IN THE CIRCUIT COURT FOR THE STATE OF OREGON

FOR THE COUNTY OF MARION

PAUL TERDAL and TERDAL CONSULTING LLC, Plaintiffs, vs. OREGON HEALTH AUTHORITY, Defendant.	Case No.: 26CV37940 **COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF – OREGON PUBLIC RECORDS LAW** Not Subject to Mandatory Arbitration Fee Authority: ORS 21.135(1), (2)(g) **This case is to take precedence and be expedited per ORS 192.431(2)**

Plaintiffs Paul Terdal and Terdal Consulting LLC bring this complaint against the Oregon Health Authority, challenging the unlawful withholding of public records. Plaintiffs respectfully request that this proceeding "be assigned for hearing and trial at the earliest practicable date and expedited in every way" per ORS 192.431(2).

INTRODUCTION

1.

The Oregon Health Authority has maintained the Oregon All Payer All Claims reporting program for more than 15 years. Under the APAC program, the Authority collects health care data from health insurers, pharmacy benefit managers, and other entities to be used as a resource for policymakers and the public. In the Authority's words, "APAC provides access to timely and reliable data essential to assess the cost of health care, improve quality, reduce costs and promote transparency." *All Payer All Claims Reporting Program*, OHA, perma.cc/Z4AU-5Z6V (archived July 7, 2026). The Authority de-identifies and releases data in a "public use data set." The data set's name says it all.

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2.

Paul Terdal and his company Terdal Consulting LLC submitted a public records request for the APAC public-use files. But the Authority refused to disclose the public-use files in their complete form. The files the Authority provided to Terdal omit several data fields, even though the Authority released the files with those data fields countless times before.

3.

The Authority's failure to disclose the complete APAC public-use files as requested by Terdal and withholding of the omitted data fields violates Oregon's public records law. No exemption to disclosure justifies the Authority's actions. Terdal is entitled to declaratory and injunctive relief.

PARTIES

4.

Plaintiff Paul Terdal is the managing member of Terdal Consulting LLC. He resides in Multnomah County, Oregon.

5.

Plaintiff Terdal Consulting LLC is a consulting company based in Portland, Oregon.

6.

Defendant Oregon Health Authority is an administrative agency of the State of Oregon.

JURISDICTION AND VENUE

7.

This Court has jurisdiction over this action under ORS 192.431.

8.

Venue is proper in the Circuit Court for Marion County under ORS 192.411(2).

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GENERAL ALLEGATIONS

Oregon's APAC Data and Public-Use Files

9.

The Oregon Health Authority has maintained the Oregon All Payer All Claims reporting program since 2009. The purposes of the APAC program include "[a]llowing health care policymakers to make informed choices," "[e]valuating the effectiveness of intervention programs in improving health outcomes," "[c]omparing the costs and effectiveness of various treatment settings and approaches," "[p]roviding information to consumers and purchasers of health care," and "[i]mproving the quality and affordability of health care and health care coverage." ORS 442.373(1).

10.

Under the program, health insurers, healthcare service contractors that issue medical insurance, third-party administrators, pharmacy benefit managers, and other entities report certain health care data to the Authority. ORS 442.373(1); *see* ORS 442.372.

11.

The Authority collects "[h]ealth care claims and enrollment data" and "[r]eports, schedules, statistics or other data relating to health care costs, prices, quality, utilization or resources," among other data. ORS 442.373(2)(b).

12.

The Authority is required to use the APAC data "to provide information to consumers of health care to empower the consumers to make economically sound and medically appropriate decisions." ORS 442.373(5)(a).

13.

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The Authority maintains "a comprehensive health care information system using the data reported." ORS 442.373(7). Information disclosed through this system "[s]hall be available … as a resource to researchers, insurers, employers, providers, purchasers of health care and state agencies to allow for continuous review of health care utilization, expenditures and performance in this state." ORS 442.373(8). In the Authority's words, "APAC provides access to timely and reliable data essential to assess the cost of health care, improve quality, reduce costs and promote transparency." *All Payer All Claims Reporting Program*, OHA, perma.cc/Z4AU-5Z6V (archived July 7, 2025).

14.

The Authority "de-identifie[s]" and releases APAC data in a "public use data set." OAR 409-025-0160(3). According to the Authority, "Public Use data sets … do not contain [protected health information] or any combination of data elements that may directly identify any person." Or. Health Auth., *Oregon All Payer All Claims Database (APAC): An Overview* 3 (2018), perma.cc/A4P2-7L8T (archived July 9, 2026).

15.

The Authority has released the public-use files 70 or more times since the program's inception and 20 or more times over the past few years. The Authority last released the public-use files in 2024.

Terdal's Public Records Request

16.

Terdal submitted a public records request for the Authority's public-use files on April 21, 2026. He requested the "All Payer All Claims (APAC) Public Use Files (PUF) for the years 2011 through 2020," specifically the "Medical Claims," "Pharmacy Claims," "Medical Eligibility

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Member Month," and "Pharmacy Eligibility Member Month" files. Terdal specified that "this request is for an electronic copy of the machine readable APAC PUF files in their original form." *See* ORS 192.324(3).

17.

After the Authority confirmed receipt of his request, Terdal offered additional specifications "to streamline the Authority's review and completion of [the] request." He welcomed the Authority "to redact or otherwise omit" three categories of information from the public-use files, and he identified the specific data fields within each category that the Authority could remove. Terdal "offer[ed] these proposed redactions or omissions without regard to whether the … information is exempt from disclosure or implicates any statutory exemptions" and "reserve[d] all rights."

18.

The first category of information Terdal said could be removed from the public-use files was "[e]lements of dates except the year for dates directly related to an individual, specifically the month and day of any service start and end dates." Terdal specified that the Authority could remove (a) the "mc059_service_start_dt," "month," "mc018_admit_dt," and "mc070_discharge_dt" data fields from the Medical Claims files; (b) the "pc032_prescription_fill_dt" and "month" data fields from the Pharmacy Claims files; and (c) the "month_Eligibility" data field from the Medical Eligibility Member Month and Pharmacy Eligibility Member Month files.

19.

The second category of information Terdal said could be removed from the public-use files was "[a]ll ages over 89 and all elements of dates (including year) indicative of such age." Terdal

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specified that the Authority could remove from all public-use files any claim entries where the "age" data field indicates the patient is over the age of 89.

20.

The third category of information Terdal said could be removed from the public-use files was the "National Provider Identifier (NPI) for pharmacy claims." Terdal specified that the Authority could remove the "pc048_prescribing_physician_npi" data field from the Pharmacy Claims files.

21.

