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DOUGLAS J. PETERSON
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February 12, 2015

Gary Owens
8702 Pinkney Street
Omaha, NE 68134

RE: *File No. 15-R-103; Department of Health and Human Services, Child Support Enforcement Office; Gary Owens, Petitioner*

Dear Mr. Owens:

We are writing in response to your correspondence dated January 22, 2015, and received by us on January 28, 2015, in which you appeal the verbal denial of your request for public records submitted to Brett Straight, an employee of the Child Support Enforcement Office located at 7101 Mercy Road in Omaha, Nebraska. As is our normal practice with such requests, we contacted the party against whom the complaint was made. In the present case, we contacted Wesley D. Nespor, Deputy Administrator, Department of Health and Human Services. We also contacted Jon Grubb, HIPAA/Public Records Program Specialist, Department of Health and Human Services. Both individuals provided us information relating to the status of your public record requests. We considered your January 22, 2015, letter to be a petition under § 84-712.03 under the Nebraska Public Records Statutes, Neb. Rev. Stat. §§ 84-712 through 84-712.09 (2014) ("NPRS").

RELEVANT FACTS

Our understanding of the facts in this case is based on the information contained in your petition and the information we received from the Department of Health and Human Services ("DHHS"). We also note that on January 26, 2015, we received a public record request which you submitted to Mr. Straight, dated January 22, 2015. We also received another letter to Mr. Straight, dated January 22, 2015, the subject heading of which states, in pertinent part: "Reference: Request for Correction of Child Support Records – Child Enforcement Office - Pertaining to Gary Owens vs. Marta Owens – DCDC- CI 11 3229."

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With respect to your appeal, your petition sets out specific requests for the following records:

> 1. I request a complete copy and complete unlimited access, of any and all files, emails, records, notes, applications, orders, letters, etc. associated with my Case.
>
> 2. I request complete copies / access to any and all the Records the Date my Case was Assigned to your Office, by Whom, Court Orders, Applications and the Reasons for the Referral to Child Enforcement.
>
> 3. I request complete copies / access, to the Nebraska Child Enforcement Office, Files, Letters, Emails, Faxes, Orders, Notes, Applications and Records of my Child Enforcement File. I request complete access and copies of everything associated with my Case.
>
> 4. I have requested these Public Records requests before. I request immediate Copies / Access or a written denial so I may Appeal.

At the end of your petition, you indicate that Mr. Straight "verbally denied my requests."

DISCUSSION

The Nebraska Public Records Statutes generally allow interested persons in Nebraska the right to examine public records in the possession of public agencies during normal agency business hours, to make memoranda and abstracts from those records, and to obtain copies of records in certain circumstances. Under those statutes, every record "of or belonging to" a public body is a public record which individuals may obtain a copy of unless the custodian of the record can point to a specific statute which allows the record to be kept confidential. The NPRS do not require a public body to review documents and create abstracts or other lists, to answer questions or to create documents which do not otherwise exist.

According to Mr. Nespor, the person to whom you directed your requests—Mr. Straight—is neither an employee of DHHS nor the custodian of the records you seek. Rather, he is an employee with YoungWilliams, a company retained by DHHS to provide child support enforcement. Your requests were routed from Mr. Straight's office to the DHHS child support enforcement office, and then to DHHS Legal. Once received by DHHS Legal, your requests were processed in a timely manner.

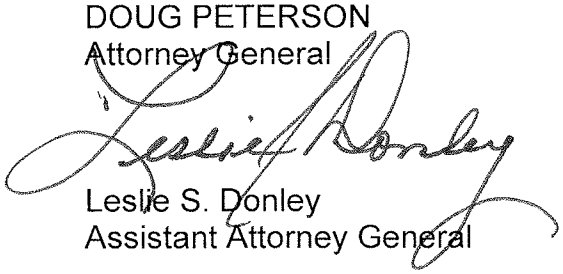
We have been advised by Messrs. Nespor and Grubb that hard copies of records responsive to your requests were placed in today's mail. According to Mr. Grubb's

cover letter to the record production, all child support information relating to specific individuals is confidential.[1] However, DHHS is making available to you records relating to your own case which are not otherwise confidential because of attorney work product or because they contain "personally identifiable information about another party." It is also my understanding that a complete copy of Title 466, *Nebraska Administrative Code*, Chapters 1-13 ("Child Support Enforcement Program") is part of this record production. These officials further advise that they attempted to fulfill all of your requests submitted to the Child Support Enforcement Office in recent weeks.

Since you have or will be receiving the requested records, no further action is necessary by this office, and we are closing this file. If you disagree with our conclusion set out herein, you may wish to consult with your private attorney to determine what additional remedies, if any, are available to you under the Nebraska Public Records Statutes.

Sincerely,

DOUG PETERSON
Attorney General



Leslie S. Donley
Assistant Attorney General

c: Wesley D. Nespor

49-1275-29

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[1] *See, e.g.,* 42 U.S.C. 654, Title IV-D of the Social Security Act, and the Personal Responsibility and Work Opportunity Reconciliation Act, 42 U.S.C. §§ 601 *et seq.*