



COMMONWEALTH OF KENTUCKY
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23-ORD-072

March 28, 2023

In re: Carlos Harris/St. Claire Regional Medical Center

Summary: In the absence of evidence that the St. Claire Regional Medical Center (the “Medical Center”) receives at least 25% of its funds expended in Kentucky from state or local authority funds, the Medical Center is not a public agency under the Open Records Act (“the Act”).

Open Records Decision

On February 6, 2023, inmate Carlos Harris (“Appellant”) submitted a request to the Medical Center for copies of letters he sent to it during two periods of time. Having received no response from the Medical Center, the Appellant initiated this appeal on February 24, 2023.

On appeal, the Medical Center states that it is not subject to the Act because it is a private, non-profit hospital. Nevertheless, the Medical Center, in good faith, found one letter responsive to the Appellant’s request and will provide a copy to the Appellant as soon as he completes an “Authorization to Disclose Health Information.”

Upon receiving a request to inspect records, a *public agency* must decide within five business days whether to grant the request or deny the request and explain why. KRS 61.880(1). The Act defines “public agency” in KRS 61.870(1). A private entity, such as the Medical Center, is not a “public agency” under the Act unless it is a “body which, within any fiscal year, derives at least twenty-five percent (25%) of its funds expended by it in the Commonwealth of Kentucky from state or local authority funds.” KRS 61.870(1)(h). Moreover, “any funds derived from a state or local authority in compensation for goods or services that are provided by a contract obtained

through a public competitive procurement process shall not be included in the determination of whether a body is a public agency under this subsection.” *Id.*

Here, the Appellant neither claims, nor provides any evidence to support a claim, that the Medical Center derives 25% of its funds expended in Kentucky from state or local authority funds. As a result, this Office cannot find that the Medical Center is a public agency under KRS 61.870(1), or that it is subject to the Act.

A party aggrieved by this decision may appeal it by initiating action in the appropriate circuit court under KRS 61.880(5) and KRS 61.882 within 30 days from the date of this decision. Under KRS 61.880(3), the Attorney General shall be notified of any action in circuit court, but shall not be named as a party in that action or in any subsequent proceedings. The Attorney General will accept notice of the complaint emailed to OAGAppeals@ky.gov.

Daniel Cameron
Attorney General

s/ Matthew Ray
Matthew Ray
Assistant Attorney General

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Distributed to:

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