Terdal also offered three representations. First, he "will not attempt to re-identify the data in the requested public records." Second, he "will not link the data in the requested public records with individually identifiable data from any other source." Third, he "will not re-transfer or re-disseminate the data in the requested public records in a format that could possibly lead to the identification of an individual."

22.

The Authority estimated the request would cost $1,829 and take up to 30 business days to process. Terdal elected to proceed and paid the fee.

23.

On June 18, the Authority emailed Terdal with a link to download the public-use files. The files, however, omit several data fields beyond those Terdal consented to. Specifically, the Authority is withholding the "dw_member_id," "uniquepersonID," "age," "re3_primary_language_cd," and "rarestre" data fields from all public-use files, as well as the "uid" data field from the Medical Eligibility Member Month and Pharmacy Eligibility Member Month files.

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24.

Terdal inquired about the omitted data fields. On June 25, the Authority answered, "The redactions are pursuant to HIPAA as well as HB 4088." The Authority notified Terdal that he could seek review of that determination. "This will complete your request," the Authority concluded.

25.

On July 1, Terdal petitioned the Attorney General for a public records order compelling disclosure of the complete public-use files with the withheld data fields. *See* Exhibit 1.

26.

On July 17, the Attorney General denied Terdal's petition, concluding the federal Health Insurance Portability and Accountability Act justifies the Authority's withholding of the omitted data fields. *See* Exhibit 2.

27.

The Attorney General accepted the Authority's assertion that disclosure of the APAC public-use files is subject to HIPAA. According to the Authority, its Office of Health Analytics is considered a health care component within the Authority and so is a "covered entity" under HIPAA.

28.

The Attorney General concluded that the Authority "met its burden" to justify the withheld data fields. According to the Authority, the withheld data fields "pose a genuine risk of re-identification, particularly when combined with other demographic or publicly available information." The Attorney General determined that the Authority "has not merely speculated about the risk of re-identification" (footnote omitted) because it supported its view with "internal

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research" from a "2024 data request," "published literature on HIPAA de-identification risks," and "practical examples." Because the Authority "possesses actual knowledge that the information could be used to identify individuals," the Attorney General concluded, "the redacted fields fall within HIPAA's restrictions and may not lawfully be disclosed."

29.

None of that is right. In April 2025, the Authority considered "whether a potential data privacy breach resulted" when the Authority released the APAC public-use files with certain data fields—data fields Terdal told the Authority to omit here. *See* Exhibit 3. The Authority released the files under HIPAA's "rules for de-identification of Protected Health Information." The Authority determined that "**no data privacy breach**" occurred because the Authority's "APAC program is *not a covered entity* … as defined by HIPAA" and because "the data used was *not identifiable* at the time of release" (emphases added). The Authority's about-face here is unfounded and unexplained.

30.

If the Authority's disclosure of the APAC public-use files is subject to HIPAA, and if the Authority possesses actual knowledge that the information in the files could be used to identify individuals, then each prior release of the files by the Authority unlawfully disclosed protected health information in violation of HIPAA.

31.

Per federal regulations, when a HIPAA-covered entity unlawfully discloses protected health information, the entity must notify the individuals whose data was exposed, the media, and HHS within 60 days of discovering the breach. *See* 45 CFR §§164.404, 164.406, 164.408; *see Health Information Privacy: Breach Notification Rule*, HHS, perma.cc/5BD2-2U6B (archived

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July 19, 2026). But the Authority has never reported any such breaches of protected health information. *See Breach Portal: Notice to the Secretary of HHS Breach of Unsecured Protected Health Information*, HHS, bit.ly/4nGMsZp.

32.

The Authority's conscious failure to report the breaches leave the Authority exposed to enforcement by the U.S. Department of Health and Human Services and to millions of dollars in civil penalties. *See* 45 CFR §§160.402, 160.404, 160.408. The Authority would not take that risk if its HIPAA justification were sincere.

CLAIM FOR RELIEF

Failure to Disclose Public Records

Declaratory and Injunctive Relief

33.

Plaintiffs repeat and reallege each of the prior allegations.

34.

"Every person has a right to inspect any public record of a public body in this state, except as otherwise expressly provided by ORS 192.338, 192.345 and 192.355." ORS 192.314(1). Under Oregon public records law, "disclosure is the rule." *Guard Publ'g v. Lane Cnty. Sch. Dist. No. 4J*, 310 Or 32, 37, 791 P2d 854 (1990); *see Merrick v. City of Portland*, 313 Or App 647, 656, 496 P3d 1085 (2021) (emphasizing the "strong presumption in favor of disclosure").

35.

The Authority is a state agency and thus a "public body" under ORS 192.311(4).

36.

The APAC public-use files are "public record[s]" under ORS 192.311(5)(a).

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37.

The Authority is mandated directly "to create, maintain, care for [and] control" the APAC public-use files and thus is the "custodian" of the files under ORS 192.311(2)(b). *See* ORS 442.373; OAR 409-025-0160(3).

38.

The Authority's withholding of the "dw_member_id," "uniquepersonID," "age," "re3_primary_language_cd," and "rarestre" data fields from all public-use files and the "uid" data field from the Medical Eligibility Member Month and Pharmacy Eligibility Member Month files violates the public records law.

39.

No statutory exemption from disclosure applies to justify the Authority's withholding of the data fields that it omitted from the public-use files it provided to Terdal.

40.

The Authority's APAC program is not covered by HIPAA or regulations thereunder.

41.

HIPAA does not prohibit the Authority from disclosing the APAC public-use files as requested by Terdal with the "dw_member_id," "uniquepersonID," "age," "re3_primary_language_cd," "rarestre," and "uid" data fields.

42.

The APAC public-use files as requested by Terdal do not contain any protected health information or individually identifiable health information under HIPAA or regulations thereunder.

43.

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The APAC public-use files as requested by Terdal do not identify any individual and there is no reasonable basis to believe that the information can be used to identify an individual.

44.

The APAC public-use files as requested by Terdal satisfy the requirements of the de-identification standards under HIPAA's regulations.

45.

The APAC public-use files as requested by Terdal do not contain any identifiers listed in 45 CFR §164.514(b)(2)(i).

46.

The Authority "does not have actual knowledge that the information" in the APAC public-use files as requested by Terdal "could be used alone or in combination with other information to identify an individual who is a subject of the information." 45 CFR §164.514(b)(2)(ii).

47.

The Authority's APAC program is also not covered by either of HB 4088's public records provisions: §9 and §13.

48.

The Authority's withholding of the data fields extends far beyond §9's narrow exemption for health information "that relates to applications for or receipt of legally-protected reproductive or gender-affirming health care activities." Or Laws 2026, ch 52, §9(1).

49.

