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May 25, 2001

Ann Phillips Corrigan
Attorney at Law
7700 Bonhomme Avenue, Suite 325
St. Louis, MO 63105-1924

RE: *Petition for Public Records Disclosure Order*
Office of Medical Assistance Programs

Dear Ms. Corrigan:

This letter is in response to your petition to the Attorney General for disclosure of records under the Oregon Public Records Law, ORS 192.410 to 192.505. Your petition, which we received on May 18, 2001, asks the Attorney General to direct the Office of Medical Assistance Programs (OMAP) to make available the following records:

1) Claim transaction detail data selected by claim paid date for the period October 1, 1994 through March 31, 2001 (inclusive).

2) Provider data for both physicians and pharmacies for the period October 1, 1994 through March 31, 2001 (inclusive).

Your petition was filed on behalf of your client, Data Niche Associates. The Oregon Supreme Court has adopted a rule to govern the appearance in judicial and administrative proceedings by attorneys who have not been admitted to practice in Oregon. *See* ORS 9.241 and UTCR 3.170(5). That rule provides that an out-of-state attorney may represent a party in such a proceedings if associated with an active member of the Oregon State Bar who "participate[s] meaningfully in the matter." UTCR 3.170(1)(c). We believe that the Attorney General's consideration of a petition seeking review of a state agency's denial of public records and issuance of an order granting or denying the petition is an administrative proceeding within the purview of the rule. Accordingly, this office cannot accept a petition from you on behalf of your client unless you are associated with local counsel and meet the other requirements of the rule.

We believe that, at this time, your petition may be premature in any event. On May 22, 2001, Assistant Attorney General Linda Grimms spoke with Jesse Anderson, OMAP's Medical Policy Analyst for the pharmacy program, concerning the underlying records request which was made by letter dated April 12, 2001. Mr. Anderson informed AAG Grimms that OMAP is currently gathering the records that appear to come within the scope of that request and calculating the cost of providing those records. Mr. Anderson also stated that he is writing to you to request some additional information that will facilitate OMAP's determination of the applicability of any exemptions under the Public Records Law.

ORS 192.430(1) requires a custodian of public records to provide "proper and reasonable" opportunities for inspection and copying of records. "The Public Records Law clearly contemplates that agencies have the opportunity to review the requested records and to act on the request before the Attorney General or the courts can review the matter." *Morse Bros., Inc., v. ODED*, 103 Or App 619, 622, 798 P2d 719 (1990) (citing ORS 192.430(2)). Whether the time that an agency takes to review records and to act on a particular request is reasonable will depend on factors such as the volume of the records requested, the staff available to respond to the records request, and the difficulty in determining whether any of the records are exempt from disclosure. ATTORNEY GENERAL'S PUBLIC RECORDS AND MEETINGS MANUAL (1999) at 7-8. This office has previously concluded that a records custodian acts reasonably even if the custodian does not comply with timelines imposed by the requestor, as long as the custodian provides access to the nonexempt records within a reasonable period of time. *Id.* at 8.

Sincerely,

PETER D. SHEPHERD
Deputy Attorney General

AGS07801
c: Hersch Crawford, OMAP Administrator