

Michigan Department of Health and Human Services

Freedom of Information Act

SUMMARY OF THE DEPARTMENT'S FOIA PROCEDURES

The Department of Health and Human Services (DHHS or the Department) is a public body required by law to provide public records to persons requesting public records unless those records are exempt from public disclosure by the Freedom of Information Act (FOIA).

Where can I send my FOIA request to DHHS?

You may request public records from DHHS by submitting the request in writing to any one of the following places:

By mail or in person:	By e-mail:	By fax:
DHHS Legal Capitol View Building, 7th Floor 201 Townsend Street Lansing, MI 48913	MDCH-FOIA@michigan.gov	517-241-1200 Attn: FOIA Coordinator

How to understand DHHS's written responses to your FOIA request

DHHS will respond to your FOIA request within 5 or 10 business days after DHHS receives your FOIA request. The response will state that DHHS granted your request; denied your request; granted in part and denied in part your request; or needs more time to respond to your request. The Department may respond to a FOIA request by telling you that the public records are available at the Department's website and providing the address for the webpage where you can obtain the records. The Department's response will also state whether records or portions of records are exempt from disclosure and why they are exempt from disclosure.

How DHHS calculates a fee to respond to your FOIA request

The Department charges a fee consistent with the FOIA. The total fee will not exceed the total of:

- (A) the labor costs directly associated with the necessary searching for, locating, and examining public records;
- (B) the labor costs, including necessary review, directly associated with separating and deleting exempt information from nonexempt information;

- (C) the actual and most reasonable economic cost of providing copies of the records in formats that may include paper copies, non-paper physical media, including computer discs, computer tape, and other digital or similar media;
- (D) the actual total incremental cost of necessary duplication or publication for paper copies of public records;
- (E) the cost of labor directly associated with duplication or publication, including making paper copies, making digital copies, or transferring digital public records on non-paper physical media or through other electronic means; AND
- (F) the actual cost of mailing for sending the public records in a reasonably economical and justifiable manner.

The actual cost of searching for, locating, examining, and separating exempt information from nonexempt information, copying, including the duplication of CDs, diskettes, audio tapes, video tapes and related items, will be charged at the hourly wage of the lowest-paid employee capable of performing these tasks. Labor costs in searching for, locating, examining public records and separating exempt information from nonexempt information will be estimated and charged in increments of 15 minutes with all partial time increments rounded down. The Department will not charge for labor directly associated with redaction if it knows or has reason to know that the department previously redacted the public records and the redacted version of the public records are still in the department's possession. The Department may also add up to 50% of the labor charge to cover the cost of fringe benefits but the Department will not charge more than the actual cost of fringe benefits and will not include overtime wages in calculating the cost of fringe benefits. The Department will not include overtime wages in calculating labor costs unless you specifically stipulate to the overtime costs

Except as set forth below, all FOIA requestors shall be charged 10 cents per page. The Department will use the most economical means available for making copies of public records, including using double-sided printing when available.

You will not be charged for the first \$20.00 of a FOIA fee if either:

- (A) you submit an affidavit verifying that you are indigent and receiving specific public assistance or sufficiently stating facts showing an inability to pay the cost due to indigence; or
- (B) you are either a non-profit organization formally designated by the State to carry out activities under subtitle C of the Developmental Disabilities Assistance and Bill of Rights Act of 2000, and the Protection and Advocacy for Individuals with Mental Illness Act or their successors if the request is made directly on behalf of the organization or its clients, the request is made for a reason wholly consistent with the mission and provisions of law establishing those organizations, and the request is accompanied by documentation of its designation if requested by the Department.

You are ineligible for the fee reduction if you have previously received discounted copies of public records from the Department twice during the calendar year or if you request the information in conjunction with outside parties who are offering or providing payment to you to make the request.

If the Department tells you in its response to your FOIA request that the records may be accessed on line, and if you then ask for paper copies of the records, then the Department will send you the paper copies of the records and the Department will charge you 10 cents per page, the labor costs to produce the documents in paper form, and a fringe benefit multiplier of 50% to the labor charge of providing the paper records.

How DHHS may require you to make a deposit before sending you public records

If the Department's fee is estimated exceed \$50.00, exclusive of any waived amounts, the Department may respond to your request by either:

- (A) Telling you how much the fee is, how the fee was calculated, and sending you the records after you pay that amount; or
- (B) Giving you a detailed itemization of the fee and requiring you to send a deposit of no more than 50 percent of the estimated fee. The Department will complete processing your request after the Department receives the deposit and will notify you of the balance due. The balance must be paid before the Department will send the records to you.

If you do not pay the Department the total amount of a fee, the Department may require a deposit of up to 100% of the estimated fee before beginning a full public record search for any subsequent request from you if:

- (A) the final fee for the previous request was not more than 105% of the estimated fee;
- (B) the public records made available contained the information being sought in the prior request and are still in the Department's possession;
- (C) the public records were timely made available;
- (D) 90 days have passed since the Department notified you in writing that the public records were available;
- (E) you are unable to show proof of prior payment to the Department; and
- (F) the Department calculates a detailed itemization of the estimated fee deposit for the current request.

But the Department will not require an increased estimated fee deposit if:

- (A) you are able to show proof of prior payment in full to the Department;
- (B) the Department is paid in full for the prior request; or

(C) one year has passed since you made the prior request.

How can I appeal the Department's denial of my FOIA request?

You may appeal your request that has been denied in full or in part to either of the addresses below. The appeal must state the word "appeal" and identify the reason or reasons for the reversal of the denial. Send your appeal to:

DHHS Legal
Capitol View Building, 7th floor
201 Townsend Street
Lansing, MI 48913

Or to

MDCH-FOIA@michigan.gov

The Department does not provide for fee appeals as described in section 10a of the FOIA, MCL 15.240a. Instead, you may commence a civil action in the court of claims if you believe the Department required a fee that exceeds the amount permitted by the Department's policy and procedure.