The Authority is withholding data fields from *every claim* in the public-use files—claims with diagnoses ranging from autism to accidental hypothermia to malignant brain cancer to

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athlete's foot. The Authority's blanket withholding of data fields far removed from "reproductive or gender-affirming health care activities" is not covered by HB 4088.

50.

Even for claims that do relate to "reproductive or gender-affirming healthcare activities," §9 cannot justify the Authority's withholding because the APAC public-use files as requested by Terdal do not contain any "individual's individually identifiable information." Or Laws 2026, ch 52, §9(2)(a).

51.

The APAC public-use files as requested by Terdal do not contain any health information that is identifiable to an individual under §9(1).

52.

The APAC public-use files as requested by Terdal do not contain any health information for which there is a reasonable basis to believe the information can be used to identify an individual under §9(1).

53.

Nor can §13 of HB 4088 justify the Authority's withholding of the data fields because the APAC public-use files as requested by Terdal do not contain the "image," "home telephone number," or any other information of individuals "engaged in the provision of reproductive and gender-affirming health care services" that is exempt from disclosure. Or Laws 2026, ch 52 §13 (codified at ORS 192.345(43)). The data fields withheld by the Authority relate to health care claimants; they do not relate to providers.

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PRAYER FOR RELIEF

Plaintiffs respectfully ask this Court to enter judgment in their favor and against the Authority and provide the following relief:

A. A declaration that the APAC public-use files as requested by Plaintiffs are public records not exempt from disclosure and must be produced by the Authority and that the Authority's withholding of the data fields from the APAC public-use files violates the Oregon Public Records Law;

B. An injunction prohibiting the Authority from withholding the data fields from the APAC public-use files and ordering the Authority to produce to Plaintiffs the complete APAC public-use files as requested by Plaintiffs and with the withheld data categories;

C. An award of costs, disbursements, and reasonable attorney fees pursuant to ORS 192.431(3), ORCP 68, and any other applicable laws; and

D. Any other relief to which Plaintiffs are entitled that the Court deems just and proper.

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DATED this 20th day of July, 2026.

/s/ Luke D. Miller

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Paul Terdal and Terdal Consulting LLC

EXHIBIT 1

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July 1, 2026

Office of the Attorney General
Oregon Department of Justice
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PublicRecordsOrder@doj.oregon.gov

Re: Oregon Health Authority Public Records Request No. 2026-0387

Dear Sir or Madam:

We represent Paul Terdal and Terdal Consulting LLC in connection with the above-referenced public records request. Mr. Terdal petitions the Attorney General to review the Oregon Health Authority's unlawful withholding of data fields from its All Payer All Claims public-use files.

The Authority has maintained the Oregon All Payer All Claims reporting program for more than 15 years. Under the APAC program, the Authority collects health care data from health insurers, pharmacy benefit managers, and other entities to be used as a resource for policymakers and the public. *See* ORS 442.373(1). The Authority de-identifies and releases that data in a "public use data set." OAR 409-025-0160(3). The Authority has released the public-use files 70 or more times since the program's inception and 20 or more times over the past few years.

Mr. Terdal submitted a public records request for the Authority's public-use files on April 21, 2026. Exhibit A. He requested the "All Payer All Claims (APAC) Public Use Files (PUF) for the years 2011 through 2020," specifically the "Medical Claims," "Pharmacy Claims," "Medical Eligibility Member Month," and "Pharmacy Eligibility Member Month" files. *Id.* Mr. Terdal specified that "this request is for an electronic copy of the machine readable APAC PUF files in their original form," citing ORS 192.324(3). *Id.* After the Authority confirmed receipt of his request, Mr. Terdal offered additional specifications "to streamline the Authority's review and completion of [the] request." Exhibit B. He welcomed the Authority "to redact or otherwise omit" three categories of information from the public-use files: (1) "[e]lements of dates except the year for dates directly related to an individual, specifically the month and day of any service start and end dates";

(2) "[a]ll ages over 89 and all elements of dates (including year) indicative of such age"; and (3) the "National Provider Identifier (NPI) for pharmacy claims." *Id.* He identified the specific data fields within these three categories for the Authority to remove. *Id.* Mr. Terdal also represented that he would not attempt to re-identify the data, he would not link the data with any other individually identifiable data, and he would not re-transfer or re-disseminate the data in a format that could possibly lead to re-identification. *Id.* The Authority estimated the request would cost $1,829 to process. Exhibit C. Mr. Terdal elected to proceed and paid the fee. *Id.*; *see* Exhibit D.

On June 18, the Authority emailed Mr. Terdal with a link to download the public-use files. Exhibit E. The files, however, omit several data fields beyond those Mr. Terdal consented to. Specifically, the Authority is withholding the "dw_member_id," "uniquepersonID," "age," "re3_primary_language_cd," and "rarestre" data fields from all four public-use files, as well as the "uid" data field from the Medical Eligibility Member Month and Pharmacy Eligibility Member Month files. When asked about the omitted data fields, the Authority answered, "The redactions are pursuant to HIPAA as well as HB 4088." Exhibit C. The Authority confirmed that Mr. Terdal's request is "complete." *Id.*

Under Oregon public records law, "disclosure is the rule." *Guard Publ'g v. Lane Cnty. Sch. Dist. No. 4J*, 310 Or 32, 37, 791 P2d 854 (1990); *see Merrick v. City of Portland*, 313 Or App 647, 656, 496 P3d 1085 (2021) (emphasizing the "strong presumption in favor of disclosure"). Exemptions from disclosure are "narrowly construed." *Oregonian Publ'g v. Portland Sch. Dist. No. 1J*, 144 Or App 180, 184, 925 P2d 591 (1996). The Authority "bears the burden of justifying exemptions from disclosure." *Gray v. Salem-Keizer Sch. Dist.*, 139 Or App 556, 563, 912 P2d 938 (1996); *accord* ORS 192.411(1). "To satisfy that burden," the Authority "must establish exemptions from disclosure 'on an individualized basis.'" *Mail Trib. v. Winters*, 236 Or App 91, 95, 237 P3d 831 (2010). The Authority's cursory reference to HIPAA and HB 4088 does not establish that any "exemption is legally and factually justified." *Guard Publ'g*, 310 Or at 37.

By referencing HIPAA, the Authority seemingly relies on the federal law exemption. *See* ORS 192.355(8). This provision exempts from disclosure "public records or information the disclosure of which is prohibited by federal law or regulations." *Id.* To establish this exemption, "the relevant federal law must apply to the Oregon public body at issue and must *prohibit* the contemplated disclosure." Or. Dep't of Just., *Attorney General's Public Records and Meetings Manual* 93 (2024). HIPAA does neither.

