

October 11, 2024

Virginia Department of Medical Assistance Services
DMAS's FOIA Coordinator: Nancy Malczewski
600 East Broad Street, Suite 1300
Richmond, VA 23219

RE: Freedom of Information Act (FOIA) Request

Dear Ms. Malczewski,

Our firm, pursuant to the Virginia Freedom of Information Act (FOIA), located at § 2.2-3700 *et seq.* of the Code of Virginia, requests certain documents and communications in the possession of the Virginia Department of Medical Assistance Services (DMAS).

Documents Requested

We are requesting copies of all records, documents, and communications from the past 12 months related to the following topics. This request encompasses all forms of communication and documentation involving the individuals listed below, including but not limited to: emails (both work and personal, if used for official business); meeting minutes; memos; transcripts; text messages (from both work and personal phones, if used for official business); any other forms of written, electronic, or recorded communication or documentation involving, but not limited to, the individuals listed below:

- Cheryl Roberts, Agency Director, DMAS
- Ivory Banks, Chief of Staff, DMAS
- Chris Gordon, Chief Financial Officer, DMAS
- Sarah Hatton, Deputy of Administration & Coverage, DMAS
- Adrienne Fegans, Deputy of Programs & Operations, DMAS
- Jeff Lunardi, Chief Deputy Director, DMAS
- Tina Weatherford, DMAS
- Brian McCormick, DMAS
- Brian Campbell, DMAS
- Hope Richardson, DMAS
- Nichole Martin, DMAS
- Emily McClellan, DMAS
- Tiaa Lewis, DMAS
- Cat Pelletier, DMAS
- Sevda Nixon, DMAS
- Tammy Driscoll, DMAS

Specifically, we are seeking information on the following matters:

1. Tribal Health Services and Medicaid

- Efforts to track and report Medicaid payments for American Indian/Alaska Native (AI/AN) or tribal members.
- The transition from fee-for-service to managed care for AI/AN or tribal members, including coordination with Virginia's Managed Care Organizations (MCOs).
- Managed care protections for AI/AN tribal providers and members.
- Discussions on enrolling tribal health providers with MCOs or billing as out-of-network providers.
- Confirmation and setup of Federally Qualified Health Center (FQHC) provider types under managed care.

2. Billing and System Changes

- Changes to billing processes, coverage limitations, and utilization management criteria for tribal health services.
- Adjustments to automated systems affecting tribal health providers.
- Impacts on services authorized through Virginia's §1915(c) home and community-based services waiver, including personal care services.

3. Amendment 21-007 and Related Policies

- Discussions related to Amendment 21-007, titled "Tribal Health Clinic."
- Broader discussions about Tribal Health Clinics or FQHCs, including those under 638 contracts.

4. Communications with Managed Care Organizations (MCOs) and Their Lobbyists

- Conversations with employees, representatives, and lobbyists of the following Virginia MCOs:
 - Aetna Better Health of Virginia
 - Anthem HealthKeepers Plus
 - Magellan Complete Care of Virginia
 - Molina Healthcare of Virginia
 - Optima Health Family Care
 - UnitedHealthcare Community Plan of Virginia
 - Virginia Premier
- Communications related to any considerations or discussions about modifications to the current payment structures for tribal health clinics and FQHCs, including any input or feedback provided by MCOs.
- Discussions concerning the potential implications of changing the payment structure, including how such changes might affect the relationship between tribal health clinics, FQHCs, and MCOs.

5. Communications with the Centers for Medicare & Medicaid Services (CMS)

- Any communications with CMS related to tribal health clinics, FQHCs, and the topics listed above, particularly those involving discussions about potential changes to payment structures or policies that could affect the role of MCOs in relation to these clinics.

Document Format

We request that all documents be provided in their original/native electronic format, such as PDF, Word, or their native file type, and that PDFs be searchable if originally provided in this format. If these formats are not possible, hard copies will be sufficient. Please send electronic documents to jessie@culturalheritagepartners.com or hard copies to 1811 E Grace St, Richmond, VA 23223.

Fee Waiver Request

We respectfully request that DMAS waive all fees associated with this FOIA request. This request is being made on behalf of our clients, who are federally recognized tribes in the Commonwealth of Virginia, for the purpose of gaining a deeper understanding of how the decision-making process within DMAS is taking place, specifically regarding the potential changes outlined in our request.

The information being requested is of significant public interest as it pertains to the transparency and accountability of government operations that directly affect the healthcare system in Virginia, including the services provided to the public by MCOs. Understanding how these decisions are made will contribute to public knowledge and oversight of governmental actions and policies that impact public health, especially in communities served by our clients.

This request is not made for any commercial interest; rather, it is to ensure that the public, including the citizens of federally recognized tribes and other stakeholders, can be informed about governmental processes that influence healthcare delivery and public resources. The disclosure of these records will likely contribute significantly to public understanding of the operations and activities of the government, thereby meeting the criteria for a fee waiver under Virginia FOIA.

Should this request for a fee waiver be denied, we ask for an estimate of any charges in advance of processing the request.

Response from the Department

The Virginia Freedom of Information Act requires a response to this request within five business days, whether that be the responsive documents themselves, a request for an extension, a notice that the documents do not exist, or a withholding or partial withholding of the documents. If access to the requested records will take longer than this amount of time, please contact me with information about when we might expect copies or the ability to inspect the requested records. If

you deny any, or the entirety, of this request, please cite each specific exemption you feel justifies the refusal to release the information and notify me of the appeal procedures available under the law.

If you have any questions or require additional information to process the above request, please contact me at jessie@culturalheritagepartners.com or call me at (503) 422-1080.

Thank you in advance for your cooperation with this request.

Sincerely,
Jessie Barrington
Attorney at Law
Cultural Heritage Partners, PLLC