

IN THE CIRCUIT COURT OF PULASKI COUNTY  
CIVIL DIVISION

LEGAL AID OF ARKANSAS, INC.

PETITIONER

v.

Case No. CV-2015-\_\_\_\_\_

ARKANSAS DEPARTMENT OF  
HUMAN SERVICES

RESPONDENT

**PETITION FOR RELIEF UNDER THE FREEDOM OF INFORMATION ACT**

COMES NOW the Petitioner, Legal Aid of Arkansas, Inc., to enforce its right to access public records under the Freedom of Information Act, codified in Ark. Code Ann. § 25-19-101 *et seq.* The Petitioner asserts the following:

**PARTIES, JURISDICTION, AND VENUE**

1. Petitioner is a non-profit corporation organized under the laws of the state of Arkansas with its headquarters based in Jonesboro, Arkansas, and branch offices in Little Rock, Springdale, Harrison, West Memphis, and Helena-West Helena.

2. Petitioner provides free legal services to low-income Arkansans in a variety of civil legal matters, including those relating to the state's Medicaid program.

3. Respondent is a state agency and is a custodian of public records to which Petitioner has access pursuant to this state's Freedom of Information Act.

4. This Court has personal and subject matter jurisdiction. Venue is proper.

**BACKGROUND RELEVANT TO FOIA REQUEST**

5. Medicaid is a medical assistance program for individuals with limited economic resources created pursuant to federal statute and subject to federal oversight. *See generally* 42 U.S.C. § 1396. States have the option to participate in Medicaid.

6. Arkansas has elected to participate in Medicaid and has designated Respondent to be the single state agency to administer or supervise the administration of the state's Medicaid program. *See* 42 U.S.C. § 1396a(a)(5).

7. One of the state's Medicaid programs is the Health Care Independence Program ("HCIP"), also called the "Private Option," enacted in 2013 to expand Medicaid to low-income Arkansans as permitted by the Affordable Care Act. *See* Ark. Code Ann. § 20-77-2401 *et. seq.*

8. The federal Center for Medicaid and Medicare Services ("CMS") is an agency within the United States Department of Health and Human Services charged with administration of the Medicaid program at the federal level.

9. As a condition of participating in the Medicaid program, the Respondent is required to make such reports to CMS as CMS requires. *See* 42 U.S.C. § 1396a(a)(6).

10. Federal law requires that states make eligibility determinations promptly and allows states to choose the timeframe for prompt determinations, up to a maximum of 45 days. *See* 42 U.S.C. § 1396a(a)(8); 42 C.F.R. § 435.912. The Respondent has elected to allow itself 45 days from the date a claimant files an application to render an eligibility determination. *See* Arkansas Medical Services Policy Manual C-135.

11. If a determination is made within 45 days, the determination is considered timely. If a determination is not made within 45 days, the determination is considered untimely and provides a basis for an applicant to request a fair hearing. *See* 42 U.S.C. § 1396a(a)(3); 42 C.F.R. § 431.220; Medical Services Policy Manual C-135.

12. CMS requires that the Respondent collect and report information relating to the timely processing of Medicaid applications.

13. The Respondent possesses and electronically publishes statistical information relating to the timely processing of Medicaid applications.

FIRST FOIA REQUEST AND AGENCY RESPONSE

14. The Petitioner obtained credible information that numerous individuals applying for Medicaid, particularly those applying for the HCIP and Pregnant Woman Medicaid programs, were not receiving timely determinations of eligibility.

15. The Petitioner obtained credible information that numerous applicants for Medicaid had been approved without being assigned active Medicaid numbers.

16. The Petitioner obtained credible information that the delays in determinations of eligibility and delays in the assignment of active Medicaid numbers prevented individuals from receiving vital medical services, including cancer treatment and pre-natal care.

17. On May 27, 2015, Petitioner submitted a request for public records relating to timely determinations of eligibility to the Respondent, attached hereto as Exhibit A and incorporated by reference into this Petition as part of the relief sought (hereafter, “the First Request”).

18. Items 1 through 10 of the First Request sought statistical information relating to the timely determination of eligibility and the extent of determination delays. This statistical information is required by CMS as a condition of Arkansas’s participation in the Medicaid program.