The Authority's APAC program is not covered by HIPAA. HIPAA's prohibitions apply only to "covered entities" and to "business associate[s]." 45 CFR §§164.500(a), (c), 164.502(a). "For purposes of HIPAA Privacy Rules, the Authority is a hybrid entity because the Authority performs functions that are covered by HIPAA ('health care components') and functions that are not covered by HIPAA." OAR 943-014-0015(1); *see* 45 CFR §164.103 (defining hybrid entity). According to the Authority, "the APAC program is not a covered entity, nor a business associate as defined by HIPAA" and so disclosure of the public-use files is not a "data privacy breach."[1]

Even if the Authority's APAC program were covered by HIPAA, federal law does not prohibit disclosure of the public-use files with the data fields withheld by the Authority. HIPAA generally prohibits covered entities from disclosing "protected health information," 45 CFR §164.502(a), which it defines as "individually identifiable health information," §160.103. Health information that has been "de-identified" per §164.514 "is considered not to be individually identifiable health information." §164.502(d)(2). HIPAA's de-identification standards can be satisfied in either of two ways: by having an expert certify that the risk of re-identification is "very small," §164.514(b)(1), or by removing 18 specific "identifiers" and not having "actual knowledge that the information could be used … to identify an individual," §164.514(b)(2).

The APAC public-use files as requested by Mr. Terdal satisfy the second de-identification standard. The files include none of the 18 identifiers, and nothing in HIPAA requires removing the additional data fields withheld by the Authority—dw_member_id, uniquepersonID, age, re3_primary_language_cd, rarestre, and uid. *See* §164.514(b)(2)(i); *cf. OHSU v. Oregonian Publ'g*, 362 Or 68, 82, 403 P3d 732 (2017) (holding disclosure of records was "prohibited under HIPAA" because "the very information requested" included "identifiers" that "must all be removed," including "patient names" and "all elements of dates"). In fact, HIPAA *expressly authorizes* covered entities to use "a code" for "record identification" like the dw_member_id and uniquepersonID fields. §164.514(c). Nor has the Authority proffered any showing of "actual knowledge that the information could be used … to identify an individual." §164.514(b)(2)(ii); *see Am. Hosp. Ass'n v. Becerra*, 738 F Supp 3d 780, 803-04 (ND Tex 2024) (holding §164.514 requires more than "a speculative inference" that an individual can be identified for "de-identified" data to still constitute "individually identifiable health information").

[1] Memorandum from Lyssette Young, ODHS|OHA Privacy Compliance Officer, to Clare Pierce-Wrobel, Health Policy and Analytics Director, and Piper Block, Health Policy and Program Manager, at 2 (Apr. 29, 2025).

And any attempted proffer could not be squared with the Authority's longtime representation that "Public Use data sets … do not contain [protected health information] or any combination of data elements that may directly identify any person." Or. Health Auth., *Oregon All Payer All Claims Database (APAC): An Overview* 3 (2018), perma.cc/A4P2-7L8T. Because HIPAA does not prohibit disclosure of the complete public-use files, it does not justify the Authority's withholding of the omitted data fields.

The Authority's second justification—HB 4088—fares no better. Sections 9 and 13 of that bill concern public records, *see* Or Laws 2026, ch 52, §§9, 13; but neither applies here.

Section 9 of HB 4088 cannot justify the Authority's withholding of the data fields for at least two reasons. First, section 9's exemption from disclosure only covers health information "that relates to applications for or receipt of legally-protected reproductive or gender-affirming health care activities." Or Laws 2026, ch 52, §9(1). Yet the Authority is withholding data fields not from claims that relate to "reproductive or gender-affirming health care activities" but from *every claim* in the public-use files—claims with diagnoses ranging anywhere from autism (F840) to primary malignant brain cancer (C710) to athlete's foot (B353) to accidental hypothermia (T68XXXA) to open wound of the head (S0190XA). The Authority's withholding of data fields beyond section 9's limited subject matters comes nowhere close to the "*individualized* showing" necessary to justify use of the exemption. *Winters*, 236 Or App at 95.

Second, even with respect to claims that relate to "reproductive or gender-affirming health care activities," section 9 only exempts from disclosure an "individual's individually identifiable information." Or Laws 2026, ch 52, §9(2)(a). The public-use files do not contain such information. Section 9 defines "individually identifiable information" as "any health information … that is identifiable to an individual, including demographic information that identifies the individual, or for which there is a reasonable basis to believe the information can be used to identify an individual." §9(1). HIPAA defines "individually identifiable health information" in identical terms: "health information, including demographic information … [t]hat identifies the individual; or [w]ith respect to which there is a reasonable basis to believe the information can be used to identify the individual." 45 CFR §160.103. Because section 9's definition of identifiable information is "substantively comparable" and "[i]n symmetry with HIPAA," the "analysis under HIPAA" above applies to section 9. *OHSU*, 362 Or at 88 & n 18. Because the public-use files as requested by Mr. Terdal satisfy HIPAA's de-identification standard, they are not identifiable under section 9 and so not exempt from disclosure.

Finally, section 13 of HB4088 is inapposite. Section 13 amended ORS 192.345(43) to add "image" and "home telephone number" to the list of information of "reproductive and gender-affirming health care" providers exempt from disclosure. Or Laws 2026, ch 52, §13. The public-use files do not even contain the image or home telephone number of providers. And each data field withheld by the Authority relates to health care *claimants*, not providers, let alone providers of "reproductive and gender-affirming health care services." ORS 192.345(43).

* * *

The Attorney General should order the Authority to disclose the complete public-use files with the withheld data fields.

Respectfully submitted,

/s/ Cameron T. Norris

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EXHIBIT A

FW: Confirmation: ERD - Public Records Request

Dan Vitagliano <dvitagliano@consovoymccarthy.com> Wed, Apr 22, 2026 at 6:41 PM
To: OHA.PublicRecords@dhsoha.state.or.us
Cc: Cam Norris <cam@consovoymccarthy.com>, Luke <luke@millerbradleylaw.com>, Joh YoungWoo <YoungWoo.Joh@doj.oregon.gov>, Morrow Kate E <Kate.E.Morrow@doj.oregon.gov>, Carter Brace <carter.brace@doj.oregon.gov>, AttorneyGeneral@doj.oregon.gov, "paul@terdal.com" <paul@terdal.com>

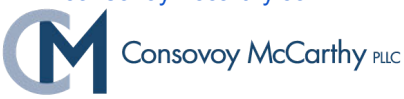
Good afternoon:

I represent Paul Terdal and Terdal Consulting LLC in *Terdal et al. v. Hathi et al.*, No. 3:25-cv-1358-YY (D. Or.). The Oregon attorney general's office received immediate notice of this public records request and, to remove all doubt, is copied on this email.

