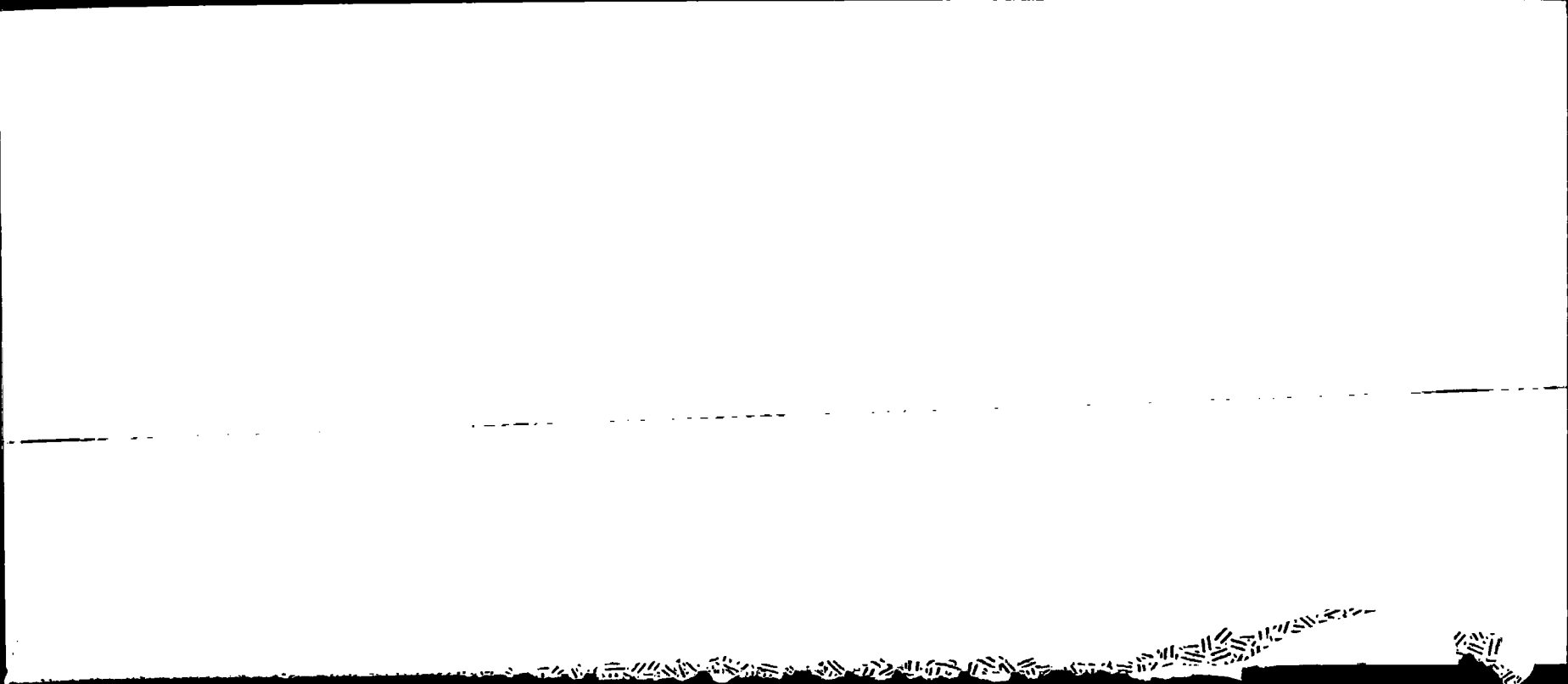


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CENTERS FOR MEDICARE & MEDICAID SERVICES
FOIA OFFICE
7500 SECURITY BLVD
BALTIMORE MD 21244-1850

December 2, 2024

This is a follow up to a previous request:

Date: 12/02/2024
Complainant: David Medeiros, Founder, ABI Resources, LLC

Subject: FOIA Appeal: Non-Compliance and Delay Regarding Request for Records on Medicaid Billing Actions, ADA Compliance, and Retaliation
Summary of Appeal
This appeal addresses the failure of the Centers for Medicare and Medicaid Services (CMS) and associated agencies to provide a timely, comprehensive, and legally compliant response to my Freedom of Information Act (FOIA) request dated 11/13/2024, which pertains to critical records on Medicaid billing actions, ADA compliance, and retaliation against ABI Resources, LLC following my December 18, 2023, whistleblower report.

