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# FOIA APPEAL

MUCKROCK NEWS
DEPT MR 176810
263 HUNTINGTON AVE
BOSTON, MA 02115

CENTERS FOR MEDICARE & MEDICAID SERVICES
FOIA OFFICE
7500 SECURITY BLVD
BALTIMORE MD 21244-1850

January 2, 2025

This is a follow up to a previous request:

On January 2, 2025, David Medeiros, founder of ABI Resources, escalated a legal complaint against CMS and HHS for systemic failures to comply with FOIA, ADA, and whistleblower protection laws. The complaint highlights the agencies' inability to respond to a November 23, 2024 FOIA request concerning Medicaid oversight, ADA enforcement, and whistleblower protections. Violations include untimely responses, failure to provide ADA-compliant formats, lack of transparency, and withholding critical records without justification. Medeiros demands immediate disclosure of records, ADA-compliant communications, and expedited processing to address public interest concerns. He also calls for audits, accountability for responsible personnel, and independent investigations into systemic mismanagement. If non-compliance persists, he plans to pursue administrative complaints, litigation, and public advocacy to ensure transparency, equitable access, and accountability in government oversight.

Date: January 2, 2025
01/02/2025

Subject: Escalated Legal Complaint and Appeal Addressing Systemic Failures in Medicaid Oversight, ADA Non-Compliance, and Whistleblower Protections
Recipients

Federal Agencies
Centers for Medicare & Medicaid Services (CMS)

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Xavier Becerra, Secretary
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CC

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Kristen Clarke, Assistant Attorney General, Civil Rights Division
Merrick B. Garland, U.S. Attorney General
Congressional Oversight Committees
Complaint Summary

This complaint arises from CMS's and HHS's failure to respond appropriately to a FOIA request submitted on November 23, 2024, regarding ADA enforcement, Medicaid oversight, and whistleblower protections. The agencies' delays, lack of accommodations, and failure to provide requested records constitute violations of the Freedom of Information Act (FOIA) (5 U.S.C. § 552), ADA (42 U.S.C. § 12132), and the Whistleblower Protection Act (5 U.S.C. § 2302(b)(8)). These systemic failures also infringe upon constitutional rights under the First, Fifth, and Fourteenth Amendments.

Violations
1. FOIA Non-Compliance
Failure to Respond Within Statutory Deadlines:

CMS and HHS have not provided a timely response within 20 business days as required under 5 U.S.C. § 552(a)(6)(A).
Failure to Process Expedited Requests:

Despite compelling public interest and urgency, expedited processing was not granted under 5 U.S.C. § 552(a)(6)(E).
Non-Disclosure of Records:

CMS and HHS failed to provide any responsive records or a Vaughn Index detailing reasons for withholding under 5 U.S.C. § 552(b).
Improper Delegation and Lack of Coordination:

Communication logs show inadequate inter-agency coordination, leading to procedural delays and lack of accountability.
2. ADA Violations
Failure to Provide Accommodations:

Agencies ignored explicit requests for ADA-compliant formats (e.g., screen-reader-compatible PDFs) and plain-text summaries in violation of 28 C.F.R. § 35.160.
Discrimination Against Persons with Disabilities:

CMS and HHS failed to ensure equitable access to information, breaching Title II of the ADA (42 U.S.C. § 12132) and Section 504 of the Rehabilitation Act (29 U.S.C. § 794).
3. Whistleblower Retaliation
Suppression of Transparency:

By withholding records, agencies obstruct whistleblower protections and accountability under the Whistleblower Protection Act (5 U.S.C. § 2302(b)(8)).
Systemic Obstruction:

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These delays appear to protect systemic failures in Medicaid oversight, risking further harm to vulnerable populations.
4. Constitutional Violations
First Amendment:

Suppressing access to public records infringes upon rights to petition the government and engage in oversight.
Fifth and Fourteenth Amendments:

Procedural delays and denial of ADA accommodations violate due process and equal protection guarantees.
Requested Corrective Actions
1. FOIA Compliance
Immediate Disclosure:

Fulfill all requests outlined in the FOIA submission dated November 23, 2024, including inter-agency communications, ADA policies, Medicaid oversight audits, and whistleblower protections.
Vaughn Index:

Provide detailed justifications for withheld records, citing specific FOIA exemptions under 5 U.S.C. § 552(b).
Timely Updates:

Submit a processing timeline with milestones for partial and complete disclosures.
2. ADA Compliance
Accessible Formats:
Ensure all documents are delivered in screen-reader-compatible formats.
Simplified Summaries:
Provide plain-language summaries of all complex records for ease of comprehension.
MuckRock Platform Use:
Route all communications through the requested platform to ensure accessibility and compliance.

3. Oversight and Accountability
Identification of Responsible Personnel:
Disclose names, titles, and contact information of all individuals involved in processing this request.
Audit and Investigation:
Initiate independent audits of FOIA practices and ADA compliance by GAO and HHS OIG.

