available at* https://bit.ly/3hD09Jn; *NEW REPORT: Public Records Show Kansas Government Arbitrarily Chose Which Businesses Could Stay Open Amid Pandemic*, AMS. FOR PROSPERITY (July 21, 2020), *available at* https://bit.ly/3tOM5Pn; AMS. FOR PROSPERITY FOUND., GONE IN AN INSTANT: HOW INSTANT MESSAGING THREATENS THE FREEDOM OF INFORMATION ACT (Mar. 16, 2020), *available at* https://bit.ly/2zQOEKI.

[14] 5 U.S.C. § 552(a)(4)(A)(ii)(II).

If you have any questions about this request, please contact me by telephone at (571) 329-4234 or by email at KSchmidt@AFPhq.org. Thank you for your attention to this matter.

Kevin Schmidt

KEVIN SCHMIDT
DIRECTOR OF INVESTIGATIONS

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

AMERICANS FOR PROSPERITY FOUNDATION

Plaintiff,

v.

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Defendant.

COMPLAINT EXHIBIT 4

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: **052120217034** and PIN: **BQF5**

RE: Medicaid Overpayment

6/1/2021

Kevin Schmidt
Americans for Prosperity Foundation
1310 North Courthouse Road, 7th Floor
Arlington, VA 22201

Dear Mr. Schmidt:

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 **5/21/2021** was received on **5/21/2021** 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 Breita Gillard at 410-786-5126.

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,

Jeffery Wallace

Jeffery Wallace
Director, Division of Analysis - B
Freedom of Information Group