

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

David D. Richardson,

Petitioner (Pro se)

Civil Action

Office of Open Records, and

No. _____

Prime Care Medical, Inc.,

Respondents

RECEIVED

SEP 26 2016

PETITION FOR REVIEW

OFFICE OF OPEN RECORDS

COMES NOW, David D. Richardson, Petitioner, (Pro se), pursuant to Pa.R.A.P. 1501 et seq., and in support thereof, respectfully represents the following:

I. JURISDICTION

1. Jurisdiction is conferred upon this Court pursuant to 42 Pa.C.S. §§762 and 763.

II. PETITIONER

2. David D. Richardson is the petitioner in the above-captioned matter and during the relevant periods in time was confined at the Chester County Prison, 501 S. Newcomer Rd., West Chester, Pa. 19380.

III. RESPONDENTS

3. The Office of Open Records is a respondent in the above-captioned matter and during the relevant period in time, had an office situated at 400 N. 3rd, 4th Fl., Commonwealth Keystone Bldg., Harrisburg, PA 17120-8225.

4. PrimeCare Medical, Inc., is a respondent in the above-captioned matter and during the relevant periods in time, had an office situated at 501 S. Wawaset Rd., West Chester, PA 19382.

IV. ORDER FOR REVIEW

5. The August 31, 2016, order of respondent Office of Open Records dismissing petitioner's appeal upon a finding that respondent PrimeCare Medical, Inc., was not an "agency" subject to the RTKL per 65 P.S. § 67.162 (defining "agency") (See, Exhibit A)

V. OBJECTIONS TO ORDER

6. Petitioner objects to respondent Office of Open Records finding that respondent PrimeCare Medical, Inc., is not an "agency" subject to the RTKL as the the term agency is defined.

7. Petitioner submits that respondent Office of Open Records erred in its findings; insofar as, when viewed through the lens of 65 P.S. § 67.102 (1) "Local agency," respondent PrimeCare Medical, Inc., is an all-facility therewith, as an intermediate unit thereof, to provide medical services therefore, the political subdivision of Chester County, in form of prisoners housed at Chester County Prison.

VI. RELIEF SOUGHT

8. That this Court reverses the order of respondent Office of Open Records upon a finding that respondent PrimeCare Medical, Inc., is an intermediate unit of a "Local agency," i.e., Chester County; and remands with instructions that petitioner be provided with the requested documentation.

VII. OTHER DETERMINATIONS FOR REVIEW

9. I have attached the following documents for review:
(a) Initial request for documentation to respondent PrimeCare Medical, Inc., (Exhibit B); and
(b) Appeal to respondent Office of Open Records from the denial of said request, (Exhibit C).

WIT: CERTIFICATE OF SERVICE

I, I certify that am serving a true and correct copy of the foregoing Petition for Review upon the persons indicated below via certified mail by depositing the same with prison officials for mailing this 20 day of September, 2016:

Office of Open Records
400 N. St., 4th Fl.
Commonwealth Keystone Bldg.
Harrisburg, PA 17126-0225

PennCare Medical, Inc.
501 S. Wawaset Rd.
West Chester, PA 19382

David D. Richardson
David D. Richardson
Petitioner (Pro se)
501 S. Wawaset Rd.
West Chester, PA 19382

EXHIBIT A



pennsylvania
OFFICE OF OPEN RECORDS

AMENDED FINAL DETERMINATION

DATE ISSUED AND MAILED: August 31, 2016

IN RE: *David Richardson v. PrimeCare Medical, Inc.*,
OOR Dkt. AP 2016-1461

Upon review of the appeal filed with the Office of Open Records ("OOR") to the above-referenced docket number, it is determined that the appeal is deficient for the reason(s) specified below. Accordingly, the appeal is **DISMISSED**.

- Appeal filed beyond fifteen (15) business days of denial/deemed denial.
- Appeal failed to include a copy of the Request and/or agency Response.
- Appeal failed to state why records are public records.
- Appeal failed to address agency grounds for denial of access to records.
- OOR lacks jurisdiction over agency from which records are sought.
- OOR lacks jurisdiction over local agency criminal investigative records.
- Request does not seek records.
- Other: PrimeCare Medical, Inc. is not an "agency" subject to the RTKL. See 65 P.S. § 67.102 (defining "agency").

Within thirty days of the mailing date of this Final Determination, you may appeal or petition for review to Commonwealth Court. 65 P.S. §§ 67.1301-.1302. All parties must be served with notice of the appeal. The OOR also shall be served notice and have an opportunity to respond according to court rules as per Section 1303. However, as the quasi-judicial tribunal adjudicating this matter, the OOR is not a proper party to any appeal and should not be named as a party.¹

Issued by:

/s/ J. Chadwick Schnee

ASSISTANT CHIEF COUNSEL/APPEALS OFFICER
J. CHADWICK SCHNEE

Sent to: Requester, PrimeCare Medical, Inc.

