



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 and received by the **District Office** on **Month day, year**. The subpoena seeks a personal appearance by “the Custodian of Records at Centers for Medicare and Medicaid Services (CMS)” in connection with the above matter. The subpoena does not seek the Medicare records of any individual, however.

CMS is an agency of the Department of Health and Human Services (HHS), and HHS regulations instruct that no Department 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 of Health and Human Services 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 of Health and Human Services. 45 C.F.R. § 2.3.

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 the voluntary testimony of **Mr./Ms. First Name Last Name**, please direct your request to:

Steven Chickering  
Western Consortium Survey and Certification Officer  
Centers for Medicare & Medicaid Services  
San Francisco Regional Office  
90 7<sup>th</sup> 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.

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](#)