Please copy me on any correspondence regarding this request. Thank you.

Regards,
Dan

Daniel M. Vitagliano
Consovoy McCarthy PLLC
1600 Wilson Boulevard
Suite 700
Arlington, VA 22209
703.243.9423
www.consovoymccarthy.com



From: oregon-gov-web-services@egov.com <oregon-gov-web-services@egov.com>
Sent: Tuesday, April 21, 2026 9:52 PM
To: paul@terdal.com
Subject: Confirmation: ERD - Public Records Request

Thank you for your submitting a Public Records Request. We will process your request as soon as possible. If you have any questions in the meantime, please feel free to email us at OHA.PublicRecords@dhsoha.state.or.us

Your Name	Paul Terdal, Terdal Consulting LLC
Your Email Address	paul@terdal.com
Your Phone Number	(503)984-2950

Description of your Public Records Request	All Payer All Claims (APAC) Public Use Files (PUF) for the years 2011 through 2020. This request includes the Medical Claims, Pharmacy Claims, Medical Eligibility Member Month, Pharmacy Eligibility Member Month, and any other APAC Public Use Files for the years 2011 through 2020. Pursuant to ORS 192.324(3), this request is for an electronic copy of the machine readable APAC PUF files in their original form.
Have you made this request to another public agency?	No

Submission Date: 04/21/2026 08:51 PM CST

Submission ID: db06ad3f-45f4-4029-bed1-5bbdaaeba914

Record ID: 48267

EXHIBIT B

Public Records Request - All Payer All Claims (APAC) Public Use Files (PUF) 2011-2020 (OHA Request No. 2026-0387)

Windham Jeanne <JEANNE.WINDHAM@oha.oregon.gov> Thu, Apr 30, 2026 at 4:30 PM
To: Dan Vitagliano <dvitagliano@consovoymccarthy.com>
Cc: "paul@terdal.org" <paul@terdal.org>, Joh YoungWoo <YoungWoo.Joh@doj.oregon.gov>

Thank you Mr. Vitagliano for your email. We will keep this in mind while processing Mr. Terdal's public records request.

Jeanne Windham

Public Records and Internal Litigation Process Coordinator

OREGON HEALTH AUTHORITY

Central Operations

(971) 345-1688

jeanne.windham@oha.oregon.gov

OHA Customer Service Survey

From: Dan Vitagliano <dvitagliano@consovoymccarthy.com>
Sent: Thursday, April 30, 2026 6:54 AM
To: Windham Jeanne <JEANNE.WINDHAM@oha.oregon.gov>
Cc: paul@terdal.org; Joh YoungWoo <YoungWoo.Joh@doj.oregon.gov>
Subject: Re: Public Records Request - All Payer All Claims (APAC) Public Use Files (PUF) 2011-2020 (OHA Request No. 2026-0387)

Thank you, Ms. Windham.

In an effort to streamline the Authority's review and completion of Mr. Terdal's request, Mr. Terdal welcomes the Authority to redact or otherwise omit the following information from the requested public records:

- Elements of dates except the year for dates directly related to an individual, specifically the month and day of any service start and end dates.
    - For the Medical Claims public use files, the Authority may remove the following date related columns:
        - mc059_service_start_dt
        - month
        - mc018_admit_dt
        - mc070_discharge_dt

    - For the Pharmacy Claims public use files, the Authority may remove the following date related columns:
        - pc032_prescription_fill_dt
        - month
    - For the Medical Eligibility Member Month and Pharmacy Eligibility Member Month public use files, the Authority may remove the "month_Eligibility" column.
- All ages over 89 and all elements of dates (including year) indicative of such age.
    - For all public use files, the Authority may completely delete all rows where the "age" column indicates the patient is over the age of 89.
- The National Provider Identifier (NPI) for pharmacy claims.
    - For the Pharmacy Claims public use files, the Authority may remove the "pc048_prescribing_physician_npi" column.

Mr. Terdal offers these proposed redactions or omissions without regard to whether the above information is exempt from disclosure or implicates any statutory exemptions. Mr. Terdal reserves all rights.

In addition, Mr. Terdal offers the following representations:

- He will not attempt to re-identify the data in the requested public records.
- He will not link the data in the requested public records with individually identifiable data from any other source.
- He will not re-transfer or re-disseminate the data in the requested public records in a format that could possibly lead to the identification of an individual.

Please let me know if you have any questions or would like to discuss Mr. Terdal's request further. Thank you.

Regards,
Dan

Daniel M. Vitagliano

Consovoy McCarthy PLLC

1600 Wilson Boulevard

Suite 700

Arlington, VA 22209

703.243.9423

www.consovoymccarthy.com

On Mon, Apr 27, 2026 at 8:20 PM Windham Jeanne <JEANNE.WINDHAM@oha.oregon.gov> wrote:

> VIA EMAIL ONLY - paul@terdal.org
>
> April 27, 2026

Paul Terdal

Terdal Consulting LLC

700 NW MacLeay Boulevard

Portland, OR 97210

Re: Public Records Request - All Payer All Claims (APAC) Public Use Files (PUF) 2011-2020 (OHA Request No. 2026-0387)

Good Afternoon Paul,

This will confirm Oregon Health Authority received your public records request for “All Payer All Claims (APAC) Public Use Files (PUF) for the years 2011 through 2020. This request includes the Medical Claims, Pharmacy Claims, Medical Eligibility Member Month, Pharmacy Eligibility Member Month, and any other APAC Public Use Files for the years 2011 through 2020.”

Please be aware that due to the size of the agency and the volume of records requests received, the agency completes most requests within fifteen (15) business days. Requests that are expected to go beyond fifteen (15) business days will receive an estimated timeline and periodic updates on the status of the request. We will, however, keep you apprised of the status. Thank you for your patience in this regard.

Jeanne Windham

Public Records and Internal Litigation Process Coordinator

OREGON HEALTH AUTHORITY

Central Operations

(971) 345-1688

jeanne.windham@oha.oregon.gov

OHA Customer Service Survey

EXHIBIT C

Public Records Request - All Payer All Claims (APAC) Public Use Files (PUF) 2011-2020 (OHA Request No. 2026-0387)

Windham Jeanne <JEANNE.WINDHAM@oha.oregon.gov> Thu, Jun 25, 2026 at 12:01 PM
To: Paul Terdal <paul@terdal.org>, Dan Vitagliano <dvitagliano@consovoymccarthy.com>
Cc: Joh YoungWoo <YoungWoo.Joh@doj.oregon.gov>

Good Morning Paul,

I was aware the records were being provided to you; however, I did not know there was no accompanying notice of completion and explanation of redactions. The redactions are pursuant to HIPAA as well as HB 4088. If you so choose, you may seek review of this determination pursuant to ORS 192.401, 192.411, 192.415, 192.418, 192.422, 192.427 and 192.431.

