

Matt Ehling  
President  
Public Record Media  
2375 University Ave W.  
Suite 200  
Saint Paul, MN 55114



October 28, 2016

Legal Department  
HMO Minnesota dba Blue Plus  
P.O. Box 64560  
Saint Paul, MN 55164-0560

RE: Request for data under the Minnesota Government Data Practices Act

To whom it may concern,

I am making a request for access to public, government data under the Minnesota Government Data Practices Act (Minnesota Statutes Chapter 13). Data sought by my request are data that Blue Plus may be obligated to create and/or compile under a variety of Minnesota contractual requirements. Through my request, I am seeking access to the following data maintained by Blue Plus:

1. Any correspondence between Blue Plus and DHS that relates to audits (or requests for audits) regarding alleged overpayments or underpayments by the State that may have occurred during the calendar year 2008. Such audit requests are allowed pursuant to section 4.6.1 of DHS contract B06778.
2. The certification letter related to the 2008 Blue Plus financial filing (and all other correspondence related to this certification), as required by section 9.16.2 of DHS contract B06778.

**Data sought subject to Minnesota Statutes Chapter 13**

The data that I am seeking is maintained by your organization as part of the contracted, government functions it performs for the Minnesota Department of Human Services (DHS) in relation to the administration of public health care programs. The performance of such functions was authorized by DHS contract number B06778, as well as by similar contracts.

Due to the existence of contracts between your organization and DHS that authorize the performance of government functions, data relevant to those functions is government data subject to Minnesota Statutes Chapter 13. Minn. Stat. 13.05, subd.11 states that,

“If a government entity enters into a contract with a private person to perform any of its functions, all of the data created, collected, received, stored, used, maintained, or disseminated by the private person in performing those functions is subject to the requirements of this chapter and the private person must comply with those requirements as if it were a government entity. All contracts entered into by a government entity must include a notice that the requirements of this subdivision apply to the contract. Failure to include the notice in the contract does not invalidate the application of this subdivision.”

### **Data sought are not held by DHS**

Per Minn. Stat. 13.05, subd. 11, a requester may only seek government data held by a private person if the requested data is not available from a government entity. Minn. Stat. 13.05 subd. 11 states that:

“This subdivision does not create a duty on the part of the private person to provide access to public data to the public if the public data are available from the government entity except as required by the terms of the contract.”

In the case of data responsive to Items 1 and 2 above, I had previously requested such data from DHS in February of 2013 as part of a broader data request (see request attached for reference). On January 29, 2014, DHS provided me with data that was partially responsive to my request, but did not provide me with data responsive to Items 1 and 2 of my current request to Blue Plus (formerly numbered as Items 2 and 8 in my DHS request of February 7, 2013). On March 3, 2014 I sent a letter to DHS asking the agency to confirm whether it held the missing data. On March 7, 2014, I was informed via letter that DHS did not hold such data. (Please see copies of correspondence attached for reference.)

Data sought by my request are related to DHS contract B06778 - a contract to which Blue Plus is a signatory. Since DHS has formally confirmed that it does not hold the data in question, Blue Plus (the other party to the contract) is obligated under the terms of Minn. Stat. 13.05 Subd. 11 to permit access to public government data responsive to my request.

### **Data sought are public**

Blue Plus, as a private entity that has contracted to perform government functions, is a component of the "welfare system" as defined by Minn. Stat. 13.46 subd. 1(c) which states that the welfare system includes:

"The Department of Human Services, local social services agencies, county welfare agencies, private licensing agencies, the public authority responsible for child support enforcement, human services boards, community mental health center boards, state hospitals, state nursing homes, the ombudsman for mental health and developmental disabilities, and persons, agencies, institutions, organizations, and other entities under contract to any of the above agencies to the extent specified in the contract."

Minn. Stat. 13.46 classifies data held by the welfare system, including both "data on individuals" and "data not on individuals." Data responsive to PRM's request are not data on individuals, but are "other data" related to the performance of government functions performed by Blue Plus under contract to DHS. Such data are classified as "public" under Minn. Stat. 13.46 subd. 6, which states that:

"Data collected, used, maintained, or disseminated by the welfare system that are not data on individuals are public."

Data sought by my request are classified as public by Minn. Stat. 13.46, and are available to me to inspect and/or copy under Minnesota Statutes Chapter 13.

**Inspection sought prior to copying**

Pursuant to Minn. Stat. § 13.03, I am seeking to inspect public, government data, as well as to request and obtain copies of such data.