19. Items 11 through 20 of the First Request sought information relating to applicants’ rights to a fair hearing for untimely determinations of eligibility.

20. Items 20 through 23 of the First Request sought information relating to the agency’s failure to assign active Medicaid numbers to individuals it had deemed eligible.

21. Items 24 and 25 of the First Request sought documents relating to the agency's consideration of the untimely processing of applications, including reports to CMS and communication between the Respondent and CMS regarding this issue.

22. On May 28, 2015, the Respondent requested additional time to respond to the Request. The Petitioner granted additional time.

23. On June 2, 2015, the Respondent asserted that "We have no documents responsive to your request. A custodian is not required to compile information, or create a record in response to a request made under [Ark. Code Ann.] § 25-19-105(d)(2)(C)." This assertion is attached hereto as Exhibit B.

24. On June 12, 2015, after discussion between the parties, the Respondent provided information partially responsive to Items 1 through 5 in the First Request. With respect to Items 1 through 5, the Respondent failed to provide any information about the HCIP, Pregnant Woman Medicaid, or other Medicaid programs determined according to Modified Adjusted Gross Income ("MAGI") methodology. The response is attached hereto as Exhibit C.

25. The Respondent failed to provide any information responsive to the remainder of the First Request.

26. On June 19, 2015, after further discussion between the parties, the Respondent offered to provide a written statement regarding its failure to provide information responsive to the First Request.

27. The Respondent never provided the written statement promised on June 19, 2015.

#### SECOND FOIA REQUEST AND AGENCY RESPONSE

28. On July 20, 2015, the Petitioner, due to the Respondent's failure to fully respond to the First Request or provide a written statement explaining its failure to do so, submitted a

second request for public records to the Respondent, attached hereto as Exhibit D and incorporated by reference into this Petition as part of the relief sought (hereafter, “the Second Request”).

29. Items 1 through 6 of the Second Request sought statistical information relating to the timely determination of eligibility and the extent of determination delays specifically regarding the HCIP. This statistical information is required by CMS as a condition of Arkansas’s participation in the Medicaid program.

30. Items 7 through 13 of the Second Request sought information relating to applicants’ rights to a fair hearing for untimely determinations of eligibility specifically regarding the HCIP.

31. Items 14 and 15 of the Second Request sought information relating to the agency’s failure to assign active Medicaid numbers to individuals it had deemed eligible for the HCIP.

32. Items 16 through 19 of the Second Request sought documents relating to the agency’s consideration of the untimely processing of applications, including reports to CMS and communication between the Respondent and CMS regarding this issue.

33. On August 3, 2015, the Respondent provided all the documents it had determined to be responsive to the Second Request. It provided documents responsive only to Items 16 through 19 of the Second Request, a collection of 798 emails involving agency staff.

34. The Respondent stated that it had no documents responsive to Items 1 through 15 of the Second Request.

35. The documents the Respondent provided in response to Items 16 through 19 of the Second Request demonstrate that the Respondent has information responsive to Items 1 through 6 of the Second Request and Items 1 through 10 of the First Request.

36. The Respondent has information responsive to the First Request and Second Request in mediums that are readily available or in formats to which the records are readily convertible with its existing software.

37. All records sought are “public records” under the meaning of FOIA.

38. Information responsive to the First Request and Second Request are not excluded from public access pursuant to Ark. Code Ann. § 25-19-105(b).

39. The Petitioner is entitled to receive the information requested in the First Request and Second Request, and the Respondent has wrongfully withheld this information.

WHEREFORE, the Petitioner prays that the Court (1) schedule a hearing on this matter within 7 days of the date this Petition is filed, as provided in Ark. Code Ann. § 25-19-107(b); (2) order the Respondent to produce within 2 business days of the hearing the information requested in Items 1 through 23 of the First Request and Items 1 through 6 and Items 14 and 15 of the Second Request; (3) order the Respondent to provide detailed explanations for any item in the Request to which it does not have perfectly responsive information, with such explanation specifying the information that it has available to it that may relate to the Petitioner’s request; (4) issue an order indicating that the Petitioner has substantially prevailed such that it may make a claim with the Arkansas Claims Commission for attorneys’ fees and litigation expenses; (5) for all other just relief.

