

EXHIBIT E

February 17, 2026

Filed electronically

FOIA Officer
U.S. Department of Health and Human Services
Freedom of Information Officer
Hubert H. Humphrey Building, Room 729H
200 Independence Avenue, SW
Washington, D.C. 20201

FOIA Officer
Centers for Medicare & Medicaid Services
North Building, Room C5-11-06
7500 Security Boulevard
Baltimore, Maryland 21244

Re: Expedited FOIA Request

Dear FOIA Officers:

The National Health Law Program submits this request pursuant to the Freedom of Information Act, 5 U.S.C. § 552, and U.S. Department of Health and Human Services (HHS) FOIA regulations, 45 C.F.R. §§ 5.1-5.71.

We submitted a FOIA request on July 8, 2025, seeking similar records (Control Number 072320257004 and PIN KK92). The Centers for Medicare & Medicaid Services (CMS) granted expedited processing and a fee waiver on July 30, 2025, although no records have been produced to-date. Given our prior FOIA request, we are now seeking records created, issued, or in effect from July 9, 2025, through the date that HHS and CMS begin to search for records responsive to this request. 45 C.F.R. § 5.24(d).

As used herein,

“records” means all records as defined in 5 U.S.C. § 552(f)(2). Please search for all records regardless of format, including all paper records and all electronic records, audiotapes, videotapes, photographs, and graphical materials. This request includes, without limitation, all correspondence, memorandum of understanding, letters, emails, text messages, calendar entries, facsimiles, voice mail messages, and transcripts, notes, minutes, or audio or video recordings of any meetings, telephone conversations, or discussions.

Please provide us with a copy of the records described below within twenty business days. Our request does not include individual records prohibited from disclosure under the Privacy Act or the Health Insurance Portability and Accountability Act (and implementing regulations) or any personally identifiable information (*e.g.*, name, date of birth, address, phone number, citizenship or immigration status, or medical information) of Medicaid applicants and/or enrollees or their household members.

We do not wish to inspect responsive records beforehand.

For all parts of this request, please provide all responsive records created, issued, or in effect from July 9, 2025, through the date the search is conducted.

1. Records sufficient to identify whether HHS and/or CMS has provided or intends to provide to DHS and/or ICE personally identifiable information of non-applicant household members of Medicaid applicants and/or enrollees.
2. Records sufficient to identify whether HHS and/or CMS has provided or intends to provide to DHS and/or ICE personally identifiable medical information of Medicaid enrollees, including but not limited to health care services received, health care providers visited, or claims submitted or paid by a managed care plan or state Medicaid agency.
3. Records sufficient to identify whether HHS and/or CMS have granted any DHS or ICE employees access to the T-MSIS database.
4. Records reflecting the names and titles of any DHS or ICE employees who have been granted access to the T-MSIS database.
5. Records sufficient to identify whether HHS and/or CMS has provided or intends to provide to DHS and/or ICE personally identifiable information from HHS programs other than Medicaid or CHIP, and if so, which programs.

Should any documents or portions of documents be withheld, we request that you provide a *Vaughn* index of those documents, stating with specificity the description of the document to be withheld and the legal and factual grounds for the withholding. *Vaughn v. Rosen*, 484 F.2d 820 (D.C. Cir. 1973). The index must describe each document claimed as exempt with sufficient specificity “to permit a reasoned judgment as to whether the material is actually exempt under FOIA,” *CADC 79-12 Founding Church of Scientology v. Bell*, 603 F.2d 945, 949 (D.C. Cir. 1979), and “for each withholding it must discuss the consequences of disclosing the sought-after information.” *King v. US. Dep’t of Justice*, 830 F.2d 210, 223-24 (D.C. Cir. 1987). Should any document include both disclosable and nondisclosable material that cannot reasonably be segregated, *see* 5 U.S.C. § 552(b) (requiring disclosure of any material that can reasonably be segregated), we request that you describe what proportion of the information in a document is non-disclosable and how that information is dispersed throughout the document, in accordance with *Mead Data Cent., Inc. v. U.S. Dep’t of Air Force*, 566 F.2d 242, 261 (D.C. Cir. 1977).

For records available in electronic format, please email the documents to grusin@healthlaw.org. Please send all other requested records to:

Sarah Grusin
National Health Law Program
1512 E. Franklin St., Ste. 110
Chapel Hill, NC 27514

Request to Waive Fees

We request a waiver of search, review, and duplication fees because disclosure of the requested records “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.” 5 U.S.C. § 552(a)(4)(A)(iii). A federal regulation, 45 C.F.R. § 5.54, lists three factors that, if met, entitle the requester to a waiver of fees. We believe our request satisfies these factors. *First*, disclosure of the information requested here “would shed light on the operations or activities of the government,” *id.* § 5.54(b)(1), in connection with the transfer of Medicaid applicant and enrollee data between federal agencies and between HHS and state Medicaid agencies.