I am seeking to inspect responsive data prior to the production of copies. Please contact me at 651-556-1381 or by U.S. post to arrange a time to conduct an inspection of any responsive data. After inspection, I will select a subset of data to copy. I agree to pay for the production of copies, in concert with the terms of Minnesota Statutes Chapter 13.

**Status of the data**

Please consider this letter a formal request for the indefinite retention of the requested data until such time as it can be presented for inspection and/or copying.

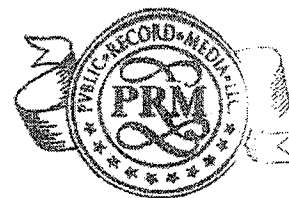
If any portion of this request is not granted, I request that you certify in writing that this request has been denied, and cite the specific statutory section, temporary classification, or other provision of law upon which the denial is based, as required by Minn. Stat. 13.03 subd. 3(f).

Thank you for your attention to this matter. Please contact me with any questions regarding this request.

Sincerely,

/s/Matt Ehling  
President  
Public Record Media

Matt Ehling  
President  
Public Record Media, LLC  
2375 University Ave W.  
Suite 200  
St. Paul, MN, 55114



February 7, 2013

Commissioner Lucinda Jesson  
Minnesota Department of Human Services  
444 Lafayette Road  
Saint Paul, MN 55155-3815

RE: Minnesota Data Practices Act request

Dear Commissioner,

I am making a request for access to public data under the Minnesota Government Data Practices Act, Minnesota Statutes, Chapter 13. The data I am seeking pertains to a contract executed between your agency and the managed care organization (MCO) HMO Minnesota (dba Blue Plus). The DHS contract was numbered B06778.

I am seeking to inspect and/or obtain copies of the following public data related to the contract above, and the services rendered thereunder:

1. All manner of financial data required to be disclosed to the Commissioner of DHS pursuant to Minn. Stat. 256B.69 subd. 9c(b) related to public health care programs administered by Blue Plus for the calendar year 2008.
2. Any correspondence between Blue Plus and DHS that relates to audits (or requests for audits) regarding alleged overpayments or underpayments by the State that may have occurred during the calendar year 2008. Such audit requests are allowed pursuant to section 4.6.1 of DHS contract B06778.
3. All documents related to the mandatory compliance plan for the Integrity Program required by section 9.15.1 of DHS contract B06778.
5. All documents related to internal auditing under the Integrity Program required by section 9.15.1 of DHS contract B06778.
6. Any documentation of corrective actions undertaken by the MCO as

part of the Integrity Program required by section 9.15.1 of DHS contract B06778.

7. The annual report on the Integrity Program required by section 9.15.1 of DHS contract B06778, for the calendar year 2008.
8. The certification letter related to the 2008 Blue Plus financial filing (and all other correspondence related to this certification), as required by section 9.16.2 of DHS contract B06778.

If responsive data are identified, I would first like to schedule an opportunity to inspect such data, prior to making copies of the same.

Please consider this letter a formal request for the indefinite retention of the requested data, pending resolution or reclassification of its status.

As required by section 13.03, subd. 3(f) of the Minnesota Statutes, I am requesting that in the event that any portion of this request is not granted, that your department certify in writing that the request has been denied, and cite the specific statutory section, temporary classification, or other provision of law upon which the denial is based.

This request is made as part of news gathering, and is not for commercial use.

If you have questions regarding this request, I can be reached by telephone at 651-335-2037, or by e-mail at [info@publicrecordmedia.com](mailto:info@publicrecordmedia.com).

Sincerely,



Matt Ehling  
President, Public Record Media, LLC



Minnesota Department of **Human Services**

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January 29, 2014

Matt Ehling  
President  
Public Records Media, LLC  
2375 University Avenue West  
St. Paul, Minnesota 55114

**RE: November 26, 2013 Data Request**

Dear Mr. Ehling:

Thank you for contacting the Minnesota Department of Human Service ("DHS"). Recently, you requested data pertaining "to a contract executed between the Minnesota Department of Human Resources (DHS) and the managed care organization (MCO) HMO Minnesota (dba Blue Plus)." The business area did not provide a cost for this data retrieval so no costs have been passed on to you.

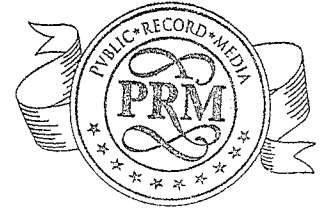
The business area responding to this data request provided this note concerning the responsive data provided:

The first 15 attachments are responsive in various ways to requests 3, 5, and 6. (There was no requested #4.) They are reports from Blue Plus to DHS related to fraud, abuse, and integrity issues, and associated correspondence. The last attachment is responsive to request 7, the annual Integrity Report submitted by Blue Plus in 2008. The report was redacted by Blue Plus to remove "trade secret/confidential and security information".