Respectfully submitted,

Giana Messori, Ark. Bar #2013057  
Legal Aid of Arkansas  
1 Children's Way, Slot 695  
Little Rock, AR 72202  
P: (800) 967-9224 x. 4325  
F: (501) 978-6479

And

**KUTAK ROCK LLP**

By: /s/ Jess Askew III

Jess Askew III, Ark. Bar No. 86005  
Frederick H. Davis, Ark. Bar No. 2012271  
124 West Capitol Avenue, Suite 2000  
Little Rock, Arkansas 72201-3706  
(501) 975-3000 Telephone  
(501) 975-3001 Facsimile  
Jess.Askew@kutakrock.com  
Frederick H. Davis@kutakrock.com

*Attorneys for Legal Aid of Arkansas, Inc.*

EXHIBIT A



ELECTRONICALLY FILED  
Pulaski County Circuit Court  
Larry Crane, Circuit/County Clerk  
2015-Aug-26 09:37:54  
60CV-15-3990  
C06D05 : 5 Pages

May 27, 2015

Attn: Lori McDonald  
Office of Chief Counsel  
Arkansas Department of Human Services  
P.O. Box 1437/Slot S260  
Little Rock, Arkansas 72203-1437

SENT AS ATTACHMENT VIA EMAIL TO: lori.mcdonald@dhs.arkansas.gov  
PAGES: 5

RE: Request for Information

Dear Ms. McDonald:

Under the Arkansas Freedom of Information Act § 25-19-101 et seq., I am requesting the information below. In any relevant section, the number of days an application has been pending should be calculated using the date of this request. Thus, if an application receives a decision tomorrow and you process this request the day after tomorrow, that application should still be counted as pending for purposes of this request. If an application receives a decision today, it should not be counted as pending for purposes of this request.

1. Total number of applications for any Medicaid program, including the Health Care Independence Program (hereafter, "HCIP"), for which a decision is pending.
2. Total number of applications for any Medicaid program, including the HCIP, for which a decision has been pending for more than 45 days. This item includes only those applications currently pending.
3. The information in Items 1 and 2 broken out by type of Medicaid program, including the HCIP, for which an application has been made.
4. The number of days since the date of application for **each** application for any Medicaid program, including the HCIP, for which a decision has been pending for more than 45 days. This item does **not** include those applications that have had a decision made by the date of this request.

It would also be agreeable, instead of listing the information by individual application, to have the department provide a chart showing the total number of applications that have been pending according to the number of days since the date of application, starting with 46 and continuing to the number of days since the date the longest-pending application was made. For example:



TOLL FREE  
1-800-967-9224

TELEPHONE  
1-870-972-9224

HELPLINE  
1-800-952-9243

[www.arlegalaid.org](http://www.arlegalaid.org)

Arkansas Children's Hospital  
1 Children's Way, Slot 695  
Little Rock, AR 72202-3500  
501-978-6479 - Fax

Harrison  
816 North Main Street  
Suite B  
Harrison, AR 72601  
870-741-4255 - Fax

Helena-West Helena  
402 Franklin Street  
Helena, AR 72342  
870-338-9834 - Fax

Jonesboro  
714 South Main Street  
Jonesboro, AR 72401  
870-910-5562 - Fax

Newport  
202 Walnut Street  
Newport, AR 72112  
870-523-9892 - Fax

Springdale  
1200 Henryetta  
Springdale, AR 72762  
479-751-0002 - Fax

West Memphis  
310 Mid Continent Plaza  
Suite 420  
West Memphis, AR 72301  
870-732-6373 - Fax



Days Pending	Number of Apps
46	X
47	X
48	X
....	
90	X
91	X
...	
124	X

5. The information in Item 4 broken out by type of Medicaid program for which an application has been made.

6. For Calendar Years 2011, 2012, 2013, 2014, and 2015 (split out separately), total number of applications for any Medicaid program, including the HCIP, for which a decision was made after 45 days from the date of initial application. This number should exclude those applications that are still pending without a decision.

