

MICHIGAN DEPARTMENT OF CIVIL RIGHTS
WRITTEN PUBLIC SUMMARY OF THE DEPARTMENT'S
FREEDOM OF INFORMATION ACT (FOIA)
PROCEDURES AND GUIDELINES

CHAPTER 9 **General Policies and Procedures** **Effective 08/27/2022**
SECTION 01 **Freedom of Information Services**
SUBJECT 05 **Freedom of Information Act Public Summary**

901.05 **Public Summary of FOIA Procedures and Guidelines**

REFERENCE: Michigan Freedom of Information Act (FOIA or Act), 1976 PA 442,
MCL 15.231, *et seq.* <http://www.michiganlegislature.org/>, then search
“Freedom of Information Act” in the Michigan Compiled Laws Search
feature

A. Submitting FOIA Requests

FOIA requests to MDCR must be in writing and can be sent to its FOIA Office by email, US mail, or fax to:

Email: MDCR-FOIA @michigan.gov

US Mail: Michigan Department of Civil Rights

Attn: FOIA Coordinator

3054 W. Grand Boulevard, Suite 3-600

Detroit, MI 48202

Fax: (313) 456-3721

It is highly recommended that all correspondence regarding FOIA requests be sent electronically to MDCR-FOIA @michigan.gov to avoid delay in processing.

Requests **must** include the following information:

- The Requestor's complete name
- A valid phone number or electronic mail address
- A mailing address that meets United State Postal Service addressing standards.

Including the specific search terms and date range in the FOIA request will assist MDCR in conducting a search and retrieval of potentially responsive documents and may thereby reduce potential time and costs.

B. Understanding MDCR's written responses to FOIA requests

MDCR has several options when responding to written requests for public records. It may:

- Grant the request;
- Issue a written notice denying the request;
- Grant the request in part and deny the request in part; or
- Issue a notice extending for not more than 10 business days the period during which MDCR shall provide a response. MCL 15.235(2). MDCR must respond with one of the other options after 10 business days pass.

If the request is granted or granted in part and denied in part, MDCR can charge a fee to process the request. No fee is charged for requests where costs are below the threshold set in its Procedures and Guidelines (\$10.00). Fees are calculated as described in the procedures and guidelines and a detailed itemization of the fee will be provided to you. MDCR requires payment of a 50% non-refundable good-faith deposit before it begins processing your request if it appears the total cost will exceed \$50.00. After payment in full, MDCR will produce records in its possession that fall within the scope of your request and that legally may be disclosed to the public. You will be notified (and will not be charged) if the records are available on the Department's website.

If a request is denied, MDCR will provide a written notice which includes the basis for the denial. MDCR may deny a request because:

- The Requestor did not describe the records they requested well enough and MDCR cannot determine what they are asking for;
- MDCR has determined that it does not have records that respond to the request in its possession; or
- The records you have requested are exempt from public disclosure. Such exemptions include:
 - The information or records requested are from a pending cases;
 - The information is of a personal nature, where the public disclosure would constitute a clearly unwarranted invasion of an individual's privacy;
 - The information or records are subject to the attorney-client privilege; and
 - The communication is preliminary to a final agency action or policy and that the public interest in encouraging frank communication between officials and employees of public bodies clearly outweighs the public interest in disclosure.

If all or part of a request is denied, MDCR's written response will include information on the right to appeal to the MDCR Executive Director or their Designee and/or to file a lawsuit against MDCR.

C. Deposit requirements

If MDCR estimates a fee to process a FOIA request greater than \$50.00, the MDCR will require a good-faith deposit from you before providing the public records. The deposit will not exceed half of the total estimated fee. Deposits are non-refundable. Any written notice containing a notice of a deposit shall also contain a best effort estimate by the department

regarding the time frame, after a deposit is received, that it will take the department to provide the public records. The time frame estimate is not binding upon the department, but the department will provide the estimate in good faith and strive to be reasonably accurate and to provide the public records in a manner based on this State's public policy under section 1 of the FOIA, MCL 15.231, and the nature of the request in the particular instance.

A good faith deposit, if required, must be paid within **45 days**, or the request is considered abandoned.

D. Fee calculations

Consistent with FOIA, MDCR may charge a fee to process FOIA requests. Fees will be itemized using MDCR's detailed itemization form and the total fee will not exceed the total of the following:

- Labor costs for the search, location, and examination of public records;
- Labor costs for the review of public records and separation and deletion of exempt from nonexempt material;
- Nonpaper physical media costs;
- Duplication and publication costs;
- Labor costs for the duplication or publication of public records, including making paper copies, making digital copies, or transferring digital public records to be produced on nonpaper physical media or through electronic means;
- Actual costs of mailing; and
- Labor costs for monitoring an inspection of original records (Calculated using the hourly wage of the Department's lowest paid employee capable of monitoring the inspection)

For more information regarding the fees for public records, please see MDCR's FOIA Procedures and Guidelines.

For requestors that meet the indigency criteria, you may submit an Affidavit of Indigency along with your request. If you qualify, the first \$20 of the fee will be waived.

E. Options for challenge and appeal

If MDCR charges a fee or denies all or part of a request, you may submit a written appeal to the Executive Director or their designee that specifically states the word "appeal" and identifies the basis for which the fee should be reduced, or the disclosure determination should be reversed. Written appeals may be sent to the email or mailing address listed below.

FOIA appeals must be in writing and sent to the MDCR FOIA Appeals Officer by email or US mail to:

Email: MDCR-FOIAappeals@michigan.gov

US Mail: Michigan Department of Civil Rights

Attn: FOIA Appeals Officer

3054 W. Grand Boulevard, Suite 3-600

Detroit, MI 48202

F. Transparency Liaison

In accordance with Executive Directive 2019-11 (“ED 2019-11”), the transparency liaison is available to assist members of the public in navigating the requirements of the

Freedom of Information Act and other laws applicable to public records. In addition, the transparency liaison can provide information on participation in public meetings and compliance with the Open Meetings Act. MDCR’s Transparency Liaison may be contacted at the following:

Lamont Satchel
Transparency Liaison
Michigan Department of Civil Rights
3054 W. Grand Boulevard, Suite 3-600
Detroit, MI 48202
Phone: (313) 456-3700
satchell1@michigan.gov