4. Expedited Processing
Urgent Action:
Address this request under expedited processing due to public interest and constitutional rights concerns.
Legal Basis for Escalation
Statutes and Regulations
Freedom of Information Act (5 U.S.C. § 552)

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Mandates timely and transparent disclosure of records, with exemptions narrowly construed.
Americans with Disabilities Act (42 U.S.C. § 12132)

Requires government agencies to ensure equitable access for individuals with disabilities.
Whistleblower Protection Act (5 U.S.C. § 2302(b)(8))

Protects individuals exposing agency misconduct from retaliation or suppression.
Executive Order 13392

Requires agencies to improve FOIA responsiveness and transparency.
Constitutional Violations
First Amendment

Guarantees the right to access government-held information critical to public oversight.
Fifth and Fourteenth Amendments

Require due process and equal treatment, including access to public records and accommodations for disabilities.
Judicial Precedents
Tennessee v. Lane (2004): ADA requires government entities to ensure accessibility for individuals with disabilities.
Al-Fayed v. CIA (2001): Public interest and urgency justify expedited FOIA processing.
Consequences for Continued Non-Compliance
Administrative Remedies
Formal Complaints:
File complaints with HHS OCR, DOJ OIG, and GAO regarding FOIA and ADA violations.
Judicial Action
Litigation:
Pursue legal action to enforce disclosure under 5 U.S.C. § 552(a)(4)(B) and ADA under 42 U.S.C. § 12133.
Public Advocacy
Media Engagement:
Expose systemic failures in Medicaid oversight and government transparency through advocacy and press.

Conclusion
This appeal demands immediate corrective action to enforce compliance with FOIA, ADA, and whistleblower protections. The requested records and accommodations are essential to addressing systemic failures, safeguarding taxpayer accountability, and protecting constitutional rights.

Sincerely,
David Medeiros
Founder, ABI Resources

CC List
Oversight and Enforcement Entities

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Christi A. Grimm, HHS Inspector General
Kristen Clarke, Assistant Attorney General, Civil Rights Division
Merrick Garland, U.S. Attorney General
Congressional Committees
House Committee on Oversight and Accountability
Senate Committee on Homeland Security and Governmental Affairs

ADA Accommodations Request
This request includes explicit ADA accommodations to address cognitive processing challenges resulting from my traumatic brain injury (TBI). These accommodations are legally required under Title II of the ADA (42 U.S.C. § 12132) and Section 504 of the Rehabilitation Act (29 U.S.C. § 794).

Requested ADA Accommodations
To ensure accessibility and compliance with ADA standards (42 U.S.C. § 12101 et seq.), I request the following accommodations for all communications and records:

Screen-Reader Compatible Formats

All documents must be provided in properly labeled PDFs or plain-text files.
Ensure the documents are screen-reader compatible and retain clear formatting.
Exclusive MuckRock Platform Communication

All communications must occur via the MuckRock platform.
Do not send external links, emails, portals, passwords, codes, or require phone calls for access.
Text Embedded in Email Bodies

Key information must be embedded directly in the email body to facilitate comprehension.
Simplified Summaries

Provide plain-language summaries for complex or legal documents to ensure clarity.
Identification of Responsible Officers

Include the full name, title, and contact information of all responsible officers handling this request.
Non-Negotiable Compliance
These accommodations are non-negotiable and are essential for ensuring equal access to information. Any failure to provide the requested accommodations may constitute a violation of the ADA and the Rehabilitation Act. Thank you for ensuring compliance and accessibility in addressing this request.

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CC:

William Tong, Attorney General of Connecticut
Andrea Barton Reeves, Commissioner, DSS
Alina M. Semo, Director, OGIS
Aundra Luckey, Chief, FOIA/PA Branch, DOJ
CMS and OCR Leadership

Sincerely,
David Medeiros
Founder, ABI Resources

CC: Congressional Oversight Committees, DOJ Civil Rights Division, OGIS, and relevant stakeholders.
Copies To:

Office of the Attorney General, Connecticut
Connecticut Department of Social Services
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Sincerely,
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https://x.com/ABIresources/status/1866212331279339765
https://www.youtube.com/@ABI.RESOURCES-CT-ABI-MFP-CARE/videos?view=0&sort=dd&shelf_id=2