For purposes of this question, an application should be assigned only to one calendar year, preferably the calendar year in which it was filed. For example, an application filed in November 2014 that received a decision in February 2015 would be assigned to 2014. If DHS maintains the data differently, please contact me to ensure understanding.

7. For Calendar Years 2011, 2012, 2013, 2014, and 2015 (split out separately), total number of applications for any Medicaid program, including the HCIP, for which a decision has been made.

For purposes of this question, an application should be assigned only to one calendar year, preferably the calendar year in which it was filed. For example, an application filed in November 2014 that received a decision in February 2015 would be assigned to 2014. If DHS maintains the data differently, please contact me to ensure understanding.

8. The information in Items 6 and 7 broken out by type of Medicaid program for which an application has been made.

For purposes of this question, an application should be assigned only to one calendar year, preferably the calendar year in which it was filed. For example, an application filed in November 2014 that received a decision in February 2015 would be assigned to 2014. If DHS maintains the data differently, please contact me to ensure understanding.

9. For Calendar Years 2011, 2012, 2013, 2014 and 2015 (split out separately), the number of days from the date of application to the date of decision for **each** application for any Medicaid program, including the HCIP, for which a decision was made after 45 days from the date of the initial application.

It would also be agreeable, instead of listing the information by individual application, to have the department provide a chart showing the total number of applications that had been pending according to the number of days since the date of application, starting with 46 and continuing to the number of days until the decision on the longest-pending application was made. For example:

Days Pending	Number of Apps
46	X
47	X
48	X
....	
90	X
91	X
...	
124	X

For purposes of this question, an application should be assigned only to one calendar year, preferably the calendar year in which it was filed. For example, an application filed in November 2014 that received a decision in February 2015 would be assigned to 2014. If DHS maintains the data differently, please contact me to ensure understanding.

10. The information in Item 9 (separated by calendar year) broken out by type of Medicaid program for which an application has been made.

11. Total number of notices informing applicants of their right to request a fair hearing on the basis of timeliness (agency failure to make a decision within 45 days) sent to applicants whose application for any Medicaid program, including the HCIP, has been pending without a decision for more than 45 days. This item does **not** include those applications that have had a decision made by the date of this request.

12. For each notice referenced in Item 11, the total number of days an application had been pending on the date the notice was sent.

13. A representative example of the notices referenced in Item 11.

14. For Calendar Years 2011, 2012, 2013, 2014, and 2015, total number of notices informing applicants of their right to request a fair hearing on the basis of timeliness (agency failure to make a decision within 45 days) sent to applicants whose application for any Medicaid program, including the HCIP, was decided more than 45 days from the date of initial application. This item does **not** include those applications for which an application is currently pending.

15. For each notice referenced in Item 14, the total number of days an application had been pending on the date the notice was sent.

16. A representative example of the notices referenced in Item 14.

17. Total number of fair hearing requests made by applicants on the basis of timeliness (agency failure to make a decision within 45 days) between January 1, 2011 and May 1, 2015, split out by year the request was made.

18. Total number of fair hearings held on the basis of the requests referenced in Item 17, split out by year the request was made (as opposed to the year in which the hearing was held).

19. Outcomes of the fair hearings referenced in Item 18, split out by year the request was made.

20. Disposition of the applications for which a fair hearing request was made as referenced in Item 17 but for which a fair hearing was not held.

21. Total number of approved HCIP applications for which an active Medicaid number has not been assigned as of today. For purposes of this question, "an active Medicaid number" means one for which a healthcare provider's search would yield a result indicating that the applicant whose HCIP application has been approved is in fact covered.

22. The number of days since the date of approval for **each** approved HCIP application for which an active Medicaid number has not been assigned as of today. For purposes of this question, "an active Medicaid number" means one for which a healthcare provider's search would yield a result indicating that the applicant whose HCIP application has been approved is in fact covered.

It would also be agreeable, instead of listing the information by individual approved application, to have the department provide a chart showing the total number of approved applications for which an active Medicaid number has not been assigned according to the number of days since the date of approval, starting with 1 and continuing to the number of days since the date the first-approved application was made. For example:

Days Since Approval	Number of Apps
1	X
2	X
...	
14	X
...	
25	X
...	
55	X

23. All documents relating to agency consideration, description, or resolution of the delays in assignment of an active Medicaid number to approved HCIP applications as referenced in Items 21 and 22. This request includes program reviews, reports, or evaluations conducted by the State, the Center for Medicare and Medicaid Services, or any other party regarding the above topics and includes any corrective action plan to remedy deficiencies in program administration.

