



STATE OF INDIANA

MICHAEL R. PENCE, Governor

PUBLIC ACCESS COUNSELOR
LUKE H. BRITT

Indiana Government Center South
402 West Washington Street, Room W470
Indianapolis, Indiana 46204-2745
Telephone: (317)234-0906
Fax: (317)233-3091
1-800-228-6013
www.IN.gov/pac

November 18, 2016

Mr. Jake Harper
1630 North Meridian Street
Indianapolis, Indiana 46201

Re: Formal Complaint 16-FC-258; Alleged Violation of the Access to Public Records Act by the Family and Social Services Administration

Dear Mr. Harper:

This advisory opinion is in response to your formal complaint alleging the Family and Social Services Administration ("FSSA") violated the Access to Public Records Act ("APRA"), Indiana Code § 5-14-3-1 et. seq. The FSSA has responded. Its response is included for your review. Pursuant to Indiana Code § 5-14-5-10, I issue the following opinion to your formal complaint received by the Office of the Public Access Counselor on October 4, 2016.

BACKGROUND

Your complaint dated October 4, 2016, alleges you were denied access to a complete list of Medicaid and HIP providers pursuant to a public records request.

You submitted an APRA request on August 5, 2016 and received a response acknowledging your request on August 8, 2016. You sent a few email reminders asking for updates on when the request would be fulfilled. You received a response on September 28, 2016 which directed you to the online database with the list of providers. You were initially told a complete list existed; however, it does not appear as if this is the case.

FSSA has responded stating they regret the miscommunication you received stating there is a complete list of providers. FSSA does not maintain a complete list of providers as you requested.

ANALYSIS

The public policy of the APRA states that "(p)roviding persons with information is an essential function of a representative government and an integral part of the routine duties of public officials and employees, whose duty it is to provide the information." *See Indiana Code § 5-14-3-1*. The Family and Social Services Administration is a public agency for the purposes of the APRA. *See Indiana Code § 5-*

14-3-2. Accordingly, any person has the right to inspect and copy the FSSA's disclosable public records during regular business hours unless the records are protected from disclosure as confidential or otherwise exempt under the APRA. *See Indiana Code § 5-14-3-3(a)*.

Despite initial communication indicating it might have a list, FSSA does not maintain a complete list of the providers you requested and has directed you to access the list of databases sent to you. Regretfully, FSSA initially led you to believe there may have been a complete list; however, it appears as if that is not the case. A public agency is not required to produce a list it does not maintain, nor is it obligated to create one.

FSSA does concede there was a lapse in communication regarding any potential status updates; however, and regrets any inconvenience. There is no evidence any miscommunication was due to bad faith, FSSA merely overstated the scope of the information it maintains.

Please do not hesitate to contact me with any questions.

Regards,

A handwritten signature in black ink, appearing to read 'LHB', with a long, sweeping underline.

Luke H. Britt
Public Access Counselor