The records sought are essential for transparency, accountability, and verification of compliance with FOIA (5 U.S.C. § 552), ADA (42 U.S.C. § 12132), and federal whistleblower protection laws. CMS and related agencies have failed to meet their statutory obligations for timely response, accessibility accommodations, and comprehensive disclosure.

Grounds for Appeal
1. Failure to Respond Within Statutory Timelines
FOIA Compliance: FOIA mandates a response or determination within 20 business days under 5 U.S.C. § 552(a)(6)(A). As of today, 12/02/2024, CMS and other agencies have failed to fulfill this obligation.
Expedited Processing: Despite requesting expedited processing under 5 U.S.C. § 552(a)(6)(E) due to imminent public interest and risks of retaliatory actions, no such processing or justification for delays has been provided.
2. Failure to Provide ADA-Compliant Accommodations
ADA Violations: CMS and other agencies have ignored my explicit request for email-only communication and screen-reader-compatible formats, violating Title II of the ADA (42 U.S.C. § 12132) and 28 C.F.R. § 35.160.
Non-compliance with ADA requirements constitutes unlawful exclusion from public processes and creates barriers for me as a person with disabilities.
3. Omission and Denial of Records
Partial or incomplete responses violate FOIA's transparency mandate. Agencies must provide full disclosure or detailed statutory justification for any redactions or withheld records under 5 U.S.C. § 552(b).
Agencies failed to address key requested items, including documentation of Sandata EVV Ticket #539494, records of retaliatory actions, and communications on ADA compliance failures.

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4. Violations of Whistleblower Protections
Federal Whistleblower Protection Laws prohibit retaliation against individuals who report agency misconduct. The absence of transparency around billing suspensions, premature ticket closures, and program changes suggests retaliatory motives against ABI Resources and myself.
Requested Actions
Immediate Disclosure of Records

Provide all requested records in full, unredacted form, including communications, directives, meeting notes, and investigative reports concerning:
Sandata EVV Ticket #539494
Retaliatory actions against ABI Resources following the December 18, 2023, whistleblower report.
ADA compliance failures and related accommodation requests.
Medicaid billing restrictions and program changes impacting ABI Resources.
Full ADA Compliance in Response

Ensure all records are provided in screen-reader-compatible PDFs with simplified summaries as needed.
Respond exclusively via email, embedding direct text in the email body alongside PDF attachments.
Identification of Responsible Personnel

Include the names, titles, and contact information of all individuals processing my FOIA request, including decision-makers and supervisory officers from CMS and other agencies.
Detailed Justification for Redactions or Withheld Records

Provide specific statutory citations and explanations for each instance of withheld or redacted information, per 5 U.S.C. § 552(b).
Expedited Resolution and Processing

Grant expedited processing per the criteria under 5 U.S.C. § 552(a)(6)(E), with priority given to public interest concerns and risks to vulnerable populations.
Assurances Against Retaliation

Confirm in writing that no retaliatory actions have been taken or will be taken against ABI Resources or myself, in accordance with federal whistleblower protection laws.
Applicable Legal Frameworks and Protections
Freedom of Information Act (5 U.S.C. § 552)
Guarantees public access to government records and mandates timely response and full disclosure unless exemptions apply.
Requires detailed justifications for any redactions or denials under statutory exemptions.
Americans with Disabilities Act (42 U.S.C. § 12132)
Prohibits discrimination against individuals with disabilities by public entities and requires reasonable accommodations for accessibility.
Whistleblower Protection Act
Prohibits retaliation against individuals who report misconduct or systemic failures within federally funded programs.
Constitutional Violations

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First Amendment: Denial of records and transparency infringes on my right to petition the government for redress.
Fifth Amendment: Procedural barriers and denials violate my due process rights.
Fourteenth Amendment: Exclusion based on disability violates the Equal Protection Clause.
Escalation Path and Next Steps
If CMS and other agencies fail to address this appeal within the statutory timeframe or fail to meet their obligations under FOIA and ADA laws, I will:

File a formal complaint with the Office of Government Information Services (OGIS).
Pursue legal remedies under FOIA and ADA statutes to compel compliance.
Engage media and advocacy organizations to highlight systemic failures and ensure accountability.
Conclusion
This appeal seeks full compliance with FOIA and ADA requirements, along with protections against retaliation, to uphold transparency and ensure justice. I look forward to your immediate response and full cooperation.

Sincerely,
David Medeiros
Founder, ABI Resources, LLC
DB.42.131.Inf.