Reference: OPM ID # 24-85 A-2025-00307 FCC-FOIA-2025-000358-A FIC 2024-0683 R000748-102524 2025-F-01035 R000354-102024 R000737-102024 AD2414036 A-2025-00351 2025-00027-A-PHS A-2025-00395 2025-00434-FOIA-OS A-2025-00393 OPM ID # 24-83 A-2025-00393 2025-00446-FOIA-PHS A-2025-00399 A-2025-00392 25-00142-FOIA PRI-25-023 2025-00032-A-PHS 110620247022 24-86 AD2414644 R000770-110424 2025-F-01651 A-2025-00467 A-2025-00401 2025-00481-FOIA-PHS 112020247009 112020247039 2025-00024-A-OS A-2025-00420 25-00044-F A-2025-00069 A-2025-00469 OPM ID# 24-88 & 89 2025-00638-FOIA-OS AP-2025-001 FOIA-2025-00562 FOIA-2025-00563 EMRUFOIA111524 F-2025-03523 2025-00574-FOIA-PHS 145-FOI-21320 OPM ID #24-94 25-OIG-177 FOIA-2025-01054 FOIA-2025-01052 EMRUFOIA120324-7 FOIA-2025-01053 OPM ID #24-95 FOIA-2025-01056 EMRUFOIA120324-7 FOIA-2025-01055 FOIA-2025-01057 R005487-120324 2025-01079-FOIA-PHS 2025-01078-FOIA-PHS FOIA-2025-056 PRI-25-045 FOIA-2025-01060 FOIA-2025-01059 FOIA-2025-060 FOIA-2025-01203 EMRUFOIA121324 #FOIA-2025-063 11034 539330-JBZ, 539298-RJM, 534659-XGL, 534094-QZH, 534069-BRQ, 534060-HWM, 533252-GXC, 535276-FSL, 532832-MJV, 532674-QMM, 532671-PPV, 532667-DRF, 523966-VSF, 497211-PFB, 490797-TJJ, 489456-MCB, 490814-TPF, 490215-DKH, 478957-DPX, 478956-NSD, 473045-JNW, 452335-DDT, 413343-FZP, 405540-ZXW, 397760-PRZ, 395050-TWW, 392179-NCW, 385105-BPN, 376153-JVL, 357494-WND, 354718-LTZ, 275528-PKR, 301882-TRG, 327008-WFC, 339860-FQG, 352533-WJH.6779 7959 17303 17304 3033 5282 14733 6577 10 10527 3519 28368 8560 63 3814 4923 4126 6612 4809 4850 35673 74 239 4850 3519 166 10661 14578 239 3033 4923 166 4850 6779 14733 3519 166 4850 10661 14578 3033 4923 166 6779 4850 166 3519 152 4121 10661 74 3033 239 5282 4850 14733 4923 4850 6612 4923 10672 63 6959 115 35673 10661 239 74 6779 3033 239 4923 166 3519 3033 14578 35673 166 4297 14 3519 5123 287 35673 14 59 3519 287 14733 4809 23077 4923 74 4735 4850 2667 3519 796 59 166 856 22238 35673 14 10835 3033 239 4297 3519 14733 796 3519 856 35673 22005 5123 59 4923 3033 239 14733 166 4297 3519 35673 5123 59 3124 14578 7683 74 10661 3033 239 7982 14587 2667 4121 287 129 11109 856 3519 59 2667 35673 22238 2667 11034: Commission on Fiscal Stability and Economic Growth 6779: Connecticut Commission on Human Rights and Opportunities 7959: Senate Office of Public Records 17303: Republican State Central Committee Of Connecticut 17304: Connecticut House Of Representatives 3033: Centers for Medicare and Medicaid Services 5282: Office of the State Comptroller 14733: Office Of Policy And Management 6577: Office of State Ethics 10: Federal Bureau of Investigation 10527: Federal Communications Commission Office of the Inspector General 3519:

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Department of Justice, Civil Rights Division 28368: Department Of Labor 8560: Department of Public Health - Medical Examining Board 63: Department of Labor 3814: Department of Consumer Protection 4923: Department of Social Services 4126: Department of Economic and Community Development 6612: Department of Public Health 4809: Office of the Governor 4850: Office of the Attorney General - Connecticut 35673: Department Of Justice 74: Department of Health and Human Services 239: Department of Health and Human Services, Centers for Medicare & Medicaid Services 166: Department of Justice, Disability Rights Division 10661: Department of Health and Human Services Office of Inspector General 14578: Department Of Health And Human Services, Office For Civil Rights 152: Centers for Disease Control and Prevention 4121: Government Accountability Office 10672: Department of Labor, Wage and Hour Division 6959: Department of Justice, Office of Justice Programs 115: Department of Justice, Criminal Division 4297: Department of Justice, Civil Division 14: U.S. Department of State 5123: Director, Office of Information Policy 287: Office of Government Information Services 59: Department of Justice, Office of Information Policy 23077: CT Freedom Of Information Agency 4735: Department of State, Office of the Inspector General 2667: Office of Special Counsel 796: Department of Justice, Office of the Inspector General 856: Department of Justice, Office of the Attorney General 22238: U.S. Department Of Justice 10835: Department of Health and Human Services 22005: Department Of Justice Office Of Administration 3124: Department of Health 7683: U.S. Department of Health and Human Services, Health Resources and Services Administration 7982: Office of Special Counsel, Office of General Counsel [APPEALS] 14587: Office Of The Special Counsel Of Robert Mueller 129: National Archives and Records Administration 11109: Office of the Attorney General for the District of Columbia OPM FCC FIC DOJ DOL DSS CMS HHS CDC GAO OSC OIG PHS DPH DOT DOGE Department of Government Efficiency CHRO FOIA FOIC
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