



# STATE OF INDIANA

MITCHELL E. DANIELS, JR., Governor

PUBLIC ACCESS COUNSELOR  
ANDREW J. KOSSACK

Indiana Government Center South  
402 West Washington Street, Room W470  
Indianapolis, Indiana 46204-2745  
Telephone: (317)233-9435  
Fax: (317)233-3091  
1-800-228-6013  
[www.IN.gov/pac](http://www.IN.gov/pac)

December 8, 2010

Mr. Jeffery E. House  
One Park Row  
Michigan City, IN 46360

*Re: Formal Complaint 10-FC-278; Alleged Violation of the Access to Public Records Act by the Indiana Department of Insurance*

Dear Mr. House:

This advisory opinion is in response to your formal complaint alleging the Indiana Department of Insurance ("IDOI") violated the Access to Public Records Act ("APRA"), Ind. Code § 5-14-3-1 *et seq.* IDOI's response is enclosed for your reference.

## BACKGROUND

In your complaint, you allege that you submitted requests for access to "claims forms" to IDOI on September 17th, October 4th, and October 20th of this year. You allege that IDOI did not respond to those requests.

In response to your complaint, Edward Fujawa of IDOI states that IDOI responded to your requests on November 16th via letter, with which IDOI enclosed eight copies of the complaint form you requested. He acknowledges that IDOI did not respond to your October 20th request within seven days of receiving it, but that you should now have all responsive records. Mr. Fujawa also directed you to the IDOI website, where you can download additional copies of the form in the future. Mr. Fujawa claims that he did not receive your October 4th request. He notes that your September 17th request also sought access to summary reports for several health care providers, which IDOI has provided to you.

## ANALYSIS

The public policy of the APRA states that "(p)roviding persons with information is an essential function of a representative government and an integral part of the routine duties of public officials and employees, whose duty it is to provide the information." I.C. § 5-14-3-1. IDOI is a public agency for the purposes of the APRA. I.C. § 5-14-3-2.

Accordingly, any person has the right to inspect and copy IDOI's public records during regular business hours unless the records are excepted from disclosure as confidential or nondisclosable under the APRA. I.C. § 5-14-3-3(a).

A request for records may be oral or written. I.C. §5-14-3-3(a); §5-14-3-9(c). If the request is delivered by mail or facsimile and the agency does not respond to the request within seven (7) days of receipt, the request is deemed denied. I.C. §5-14-3-9(b). If the request is delivered in person and the agency does not respond within 24 hours, the request is deemed denied. I.C. §5-14-3-9(a). Records do not need to be physically produced within these timeframes; a response from the public agency could be an acknowledgement that the request has been received and information regarding how or when the agency intends to comply. Here, IDOI acknowledges that it failed to respond to your written requests within seven (7) days. That said, it is my understanding that IDOI has now sent all responsive records to you. I trust this resolves your complaint.

#### CONCLUSION

For the foregoing reasons, it is my opinion that IDOI should have responded to your written requests within seven days, but did not otherwise violate the APRA.

Best regards,



Andrew J. Kossack  
Public Access Counselor

cc: Edward Fujawa