This will complete your request.

Jeanne Windham

Public Records and Internal Litigation Process Coordinator

OREGON HEALTH AUTHORITY

Central Operations

(971) 345-1688

jeanne.windham@oha.oregon.gov

OHA Customer Service Survey

From: Paul Terdal <paul@terdal.org>
Sent: Tuesday, June 23, 2026 3:39 PM
To: Windham Jeanne <JEANNE.WINDHAM@oha.oregon.gov>; Dan Vitagliano <dvitagliano@consovoymccarthy.com>
Cc: Joh YoungWoo <YoungWoo.Joh@doj.oregon.gov>
Subject: RE: Public Records Request - COST ESTIMATE - All Payer All Claims (APAC) Public Use Files (PUF) 2011-2020 (OHA Request No. 2026-0387)

Dear Jeanne:

I write to inquire about the status of this public records request (2026-0387).

I received an email from Lucia Eleen on Thursday, June 18, with a link to download files related to this request. I downloaded those files. But the Authority has not asserted any exemptions from disclosure to

explain categories of information omitted from the files and, relatedly, has not provided a statement that I may seek review of the Authority's determination. See ORS 192.329(2). My request is still listed as pending on the Authority's webpage. Please advise whether the Authority considers its response to my request complete.

Thank you.

Sincerely,

Paul Terdal

(503)984-2950

From: Windham Jeanne <JEANNE.WINDHAM@oha.oregon.gov>
Sent: Thursday, May 7, 2026 11:25 AM
To: Paul Terdal <paul@terdal.org>; Dan Vitagliano <dvitagliano@consovoymccarthy.com>
Cc: Joh YoungWoo <YoungWoo.Joh@doj.oregon.gov>
Subject: RE: Public Records Request - COST ESTIMATE - All Payer All Claims (APAC) Public Use Files (PUF) 2011-2020 (OHA Request No. 2026-0387)

Thank you Paul!

I'll let the program know so your request can be added to the queue.

Jeanne Windham

Public Records and Internal Litigation Process Coordinator

OREGON HEALTH AUTHORITY

Central Operations

(971) 345-1688

jeanne.windham@oha.oregon.gov

OHA Customer Service Survey

From: Paul Terdal <paul@terdal.org>
Sent: Thursday, May 7, 2026 11:02 AM
To: Windham Jeanne <JEANNE.WINDHAM@oha.oregon.gov>; Dan Vitagliano <dvitagliano@consovoymccarthy.com>
Cc: Joh YoungWoo <YoungWoo.Joh@doj.oregon.gov>
Subject: RE: Public Records Request - COST ESTIMATE - All Payer All Claims (APAC) Public Use Files (PUF) 2011-2020 (OHA Request No. 2026-0387)

Dear Jeanne,

I have attached a copy of the payment receipt. Please let me know if you have any other questions about this.

Sincerely,

Paul Terdal

From: Windham Jeanne <JEANNE.WINDHAM@oha.oregon.gov>
Sent: Thursday, May 7, 2026 9:36 AM
To: Paul Terdal <paul@terdal.org>; Dan Vitagliano <dvitagliano@consovoymccarthy.com>
Cc: Joh YoungWoo <YoungWoo.Joh@doj.oregon.gov>
Subject: Public Records Request - COST ESTIMATE - All Payer All Claims (APAC) Public Use Files (PUF) 2011-2020 (OHA Request No. 2026-0387)

Good Morning Paul,

Here is the link to make a payment of $1,829: https://or.accessgov.com/odhsoha/Forms/Page/sharedsevices/public-records-request/0. We do not accept American Express. Please send me a copy of your receipt so I can put your request in the queue for processing.

Jeanne Windham

Public Records and Internal Litigation Process Coordinator

OREGON HEALTH AUTHORITY

Central Operations

(971) 345-1688

jeanne.windham@oha.oregon.gov

OHA Customer Service Survey

From: Paul Terdal <paul@terdal.org>
Sent: Thursday, May 7, 2026 9:32 AM
To: Windham Jeanne <JEANNE.WINDHAM@oha.oregon.gov>; Dan Vitagliano <dvitagliano@consovoymccarthy.com>
Cc: Joh YoungWoo <YoungWoo.Joh@doj.oregon.gov>
Subject: RE: Public Records Request - COST ESTIMATE - All Payer All Claims (APAC) Public Use Files (PUF) 2011-2020 (OHA Request No. 2026-0387)

Thank you, Ms. Windham. I choose to proceed with the request and will pay the initial cost estimate. If the request requires more time to complete such that the updated cost is meaningfully higher than the current estimate, I reserve my right to request a fee waiver or reduction.

From: Windham Jeanne <JEANNE.WINDHAM@oha.oregon.gov>
Sent: Wednesday, May 6, 2026 3:03 PM
To: Paul Terdal <paul@terdal.org>; Dan Vitagliano <dvitagliano@consovoymccarthy.com>
Cc: Joh YoungWoo <YoungWoo.Joh@doj.oregon.gov>
Subject: Public Records Request - COST ESTIMATE - All Payer All Claims (APAC) Public Use Files (PUF) 2011-2020 (OHA Request No. 2026-0387)

VIA EMAIL ONLY - paul@terdal.org

May 6, 2026

Paul Terdal

Terdal Consulting LLC

700 NW MacLeay Boulevard

Portland, OR 97210

Re: Public Records Request – COST ESTIMATE - All Payer All Claims (APAC) Public Use Files (PUF) 2011-2020 (OHA Request No. 2026-0387)

Good Afternoon Paul,

You submitted a public records request for “All Payer All Claims (APAC) Public Use Files (PUF) for the years 2011 through 2020. This request includes the Medical Claims, Pharmacy Claims, Medical Eligibility Member Month, Pharmacy Eligibility Member Month, and any other APAC Public Use Files for the years 2011 through 2020.” The cost estimate for processing this request is $1,829, which includes two hours of DOJ review, billed at $352 per hour. Remember, this is a cost estimate. If it requires more time to complete, I will send an updated cost. We will require payment before proceeding with your request. And the estimate time for completion is 15 to 30 business days from the date of receipt of payment. If you choose to go forward, I will send you a link to pay by credit card. Please let me know how you wish to proceed.

[Quoted text hidden]

EXHIBIT D

From: noreply@nicusa.com
Subject: OHA Public Records Request receipt
Date: Thursday, May 7, 2026 10:58:33 AM

Payment Receipt Confirmation

Your payment was successfully processed. You may print this receipt page for your records by selecting Print. For technical assistance call 1-855-255-4304.