¹ *Padgett v. Pa. State Police*, 73 A.3d 644, 648 n.5 (Pa. Commw. Ct. 2013).

EXHIBIT B



pennsylvania

OFFICE OF OPEN RECORDS

STANDARD REQUEST-TO-KNOW REQUEST FORM

DATE REQUESTED: 8/15/16

REQUEST SUBMITTED BY: E-MAIL U.S. MAIL FAX IN-PERSON

REQUEST SUBMITTED TO (Agency name & address): PRIME CARE MEDICAL, INC.

501 S. WAWASET ROAD, WEST CHESTER, PA 19382

NAME OF REQUESTER: DAVID RICHARDSON - 10295

STREET ADDRESS: CHESTER COUNTY PRISON, 501 S. WAWASET ROAD

CITY/STATE/COUNTY/ZIP(Required): WEST CHESTER, PA 19382

TELEPHONE (Optional): _____ EMAIL (optional): _____

RECORDS REQUESTED: *Provide as much specific detail as possible so the agency can identify the information. Please use additional sheets if necessary.

Written policy regarding providing eyeglasses to inmates, including, but not limited to, expenses thereof and exceptions made for indigent inmates.

DO YOU WANT COPIES? YES NO

DO YOU WANT TO INSPECT THE RECORDS? YES NO (WILL MAKE OWN COPIES)

DO YOU WANT CERTIFIED COPIES OF RECORDS? YES NO

DO YOU WANT TO BE NOTIFIED IN ADVANCE IF THE COST EXCEEDS \$100? YES NO

**** PLEASE NOTE: RETAIN A COPY OF THIS REQUEST FOR YOUR FILES ****
**** IT IS A REQUIRED DOCUMENT IF YOU WOULD NEED TO FILE AN APPEAL ****

FOR AGENCY USE ONLY

OPEN-RECORDS OFFICER:

I have provided notice to appropriate third parties and given them an opportunity to object to this request

DATE RECEIVED BY THE AGENCY:

AGENCY FIVE (5) BUSINESS DAY RESPONSE DUE:

***Public bodies may fill anonymous verbal or written requests. If the requestor wishes to pursue the relief and remedies provided for in this Act, the request must be in writing. (Section 702.) Written requests need not include an explanation why information is sought or the intended use of the information unless otherwise required by law. (Section 703.)*

EXHIBIT C



pennsylvania
OFFICE OF OPEN RECORDS

RIGHT-TO-KNOW LAW ("RTKL") APPEAL OF DENIAL, PARTIAL DENIAL, OR DEEMED DENIAL

Office of Open Records ("OOR")

Email: openrecords@pa.gov

Fax: (717) 425-5343

Commonwealth Keystone Building

400 North St., 4th Floor

Harrisburg, PA 17120-0225

Today's Date: 8/26/16

Requester Name(s): David Richardson - 10295

Address/City/State/Zip: 501 S. Wawaset Road, West Chester, PA 19382

Email: _____ Phone/Fax: _____ / _____

Request Submitted to Agency Via: Email Mail Fax In-Person (check only one)

Date of Request: 8/15/16 Date of Response: _____ Check if no response

Name of Agency: Prime Care Medical, Inc.

Address/City/State/Zip: 501 S. Wawaset Rd., West Chester, PA 19382

Email: _____ Phone/Fax: _____ / _____

Name & Title of Person Who Denied Request (if any): Prime Care Medical, Inc.

I was denied access to the following records (**REQUIRED**. Use additional pages if necessary): _____

Written policy regarding eyeglasses provided to inmates including exceptions for indigent inmates and/or expenses thereof.

I requested the listed records from the Agency named above. By signing below, I am appealing the Agency's denial, partial denial, or deemed denial because the requested records are public records in the possession, custody or control of the Agency; the records do not qualify for any exemptions under § 708 of the RTKL, are not protected by a privilege, and are not exempt under any Federal or State law or regulation; and the request was sufficiently specific.

I am also appealing for the following reasons (Optional. Use additional pages if necessary): _____

I have attached a copy of my request for records. (**REQUIRED**)

I have attached a copy of all responses from the Agency regarding my request. (**REQUIRED**)

I have attached any letters or notices extending the Agency's time to respond to my request.

I hereby agree to permit the OOR an additional 30 days to issue a final order.

I am interested in resolving this issue through OOR mediation. *This stays the initial OOR deadline for the issuance of a final determination. If mediation is unsuccessful, the OOR has 30 days from the conclusion of the mediation process to issue a final determination.*

Respectfully submitted, David Richardson (SIGNATURE REQUIRED)

You should provide the Agency with a copy of this form and any documents you submit to the OOR.