Request No. 2017-01085-FOIA-OS

December 15, 2017

Ms. Nell Gaither
Via email: nell@tpride.org

Dear Ms. Gaither:

This is in response to your August 18, 2017, Freedom of Information Act (FOIA) request. Specifically, you requested the following information concerning transaction # 16-229848:

“… progress and investigation notes for this case, as well as any notes related to the discussion concerning the placement of this case "on hold."… Since this communication identified there were a number of complaints “identified” as being placed on hold due to this opinion, please also provide the number of cases “placed on hold” in each HHS region.”

A representative from the Office for Civil Rights (OCR) has advised this office that the transaction remains open for investigation at this time. Therefore, all responsive records are being withheld in full pursuant to Exemption 7A of the FOIA (5 U.S.C. §552 (b)(7)(A)).

Exemption (b)(7)(A) protects records or information compiled for law enforcement purposes from disclosure to the extent that production of such law enforcement records or information could reasonably be expected to interfere with enforcement proceedings.

You should be advised that the records relating to the alleged HIPAA non-compliance will be available under the FOIA at the conclusion of the investigation. You may submit a new request at that time. Please be advised that other FOIA exemptions may be applied to responsive records when it has been determined that the investigation is closed.

It is OCR’s practice to notify all individuals involved in the complaint with a letter of finding when the investigation of the complaint is concluded.

You also requested a report on the number of complaints identified as being placed “on hold” due to the court’s injunction. A representative from the OCR reports that there are no records responsive to that portion of your request.

If you believe that the information withheld should not be exempt from disclosure, or this response constitutes an adverse determination, you may appeal. By filing an appeal, you preserve your rights under FOIA and give the agency a chance to review and reconsider your request and the agency’s decision.

Your appeal must be mailed within 90 days from the date of receipt of this letter, to:
Please clearly mark both the envelope and your letter “Freedom of Information Act Appeal.” You may also e-mail your appeal to: HHS.ACFO@hhs.gov.

If you would like to discuss our response before filing an appeal to attempt to resolve your dispute without going through the appeals process, you may contact the HHS FOIA Public Liaison for assistance at:

Michael Bell
HHS FOIA Public Liaison
U.S. Department of Health and Human Services
Office of the Assistant Secretary for Public Affairs
Room 729H
200 Independence Avenue, S.W.
Washington, DC 20201
Telephone: (202) 260-0793
E-mail: HHS_FOIA_Public_Liaison@hhs.gov

If you are unable to resolve your FOIA dispute through our FOIA Public Liaison, the Office of Government Information Services (OGIS), the Federal FOIA Ombudsman’s office, offers mediation services to help resolve disputes between FOIA requesters and Federal agencies. The contact information for OGIS is:

Office of Government Information Services
National Archives and Records Administration
8601 Adelphi Road–OGIS
College Park, MD 20740-6001
Telephone: 202-741-5770
Toll-Free: 1-877-684-6448
E-mail: ogis@nara.gov
Fax: 202-741-5769

There are no charges in this instance because the billable costs are less than our threshold of $25.