Transaction Summary

Description	Amount
OHA Public Records Request	$1,829.00
Total Amount Paid	$1,829.00

Customer Information

Customer Name Paul Terdal
Company Name
Local Reference ID 2026-0387
Receipt Date 5/7/2026
Receipt Time 10:58:27 AM PDT

Payment Information

Payment Type Credit Card
Credit Card Type VISA
Credit Card Number ******3925
Order ID 166071712
Name on Credit Card Paul N Terdal

Billing Information

Billing Address 700 NW Macleay Blvd
Billing City, State Portland, OR
Billing Zip/Postal Code 97210
Country US
Phone Number 5039842950
This receipt has been emailed to the address below.
Email Address paul@terdal.com

EXHIBIT E

RE: SFTP files from James Oliver at Oregon Health Authority

paul@terdal.com <paul@terdal.com> Tue, Jun 23, 2026 at 6:36 PM
To: Lucia Eleen plans <lucia.eleen@oha.oregon.gov>

Dear Lucia,

This is to confirm that I did successfully download the files from the FTP site.

Sincerely,

Paul Terdal

(503)984-2950

From: paul@terdal.com <paul@terdal.com>
Sent: Friday, June 19, 2026 9:10 AM
To: 'Lucia Eleen plans' <lucia.eleen@oha.oregon.gov>
Subject: RE: SFTP files from James Oliver at Oregon Health Authority

Hi Lucia,

I have downloaded the files from FTP – but I'm still reviewing them to ensure that they came through okay.

Can you leave them on the FTP site until I can be sure? I should be able to get back to you about that next week.

Have a great weekend!

Sincerely,

Paul Terdal

(503)984-2950

From: Lucia Eleen plans <lucia.eleen@oha.oregon.gov>
Sent: Thursday, June 18, 2026 6:02 PM
To: paul@terdal.com
Subject: SFTP files from James Oliver at Oregon Health Authority

Hi Paul, please find your files attached. Let me know if you have any questions about the download process.

Best,

Lucia

4 Attachments:

PUFmedicalClaims2011-2020.7z
PUFmedicalMM2011-2020.7z
PUFRXclaims2011-2020.7z
PUFRXMM2011-2020.7z

Your package is securely stored in Oregon Dept Human Services/Oregon Health Authority.

Your account information is as follows:

Username: paul@terdal.com
Password: [redacted]

If site policy requires it, at sign on you will be guided through additional steps to secure your account.

Please use the following URL and your username/password to login and view this package. You will also be given the opportunity to compose a secure reply to this package.

(https://odhsoha.mft.oregon.gov//human.aspx?OrgID=7117&Arg12=message&Arg06=355564787&Arg08=5qjqfkgsxk57akoq)

EXHIBIT 2

DAN RAYFIELD
ATTORNEY GENERAL

BENJAMIN GUTMAN
DEPUTY ATTORNEY GENERAL

DEPARTMENT OF JUSTICE

Justice Building
1162 Court Street NE
Salem, Oregon 97301-4096
Telephone: (503) 378-6002

July 17, 2026

VIA E-MAIL ONLY: cam@consovoymccarthy.com
dvitagliano@consovoymccarthy.com

Cameron Norris
Consovoy McCarthy PLLC
1600 Wilson Boulevand, Suite 700
Arlington, VA 22209

Re: Petition for Public Records Disclosure Order
Oregon Health Authority
DOJ File No.: 443018-GA0131-26

Dear Mr. Norris:

This letter is the Attorney General's response to your petition for the disclosure of records under the Oregon Public Records Law, ORS 192.311 to 192.478. Your petition asks the Attorney General to order the Oregon Health Authority (OHA) to disclose fully disclose certain data that was redacted in response to a records request sent by your client. For the reasons discussed below, we respectfully deny your petition.

The Public Records Law confers the right to inspect public records in Oregon, unless such records are exempt under ORS 192.338, 192.345, or 192.355. ORS 192.314(1). The law is a disclosure law, and exemptions from disclosure must be express. Any person denied the right to inspect or to receive a copy of a public record of a state agency may petition the Attorney General to review the record and determine if it may be withheld. ORS 192.411(1). The agency carries the burden to sustain its actions. *Id*.

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Your petition stems from your client's request to OHA for the "All Payer All Claims (APAC) Public Use Files for the years 2011 through 2020." OHA responded to the request by producing the requested APAC files with redactions to certain fields. Specifically, OHA redacted certain coded identifier numbers that permit the association of claim information with a single identifier number. OHA also redacted certain fields that provide demographic information. OHA stated that the redactions were made pursuant to the Health Insurance Portability and Accountability Act (HIPAA).[1] Your petition followed.

1. Applicability of HIPAA to the APAC Program

Your petition argues that HIPAA's prohibitions apply only to "covered entities" and "business associates," and the APAC program is neither. You observe that OHA has previously stated that APAC is not a covered entity or business associate under HIPAA, and thus HIPAA does not prohibit disclosure of the requested public-use files.

OHA asserts that disclosures of claims data from the APAC Public Use Files are subject to HIPAA restrictions, as the Office of Health Analytics is considered a health care component within OHA and thus a covered entity under HIPAA. OHA also points to ORS 442.373(9), which expressly subjects the APAC data to HIPAA.

We agree with OHA. Regardless of OHA's status as a covered entity or business associate under federal law, the Oregon Legislature has determined that the APAC data is subject to HIPAA's confidentiality requirements.[2] Because state law incorporates these privacy protections, the APAC information will be exempt from public records disclosure if protected under HIPAA.[3]

2. OHA's Redactions and HIPAA's De-identification Standard

Entities subject to HIPAA may only release protected health information as permitted by federal law. 45 CFR § 164.502(a). "Health information" includes "any information * * * created or received by a health care provider" that relates to "the past present, or future physical or mental health or condition of an individual, the provision of health care to an individual, or * * * payment for the provision of health care to an individual." 42 USCS § 1320D(4). Your petition does not dispute that the requested claim data is "health information." Instead, you argue that the APAC Public Use Files, as requested by you, satisfy HIPAA's safe harbor method, which permits the sharing of de-identified health information. Specifically, you note that the files do not contain any of the 18 prohibited identifiers listed in HIPAA regulations,[4] and HIPAA expressly allows the use of the coded record identifiers that OHA is now redacting.[5] You further

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[1] OHA also cited Oregon House Bill 4088. Because we find that the information you seek is protected under HIPAA, we do not reach that argument.
[2] *See* ORS 442.373(9) ("The collection, storage and release of health care date and other information under this section is subject to the requirements of [HIPAA].").
[3] *See* ORS 192.355(9)(a) (exempting "[p]ublic records or information the disclosure of which is prohibited or restricted or otherwise made confidential or privileged under Oregon law").
[4] *See* 45 CFR § 164.514(b)(2)
[5] *See* 45 CFR § 164.514(c)

argue that HIPAA does not require removal of additional demographic fields like age, primary language, or rarest race, and that OHA has not demonstrated "actual knowledge" that the information could be used to identify individuals, as required by HIPAA for withholding de-identified data.