24. For the period from January 1, 2014 to today, all documents relating to agency consideration, description, or resolution of applications that currently are or in the past had been pending without a decision for more than 45 days. This request includes program reviews, reports, or evaluations conducted by the State, the Center for Medicare and Medicaid Services, or any other party regarding the above topics and includes any corrective action plan to remedy deficiencies in program administration.

25. For the period from January 1, 2014 to today, all documents sent to or by the Center for Medicare and Medicaid Services relating to the timely processing of applications for any Medicaid program, including the HCIP.

Because Legal Aid of Arkansas works in the public interest serving low-income Arkansans and the information sought in this request is meant to further that end (and will not be used for commercial purposes), I kindly request that you waive any fees related to this request. **However, if you cannot waive the fees, DO NOT process this request without first furnishing me the total cost for processing the request and securing my approval to go ahead.**

The Arkansas Freedom of Information Act requires a response within three (3) business days. If access to the records I am requesting will take longer, please contact me with a specific timeline for availability. If you deny any part of or this entire request, please cite each specific exemption you feel justifies the refusal to release the information and notify me of the appeal procedures available to me under the law.

I request that the information sought be provided in electronic format, and I would like to receive it via email at [kdeliban@arlegalaid.org](mailto:kdeliban@arlegalaid.org). I ask that DHS send the information as it becomes available instead of waiting until all the information is available before sending.

If you have any questions, please email me or call me at (870) 732-6370 x. 2206. Thank you for your prompt attention to my request.

Sincerely,



Kevin De Liban, Attorney  
Legal Aid of Arkansas  
310 Mid-Continent Plaza, Suite 420  
West Memphis, AR 72301

ELECTRONICALLY FILED  
Pulaski County Circuit Court  
Larry Crane, Circuit/County Clerk  
2015-Aug-26 09:37:54  
2015-08-26 09:37:54  
C06D05 : 1 Page



EXHIBIT B

Kevin De Liban <kdeliban@arlegalaid.org>

**Legal Aid of Arkansas--Freedom of Information Request**

Lori McDonald <Lori.McDonald@dhs.arkansas.gov>  
To: Kevin De Liban <kdeliban@arlegalaid.org>

Tue, Jun 2, 2015 at 12:33 PM

Kevin,

We have no documents responsive to your request. A custodian is not required to compile information, or create a record in response to a request made under § 25-19-105(d)(2)(C).

Thank you,

Lori McDonald

Arkansas Department of Human Services

Office of Chief Counsel

P.O. Box 1437, S260

Little Rock, AR 72203

(501) 320-6328, direct dial

(501) 551-9424, cell

(501) 682-8009, facsimile

EMail: lori.mcdonald@dhs.arkansas.gov — Notice new email address!!

**From:** Kevin De Liban [mailto:kdeliban@arlegalaid.org]  
**Sent:** Wednesday, May 27, 2015 11:12 AM  
**To:** Lori McDonald  
**Subject:** Legal Aid of Arkansas--Freedom of Information Request

Dear Lori,

[Quoted text hidden]



EXHIBIT C

Kevin De Liban &lt;kdeliban@arlegalaid.org&gt;

ELECTRONICALLY FILED  
 Pulaski County Circuit Court  
 Larry Crane, Circuit/County Clerk  
 2015-Aug-26 09:37:54  
 2015-08-26 09:37:54  
 C06D05 : 2 Pages

## FOIA request dated May 27, 2015

Rich Rosen <Rich.Rosen@dhs.arkansas.gov>

Fri, Jun 12, 2015 at 5:00 PM

To: "kdeliban@arlegalaid.org" <kdeliban@arlegalaid.org>

Cc: Rich Rosen <Rich.Rosen@dhs.arkansas.gov>, Lori McDonald <Lori.McDonald@dhs.arkansas.gov>

Kevin-

Per your Freedom of Information Act ("FOIA") request, as modified by our recent telephone conversation regarding the non-MAGI information, I have attached four (4) reports. This information is considered a special request as a custodian is not required to compile information or create a record in response to a request under Ark. Code Ann. §25-19-105(d) and §25-19-109. Please call me if you have any questions.