CC:

Xavier Becerra, Secretary, Department of Health and Human Services
Chiquita Brooks-LaSure, Administrator, CMS
Lisa J. Pino, Director, Office for Civil Rights, HHS
Kristen Clarke, Assistant Attorney General, Civil Rights Division, DOJ
Delphine O'Rourke, Acting FOIA Officer, CMS
General Counsel, Office of Special Counsel

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On Nov. 13, 2024:
Subject: Freedom of Information Act Request: Records on Medicaid Billing Actions, ADA Compliance, and Retaliation Against ABI Resources LLC Ticket #539494 Following December 18, 2023, Whistleblower Report (Centers for Medicare and Medicaid Services)
To Whom It May Concern:

Pursuant to the Freedom of Information Act, I hereby request the following records:

Comprehensive FOIA Request for Records on Medicaid Billing Actions, ADA Compliance, and Retaliation Against ABI Resources, LLC Following December 18, 2023, Whistleblower Report

Subject: Comprehensive FOIA Request for Records on Medicaid Billing Actions, ADA Compliance, and Retaliation Against ABI Resources, LLC Following December 18, 2023, Whistleblower Report
To:

FOIA Officer, Centers for Medicare & Medicaid Services (CMS)
FOIA Officer, Office for Civil Rights (OCR), U.S. Department of Health and Human Services (HHS)
FOIA Officer, Civil Rights Division, U.S. Department of Justice (DOJ)
FOIA Officer, Office of Special Counsel (OSC)
FOIA Officer, Connecticut Department of Social Services (DSS)
FOIA Officer, Office of Inspector General (OIG), Department of Health and Human Services (HHS)
Summary of FOIA Request
This FOIA request demands comprehensive documentation regarding retaliatory actions, ADA non-compliance, and procedural violations by the Connecticut Department of Social Services (DSS) and the Centers for Medicare & Medicaid Services (CMS) following a whistleblower report submitted by David Medeiros, founder of ABI Resources, LLC, on December 18, 2023. It further seeks records held by federal oversight agencies on related actions, communications, and decisions.

Purpose of Request
This request seeks complete, unredacted records to establish evidence of:

Retaliatory Actions: Impacts on ABI Resources, including Medicaid billing restrictions, program changes, and ticket closures.
ADA Non-Compliance: Documenting any failures by DSS, CMS, and associated entities in providing accessible communication for David Medeiros.

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FOIA Procedural Violations: Highlighting instances of partial responses and unsupported denials of relevant records.
Scope of Records Sought
The records requested cover December 1, 2023, to present. This scope includes, but is not limited to, emails, text messages, digital communications, internal memoranda, directives, meeting notes, attachments, drafts, and related working documents across all relevant departments, divisions, or offices.

1. Medicaid Billing Suspension and Sandata EVV Ticket #539494 (CMS and DSS)
Comprehensive Communications and Directives: Full records (emails, memos, reports, directives, attachments, text messages) from DSS, CMS, and Sandata Technologies concerning Medicaid billing privileges for ABI Resources, LLC, including names and roles of those involved in discussions and approvals.

Complete Documentation of Sandata EVV Ticket #539494: All records associated with Ticket #539494, including:

Initial ticket details, problem descriptions, resolution requests, and follow-ups.
Communications detailing each stage of the ticket's handling, the reason for marking it "resolved," and personnel involved in closing it.
2. Retaliatory Actions Following December 18, 2023, Whistleblower Report (DSS, CMS, DOJ, OSC)
Internal and External Correspondence: All records, including emails, directives, text messages, memos, and meeting notes, discussing the whistleblower report filed on December 18, 2023, including responses, assessments, and any retaliatory actions considered or taken against ABI Resources.

Documentation of Investigative Actions: All documentation related to any investigations launched in response to the whistleblower complaint, identifying personnel involved, findings, and any recommendations or disciplinary actions.

3. ADA Compliance Documentation and Accommodation Requests (OCR, DOJ, DSS, CMS)
ADA Accommodation Requests: All records concerning ADA accommodations requested by David Medeiros and ABI Resources, with full documentation of responses, denials, and any internal discussions on ADA compliance obligations.

ADA Compliance Policies and Internal Guidelines: Copies of internal policies, training materials, and guidelines used by DSS and CMS related to ADA compliance, particularly on communication accessibility and auxiliary aids for individuals with disabilities.

