



OFFICE *of* GOVERNMENT INFORMATION SERVICES

March 16, 2015 — Sent via email

[REDACTED]
[REDACTED]

Re: Case No.: 201400828
NG: CM

NATIONAL
ARCHIVES
and RECORDS
ADMINISTRATION

8601 ADELPHI ROAD
OGIS
COLLEGE PARK, MD
20740-6001

web: www.ogis.archives.gov
e-mail: ogis@nara.gov
phone: 202-741-5770
toll-free: 1-877-684-6448
fax: 202-741-5769

Dear [REDACTED] [REDACTED]

This responds to your August 21, 2014 request for assistance from the Office of Government Information Services (OGIS), pertaining to your Freedom of Information Act (FOIA) appeal to the Department of Health and Human Services' Centers for Medicare and Medicaid Services (CMS).

Congress created OGIS as the Federal FOIA Ombudsman to complement existing FOIA practice and procedure; we strive to work in conjunction with the agency's request and appeal process. The goal is for OGIS to allow, whenever practical, the requester to exhaust his or her remedies within the agency, including the appeal process. OGIS has no investigatory or enforcement power, nor can we compel an agency to release documents.

In your submission to OGIS, you explain that you submitted an appeal (assigned tracking number [REDACTED] to CMS on July 10, 2014. You contacted the agency a number of times requesting an estimated date by which the agency expects to respond to your appeal, but you did not receive a response. You asked that OGIS contact CMS to obtain an estimated date of completion.

Although OGIS cannot direct an agency to process a particular request or appeal before others, we encourage agencies to practice good customer service in every stage of the FOIA process. We reached out to CMS a number of times since you contact our office in August. CMS declined to provide an estimated completion date for your appeal.

Please know that FOIA, 5 U.S.C. § 552(a)(7)(B), gives requesters the right to request an estimated date on which an agency expects to respond to a request. Although the statute specifically refers to *requests* with regard to estimated dates of completion, the Department of Justice's Office of Information Policy, which issues government-wide FOIA guidance, says that agencies should provide status information to requesters when they ask for it whether it be for their requests or their administrative appeals.



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Please also know that the President's FOIA Memorandum (available online at www.whitehouse.gov/the_press_office/FreedomofInformationAct/) and the Attorney General's FOIA Guidelines (www.justice.gov/sites/default/files/ag/legacy/2009/06/24/foia-memo-march2009.pdf) call on agencies "to work 'in a spirit of cooperation' with FOIA requesters." The Attorney General's Guidelines also emphasize that agencies should avoid unnecessary bureaucratic hurdles when administering the law.

In cases such as this where an agency declines to provide information about an appeal, there is little assistance OGIS can offer. Thank you for bringing this matter to OGIS. We will close your case.

Sincerely,

Nikki Gramian, Acting Director
Office of Government Information Services (OGIS)

cc: Hugh Gilmore, CMS FOIA
Michael Marquis, HHS

We appreciate your feedback. Please visit <https://www.surveymonkey.com/s/OGIS> to take a brief anonymous survey on the service you received from OGIS.