Sincerely,

Kenneth Parsons, Esq.  
Legal Management Office – DHS  
[ken.parsons@state.mn.us](mailto:ken.parsons@state.mn.us)

Matt Ehling  
President  
Public Record Media, LLC  
2375 University Ave. W.  
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St. Paul, MN 55114



March 03, 2014

Kenneth Parsons, Esq.  
Department of Human Services  
PO Box 64998  
St. Paul, MN 55164-0998

RE: Question regarding data production

Dear Mr. Parsons,

Thank you for your letter of January 29, 2014, which responded to my Data Practices Act request of February 7, 2013, and also served to describe certain data responsive to that request. Your letter (and the document batch that accompanied it) responded to the following items of my request, as they were originally numbered:

3. All documents related to the mandatory compliance plan for the Integrity Program required by section 9.15.1 of DHS contract B06778.
5. All documents related to internal auditing under the Integrity Program required by section 9.15.1 of DHS contract B06778.
6. Any documentation of corrective actions undertaken by the MCO as part of the Integrity Program required by section 9.15.1 of DHS contract B06778.
7. The annual report on the Integrity Program required by section 9.15.1 of DHS contract B06778, for the calendar year 2008.

My original request also included additional items, which are listed below as originally numbered:

1. All manner of financial data required to be disclosed to the Commissioner of DHS pursuant to Minn. Stat. 256B.69 subd. 9c(b) related to public health care programs administered by Blue Plus for the calendar year 2008.
2. Any correspondence between Blue Plus and DHS that relates to audits (or requests for audits) regarding alleged overpayments or underpayments by the

State that may have occurred during the calendar year 2008. Such audit requests are allowed pursuant to section 4.6.1 of DHS contract B06778.

8. The certification letter related to the 2008 Blue Plus financial filing (and all other correspondence related to this certification), as required by section 9.16.2 of DHS contract B06778.

Documents responsive to these items are not included within the batch of data disclosed by your agency on January 29, 2014. Please confirm whether your agency holds such data, or whether such data is held by Blue Plus.

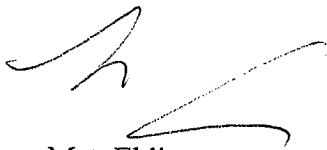
To the extent that responsive data is held by Blue Plus, Minn. Stat. 13.05 Subd. 11(a) states that:

“If a government entity contracts with a private person to perform any of its functions, the government entity shall include in the contract terms that make it clear that all of the data created, collected, received, stored, used, maintained, or disseminated by the private person in performing those functions is subject to the requirements (of Chapter 13) and that the private person must comply with those requirements as if it were a government entity.”

Minn. Stat. 13.05 Subd. 11(b) further states that the subdivision does "not create a duty on the part of a private person to provide access to public data to the public if the public data are available from the government entity, except as required by the terms of the contract."

If your agency does not hold data responsive to Items 1, 2, and 8 of my request, please notify me about whether the data is held by Blue Plus, the contracted entity in this case. If your agency does hold the responsive data, please disclose the public portions of that data to me.

Sincerely,



Matt Ehling  
Public Record Media, LLC





Minnesota Department of **Human Services**

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March 7, 2014

Matt Ehling, President  
Public Record Media, LLC  
2375 University Ave. W.  
Suite 200  
St. Paul, MN 55114

Dear Mr. Ehling:

Thank you for contacting the Minnesota Department of Human Services. On March 3, 2014, the Department received your data request regarding:

- 1) All manner of financial data required to be disclosed to the Commissioner of DHS pursuant to Minn. Stat. 256B.69 subd. 9c (b) related to public health programs administered by Blue Plus for the calendar year 2008.
- 2) Any correspondence between Blue Plus and DHS that relates to audits (or requests for audits) regarding alleged overpayments or underpayments by the State that may have occurred during calendar year 2008. Such audit requests are allowed pursuant to section 4.6.1 of DHS contract B06778.
- 8) The certification letter related to the 2008 Blue Plus financial filing (and all other correspondence related to this certification), as required by section 9.16.2 of DHS contract B06778.

DHS, after reviewing your current request notes that the abovementioned data requests were also included in your data request letter dated November 21, 2014 which was fulfilled on January 29, 2014. The January 29th response contained all available responsive data for each of your requests. Accordingly, the Department does not have any data responsive to requests (1), (2), and (8). Thus, DHS is unable to fulfill this current request.

Sincerely,

Kenneth Parsons, Esq.  
Staff Attorney  
Department of Human Services