



MARK B HORTON, MD, MSPH
Director

State of California—Health and Human Services Agency
California Department of Public Health



ARNOLD SCHWARZENEGGER
Governor

Date

Name

Company/Firm

Address

City, State Zip

Re: Case

Dear Mr./Ms. Last Name:

This is in response to a civil subpoena dated **Month day, year** initiated by your firm in the above-captioned matter, a copy of which was received by the **District Office** on **Month day, year**. The subpoena seeks a personal appearance and testimony by **Mr./Ms. First Name Last Name**, a former employee of Centers for Medicare and Medicaid Services (CMS).

CMS is an agency of the Department of Health and Human Services (HHS), and HHS regulations instruct that no Department employee or former employee:

may provide testimony or produce documents in any proceedings to which this part applies concerning information acquired in the course of performing official duties or because of the employee's official relationship with the Department unless authorized by the Agency head pursuant to this part based on a determination by the Agency head, after consultation with the Office of the General Counsel, that compliance with the request would promote the objectives of the Department. 45 C.F.R. § 2.3.

Please note that these regulations expressly apply equally to current and to former employees of the Department of HHS.

Employees of a state agency, such as the California Department of Public Health, when they perform survey, certification, or enforcement functions on behalf of CMS under Title XVIII of the Social Security Act (i.e. Medicare), are considered to be HHS employees for the purpose of this regulation. 45 C.F.R. § 2.2

Section 2.4 of these regulations describes the procedure to be followed in requesting authorization for employee testimony. If you wish to request **Mr./Ms. Last Name's** voluntary testimony, please direct your request to:

Steven Chickering
Western Consortium Survey and Certification Officer
Centers for Medicare & Medicaid Services
San Francisco Regional Office
90 7th Street, Suite 5-300 (5W)
San Francisco, CA 94103-6707

We respectfully request that, in light of the regulations cited above, you withdraw your subpoena for a personal appearance and testimony by **Mr./Ms. Last Name**.

If you have questions or require additional information, please contact me at (415) 744-3731.

If you have questions or require additional information, please contact: **Name** at **phone number**.

Sincerely,

Name
Position
Company
Regional Office

cc: Dan Hersh, Daniel.Hersh@cms.hhs.gov
Karen Fuller, Karen.Fuller@cms.hhs.gov
CMS Regional Office