Second, NHeLP will disseminate any information obtained through this request to the public, so disclosure of the requested information will likely “contribute significantly to public understanding” of the federal government’s operations and approach to the transfer of the data. *Id.* § 5.54(b)(2). Disclosure of this information will be “meaningfully informative” about [HHS] operations or activities” because it is not already in the public domain. *Id.* The request also pertains to government policies and activities that are under public scrutiny, making them significant to the public’s understanding of the government’s operations and positions on important issues affecting the administration of the Medicaid program. *Id.* § 5.54(b)(2)(i). Because the data gathering and sharing is potentially affecting millions of people across the country, disclosure of these records will necessarily “contribute to the understanding of a reasonably broad audience of persons interested in the subject,” *id.* § 5.54(b)(2)(ii). Moreover, NHeLP’s “expertise in the subject area” and its substantial “ability and intention to effectively convey information to the public” demonstrates that disclosure here will contribute to the understanding of a broad audience of persons. As described on our website, www.healthlaw.org, NHeLP is a non-profit legal organization whose mission is to protect and advance health rights of low-income and underserved people. We work extensively with individuals who are seeking access to health benefits through Medicaid. We work with a range of federal, state, and local organizations that provide assistance to low-income and underserved individuals, providing information, education, and litigation support. NHeLP has the knowledge and expertise to understand the information sought and to facilitate its public dissemination quickly and effectively.

Third, this request is not “in the commercial interest of the requester.” *Id.* § 5.54(b)(3). NHeLP does not have any commercial interest in the disclosure of the requested records and does not seek to benefit commercially from this information. We exist to help individuals use programs such as Medicaid. Our clients cannot afford to pay for legal assistance; they also cannot afford

the costs associated with this request. The dissemination of information to the public will be at no cost and for the purpose of educating the public and promoting NHeLP's mission.

Request for Expedited Processing

We ask that you provide expedited processing of this FOIA request, which qualifies for such treatment pursuant to 5 U.S.C. § 552(a)(6)(E) and 45 C.F.R. § 5.27. There is an “urgency to inform the public concerning actual or alleged Federal Government activity” as it relates to the sharing of data between HHS and DHS and the transfer of the data between state Medicaid agencies and HHS. 5 U.S.C. § 552(a)(6)(E)(v)(II); 45 C.F.R. § 5.27(b)(2). The individuals that we serve have an immediate interest in knowing whether and how widely information they provide to a state Medicaid agency will be shared among federal officials. NHeLP has highlighted this problem and the resulting harms from the lack of public information in an amicus brief in pending litigation over the information sharing policy between HHS and DHS. *See* Amicus Br. of NHeLP et al., *California v. DHS*, 3:25-cv-5536-VC (N.D. Cal.), Dkt. No. 136-1, available at <https://healthlaw.org/resource/amicus-california-v-u-s-department-of-health-and-human-services-u-s-district-court-northern-district-of-california/>. The vague nature of the information sharing policy is causing widespread fear among immigrant families. Lawfully residing pregnant women are forgoing Medicaid coverage and as a result, medically necessary health care. Similarly, many mixed-status families are not seeking Medicaid coverage for their U.S. citizen children due to concerns about their information being provided to ICE.

The need for information is particularly pressing in light of recent media reports indicating that DHS has started to use HHS data to aid its immigration enforcement efforts, *see* Joseph Cox, ‘ELITE’: The Palantir App ICE Uses to Find Neighborhoods to Raid, 404 (Jan. 15, 2026), <https://www.404media.co/elite-the-palantir-app-ice-uses-to-find-neighborhoods-to-raid/>, and CMS's recent refusal to provide the public with an explanation of what data it is sharing with DHS, *see* Phil Balewitz & Amanda Seitz, CNN (Feb. 5, 2026), <https://www.cnn.com/2026/02/05/health/medicaid-data-ice-immigrants>. Furthermore, as noted above, NHeLP is “primarily engaged in disseminating information to the public.” 5 U.S.C. § 552(a)(6)(E)(v)(II); 45 C.F.R. § 5.27(b)(2). Dissemination of information about government activities, particularly with respect to the Medicaid program, is a critical and substantial component of our mission.

In addition to prioritizing this request and expediting it, we ask that you strictly comply with the 20-day time limit established by FOIA. 5 U.S.C. § 552(a)(6)(A). Please be advised that once this 20-day period has expired, you are deemed to have constructively denied this request, and we will consider the internal appeals process to be constructively exhausted. *See, e.g., Citizens for Responsibility and Ethics in Washington v. Fed. Election Comm'n*, 711 F.3d 180 (D.C. Cir. 2013).

As required, I hereby certify that the above information is true and correct to the best of my knowledge and belief. *See* 5 U.S.C. § 552(a)(6)(E)(vi); 45 C.F.R. § 5.27(a). Please contact me at (919) 968-6308 or grusin@healthlaw.org if you have questions. Thank you for your assistance.

A handwritten signature in black ink, appearing to read "Sarah Grusin", is centered within a light green rectangular background.

Sarah Grusin