1. Total number of applications for any Medicaid program, including the Health Care Independence Program (hereafter, "HCIP"), for which a decision is pending.

5375 excluding HCIP

2. Total number of applications for any Medicaid program, including the HCIP, for which a decision has been pending for more than 45 days. This item includes only those applications currently pending.

1322 excluding HCIP

3. The information in Items 1 and 2 broken out by type of Medicaid program, including the HCIP, for which an application has been made.

See attachments excluding HCIP

4. The number of days since the date of application for each application for any Medicaid program, including the HCIP, for which a decision has been pending for more than 45 days. This item does not include those applications that have had a decision made by the date of this request.

See attachments excluding HCIP

5. The information in Item 4 broken out by type of Medicaid program for which an application has been made.

See attachments excluding HCIP

Rich

Richard Rosen

Arkansas Department of Human Services

Office of Policy and Legal Services

P.O. Box 1437, Slot S260

Little Rock, AR 72203

**501-320-6334** Fax: 501-682-1390

**Please note my new email address is: [rich.rosen@dhs.arkansas.gov](mailto:rich.rosen@dhs.arkansas.gov)**

**Confidentiality Notice:** The information contained in this email message and any attachment(s) is the property of the State of Arkansas and may be protected by state and federal laws governing disclosure of private information. It is intended solely for the use of the entity to whom this email is addressed. If you are not the intended recipient, you are hereby notified that reading, copying or distributing this transmission is **STRICTLY PROHIBITED**. The sender has not waived any applicable privilege by sending the accompanying transmission. If you have received this transmission in error, please notify the sender by return and delete the message and attachment(s) from your system.

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#### 4 attachments



**ACES apps Count by days (3).pdf**  
227K



**ACES apps count by days crosstab county (3).pdf**  
113K



**ACES apps pending over 45 dys\_Crosstab prog\_count (3).pdf**  
443K



**ACES apps pending over 45 dys\_Crosstab prog\_count1 (3).pdf**  
443K

EXHIBIT D



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60CV-15-3990  
C06D05 : 3 Pages

July 20, 2015

TOLL FREE  
1-800-967-9224

TELEPHONE  
1-870-972-9224

HELPLINE  
1-800-952-9243

[www.arlegalaid.org](http://www.arlegalaid.org)

Arkansas Children's Hospital  
1 Children's Way, Slot 695  
Little Rock, AR 72202-3500  
501-978-6479 - Fax

Harrison  
816 North Main Street  
Suite B  
Harrison, AR 72601  
870-741-4255 - Fax

Helena-West Helena  
402 Franklin Street  
Helena, AR 72342  
870-338-9834 - Fax

Jonesboro  
714 South Main Street  
Jonesboro, AR 72401  
870-910-5562 - Fax

Newport  
202 Walnut Street  
Newport, AR 72112  
870-523-9892 - Fax

Springdale  
1200 Henryetta  
Springdale, AR 72762  
479-751-0002 - Fax

West Memphis  
310 Mid Continent Plaza  
Suite 420  
West Memphis, AR 72301  
870-732-6373 - Fax

Attn: Lori McDonald  
Office of Chief Counsel  
Arkansas Department of Human Services  
P.O. Box 1437/Slot S260  
Little Rock, Arkansas 72203-1437

SENT AS ATTACHMENT VIA EMAIL TO: [lori.mcdonald@dhs.arkansas.gov](mailto:lori.mcdonald@dhs.arkansas.gov)  
PAGES: 3

RE: Request for Information

Dear Ms. McDonald:

Under the Arkansas Freedom of Information Act § 25-19-101 et seq., I am requesting the following information:

1. All applications for the Health Care Independence Program (hereafter, "HCIP") for which a decision is pending.
2. All applications for the HCIP for which a decision has currently been pending for more than 45 days.
3. For Calendar Year 2014, all applications for the HCIP for which a decision was made after 45 days from the date of initial application, excluding those applications that are still pending without a decision.
4. For Calendar Year 2015, all applications for the HCIP for which a decision was made after 45 days from the date of initial application, excluding those applications that are still pending without a decision.
5. For Calendar Year 2014, all applications for the HCIP for which a decision has been made.
6. For Calendar Years 2015, all applications for the HCIP for which a decision has been made.
7. All notices informing applicants of their right to request a fair hearing on the basis of timeliness (agency failure to make a decision within 45 days) sent to applicants whose application for the HCIP has currently been pending for more than 45 days.
8. For Calendar Year 2014, all notices informing applicants of their right to request a fair hearing on the basis of timeliness (agency failure to make a decision within 45 days) sent to applicants whose application for the HCIP was decided more than 45 days from the date of initial application.





9. For Calendar Year 2015, all notices informing applicants of their right to request a fair hearing on the basis of timeliness (agency failure to make a decision within 45 days) sent to applicants whose application for the HCIP was decided more than 45 days from the date of initial application.
10. All fair hearing requests made by applicants on the basis of timeliness (agency failure to make a decision within 45 days) between January 1, 2014, and May 1, 2015.
11. All fair hearings held on the basis of the requests referenced in Item 10.
12. All outcomes of the fair hearings referenced in Item 11.
13. All dispositions of the applications for which a fair hearing request was made as referenced in Item 10, but for which a fair hearing was not held.
14. All approved HCIP applications for which an active Medicaid number has not been assigned as of today. For purposes of this question, "an active Medicaid number" means one for which a healthcare provider's search would yield a result indicating that the applicant whose HCIP application has been approved is in fact covered.
15. All documents relating to agency consideration, description, or resolution of the delays in assignment of an active Medicaid number to approved HCIP applications as referenced in Item 14. This request includes program reviews, reports, or evaluations conducted by Arkansas DHS, the Center for Medicare and Medicaid Services ("CMS), or any other party regarding the above topics and includes any corrective action plan to remedy deficiencies in program administration.
16. For the period from January 1, 2014 to today, all documents relating to agency consideration of the timely processing of applications for the HCIP. This request includes, but is not limited to, program reviews, reports, or evaluations conducted by the Arkansas DHS, CMS, or any other party regarding the above topics and includes any corrective action plan to remedy deficiencies in program administration.
17. For the period from January 1, 2014 to today, all documents sent to or by CMS relating to the timely processing of applications for the HCIP.
18. All notes, calendar events, emails, letters, reports, program reviews, evaluations, and other records relating to the State Operation and Technical Assistance ("SOTA") calls and/or meetings between Arkansas DHS and CMS, from the date of January 1, 2014 to present.
19. All notes, calendar events, emails, letters, reports, program reviews, evaluation, and other records relating to the agency's participation in the CMS Focus Review group, from the date of January 1, 2014 to present.

Because Legal Aid of Arkansas works in the public interest serving low-income Arkansans and the information sought in this request is meant to further that end (and will not be used for commercial purposes), I kindly request that you waive any fees related to this request. **However, if you cannot waive the fees, DO NOT process this request without first furnishing me the total cost for processing the request and securing my approval to go ahead.**

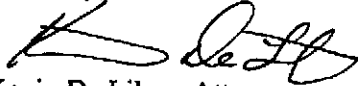
The Arkansas Freedom of Information Act requires a response within three (3) business days. If access to the records I am requesting will take longer, please contact me with a specific timeline for availability. If you deny any part of or this entire request, please cite each specific exemption you feel

justifies the refusal to release the information and notify me of the appeal procedures available to me under the law.

I request that the information sought be provided in electronic format, and I would like to receive it via email at [kdeliban@arlegalaid.org](mailto:kdeliban@arlegalaid.org). I ask that DHS send the information as it becomes available instead of waiting until all the information is available before sending.

If you have any questions, please email me or call me at (870) 732-6370 x. 2206. Thank you for your prompt attention to my request.

Sincerely,

A handwritten signature in black ink, appearing to read "K De Liban". The signature is fluid and cursive, with a large initial "K" and a stylized "De Liban".

Kevin De Liban, Attorney  
Legal Aid of Arkansas  
310 Mid-Continent Plaza, Suite 420  
West Memphis, AR 72301