OHA responds that if it has knowledge that information "could be used" alone or in combination to identify an individual, it must not release that information.[6] OHA states that it made redactions to the APAC Public Use File for unique person and member IDs, age in years, rarest race, and primary language fields, because these could be used to re-identify individuals, especially when combined with other demographic information. OHA explains that Dr. Piper Block, OHA's Research and Data Manager for the Office of Health Analytics, and her team conducted a review of best practices for de-identification, reviewing both internal data and published literature on HIPAA de-identification risks. Dr. Block identified specific examples, including a 2024 data request, where certain year/age/service category combinations fell below thresholds for small numbers, indicating a heightened risk of re-identification. According to OHA, Dr. Block's team's queries of the APAC Public Use Files confirmed that, for certain combinations (e.g., age, sex, year, procedure), there were fewer than five individuals, making re-identification plausible. This analysis led OHA to conclude that the APAC Public Use Files could be used to re-identify individuals. Therefore, OHA determined that the redacted fields must be withheld to comply with HIPAA and protect individual privacy.

We find that OHA has met its burden to support the redactions made to the APAC Public Use Files. A covered entity may only disclose de-identified patient information under 45 CFR § 164.514(a), if "there is no reasonable basis to believe that the information can be used to identify an individual." Thus, even if the patient's name or other express identifiers are not provided, it is still unlawful to disclose a patient's health information if the "covered entity [has] actual knowledge that the information could be used alone or in combination with other information to identify an individual who is a subject of the information." 45 CFR § 164.514(b)(2)(ii). OHA has explained that the redacted fields pose a genuine risk of re-identification, particularly when combined with other demographic or publicly available information. OHA has not merely speculated[7] about the risk of re-identification. OHA's determination is supported by both internal research and external publications, as well as practical examples of re-identification risk. Because OHA possesses actual knowledge that the information could be used to identify individuals, the data does not fall within the safe harbor provision of 45 CFR § 164.514(b)(2).

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[6] *See* 45 CFR § 164.514(b)(2)(ii)

[7] Your petition cites *American Hospital Association v. Becerra*, 738 F. Supp. 3d 780 (N.D. Tex. 2024) for the proposition that § 164.514 requires more than a "speculative inference" that an individual can be de-identified. We do not find *Becerra* persuasive because the court addressed a different kind of inference, specifically federal agency guidance asserting that a user's IP address, combined with a visit to a health-related webpage, constituted individually identifiable health information. The court concluded that such a visit, standing alone, did not support an inference about the individual's medical condition. The question in *Becerra* was therefore not whether a combination of data fields could identify a person, but whether a web user's choice to view certain pages could reasonably be taken as evidence of that person's health status.

ORS 192.355(9)(a) exempts from disclosure any public record made confidential under Oregon law. ORS 442.373(9) is one such statute. It expressly provides that the APAC Public Use Files are "subject to" HIPAA's confidentiality requirements. Because the redacted fields fall within HIPAA's restrictions and may not lawfully be disclosed, the withheld information is exempt under ORS 192.355(9)(a). For this reason, we respectfully deny your petition.

Sincerely,

BENJAMIN GUTMAN
Deputy Attorney General

DP9/pjn
c via e-mail only: Jeanne Windham, Oregon Health Authority

EXHIBIT 3

3990 Fairview Industrial Dr SE
Salem, OR 97302
dhs.privacyhelp@odhsoha.oregon.gov

Date: April 29, 2025

To: Clare Pierce-Wrobel, Health Policy and Analytics Director
Piper Block, Health Policy and Program Manager

From: Lyssette Young, ODHS|OHA Privacy Compliance Officer (PCO)

Re: Privacy Inquiry - All Payer All Claims (APAC) Program- Public Use Files (PUF)

Scope: PUF data shared during calendar years 2021-2024

Lyssette Young, PCO with the ODHS|OHA Information Security and Privacy Office (ISPO) met on March 27, 2025, with Clare Pierce-Wobel APAC Director of policy and analytics and Piper Block, Program Manager, on their inquiry on whether a potential data privacy breach resulted when the Public Use Files (PUFs) containing the following data elements were shared as part of external research requests:

Data elements:

- Service Date
- Prescription Date
- >89 Year of Birth

The PUFs were shared through use of current OHA applications and established data use agreements that supported research and other studies under statute ORS 442.373, as well as safe harbor rules for de-identification of Protected Health Information (PHI) under the Health Insurance Portability and Accountability Act (HIPAA) Privacy Rule.

Code of Federal Regulations (CFR)

CFR 164.502 [https://www.ecfr.gov/current/title-45/subtitle-A/subchapter-C/part-164/subpart-E/section-164.502].

CFR §164.514(a)-(b). https://www.ecfr.gov/current/title-45/subtitle-A/subchapter-C/part-164/subpart-E/section-164.514#p-164.514(a)

ISPO Determination:
While APAC is required to support HIPAA requirements under statute ORS 442.373, they are not a covered entity, nor a business associate, and the data used was not identifiable at the time of release during the calendar years 2021 through 2024. Therefore, it is ISPO's determination that there was **no data privacy breach** to be reported.

The OHA applications and established use agreements specified the scope of the de-identified data elements and the explicit use of the data. Even though, the APAC program is not a covered entity, nor a business associate as defined by HIPAA, they continue to ensure that privacy safeguards and best practice standards for de-identification of Protected Health Information (PHI) is incorporated into current processes. The APAC program continues to evaluate these processes to ensure protection of agency data from inappropriate use and disclosure. ISPO and APAC will continue to collaborate on any additional support needed to ensure adherence to regulatory compliance, and privacy questions and concerns on de-identification of data is met.

If there are any questions regarding this determination, please contact the Privacy Compliance Officer at dhs.privacyhelp@odhsoha.oregon.gov

Regards,

Lyssette Young

Lyssette Young, Privacy Compliance Officer (PCO)

Cc: Debbie Estabrook, OHA|ODHS-OIS Chief Information Officer (CIO)
Kristine Cornett, OHA|ODHS OIS-ISPO Chief Information Risk Officer (CIRO)
Shannon O'Fallon, Department of Justice (DOJ) Senior Assistant Attorney General