4. Records on Program Changes Impacting ABI Resources (DSS, CMS)
Companion Authorizations Termination Records: All communications, policy documents, and assessments on the termination of companion authorizations for the ABI Waiver Program as of December 31, 2023, including any correspondence between DSS, CMS, and Sandata Technologies related to this decision.
5. Documentation of Specific Individuals' Involvement (All Relevant Agencies)
Records Involving Named Personnel:
Andrea Barton Reeves, Commissioner, DSS
Matthew S. Antonetti, Legal Director, DSS

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Astread Ferron-Poole, DSS Associate
Michelle A. James and Emmett Nicholson, CMS officials overseeing Medicaid compliance
All communications, directives, notes, meeting minutes, or any form of correspondence or records involving the above-named individuals with respect to ABI Resources, LLC, particularly regarding Medicaid billing restrictions, ADA accommodation requests, and actions following the December 18, 2023, whistleblower report.

Legal Basis for FOIA Request and Compliance Mandates
1. FOIA Compliance (5 U.S.C. § 552)
FOIA mandates timely responses, full disclosure of non-exempt records, and explicit justifications for any redactions or denials. Any failure by DSS, CMS, or other federal agencies to meet these statutory requirements will constitute non-compliance. All denials must include precise statutory citations under FOIA, and records must be provided in their entirety unless exemptions are clearly and legally justified.

2. ADA Compliance Obligations (42 U.S.C. § 12132; 28 C.F.R. § 35.160)
Under Title II of the ADA, public entities must ensure effective communication with individuals with disabilities. This includes providing accessible documents in screen-reader-compatible formats and meeting specific requests for auxiliary aids. DSS and CMS's failure to meet these requests for ADA accommodations in communications constitutes non-compliance under federal ADA statutes.

3. Federal Whistleblower Protection Standards
Whistleblower protections prohibit retaliation against individuals who report agency misconduct. The actions taken against ABI Resources and David Medeiros, including billing suspension, premature ticket resolution, and operational disruptions following his whistleblower report, are viewed as retaliatory actions that must be substantiated and documented by all relevant agencies.

Specific Demands for Compliance
To ensure adherence to FOIA and ADA mandates, and to facilitate the transparency required by federal and state law, I formally request:

Delivery of ADA-Compliant Records in Full:

Email-Only Communication via MuckRock Platform: All responses, updates, and records must be sent exclusively via email to eliminate accessibility barriers. CMS must refrain from using phone calls, physical mail, or portal-based responses.
Direct Text in Email Body: Embed response text directly in the email body for immediate readability and accessibility.
PDF Attachments for Documents: All records should be provided as clearly labeled PDF attachments, organized by date and document type, with original formatting preserved for clarity and navigability.
Identification of Responsible Personnel: Each response must include names, titles, and contact information of all FOIA officers, decision-makers, and supervisory personnel responsible for processing my request, ensuring transparency and accountability.

Detailed Justifications for Redactions and Denials: Any information withheld or redacted must include detailed explanations citing specific statutory exemptions, in accordance with 5 U.S.C. § 552(b). These

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explanations must include enough detail to verify the legal basis for each exemption claimed.

Request for Expedited Processing of FOIA Request
Pursuant to 5 U.S.C. § 552(a)(6)(E), I formally request expedited processing of this FOIA request. This demand is based on critical statutory factors, including significant public interest, imminent risks to the rights of individuals with disabilities, and the need for urgent transparency to prevent ongoing retaliatory actions by public agencies.

Failure to grant expedited processing within the statutory 10-day review period will constitute non-compliance with FOIA's provisions, necessitating formal escalation of this request to administrative or legal authorities.

Consequences of Non-Compliance
Failure to respond to this FOIA request in full compliance, or any delays without proper statutory explanation, may result in formal escalation through administrative, legal, or public channels. DSS, CMS, and other involved agencies are expected to adhere strictly to statutory timelines, ensuring transparency and adherence to ADA and FOIA standards. Non-compliance will be documented and pursued through all available legal remedies.

Conclusion

This FOIA request seeks full and unambiguous access to records necessary to verify and substantiate claims of retaliation, ADA non-compliance, and procedural violations following the December 18, 2023, whistleblower report. I expect each agency to adhere strictly to both FOIA and ADA standards, ensuring prompt and thorough disclosure of all relevant documentation.

Sincerely,
David Medeiros
Founder, ABI Resources, LLC

The requested documents will be made available to the general public, and this request is not being made for commercial purposes.

In the event that there are fees, I would be grateful if you would inform me of the total charges in advance of fulfilling my request. I would prefer the request filled electronically, by e-mail attachment if available or CD-ROM if not.

Thank you in advance for your anticipated cooperation in this matter. I look forward to receiving your response to this request within 20 business days, as the statute requires.

Sincerely,

DAVID MEDEIROS

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