OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

KWAME RAOUL
ATTORNEY GENERAL

August 12, 2024

Via electronic mail
[redacted]

RE: FOIA Request for Review – 2024 PAC 82350

Dear [redacted]:

This determination is issued pursuant to section 9.5(c) of the Freedom of Information Act (FOIA) (5 ILCS 140/9.5(c) (West 2023 Supp.)). For the reasons set forth below, the Public Access Bureau concludes that no further inquiry is warranted.

On June 14, 2024, you submitted a FOIA request to the Illinois Department on Aging (Department). You requested "any records that claim that I [redacted] isolated my mother from relatives and from receiving medical Care[.]"[1] On July 5, 2024, the Department denied your request pursuant to sections 7(1)(a)[2] and 7.5(y) of FOIA,[3] citing section 7.5(a-5) of the Adult Protective Services Act[4] and sections 270.275(b) and (c) of the Illinois Administrative Code.[5]

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[1]E-mail from [redacted] to Aging.FOIA (June 14, 2024).

[2]5 ILCS 140/7(1)(a) (West 2023 Supp.), as amended by Public Act 103-605, effective July 1, 2024.

[3]5 ILCS 140/7.5(y) (West 2023 Supp.), as amended by Public Acts 103-592, effective June 7, 2024; 103-605, effective July 1, 2024; 103-636, effective July 1, 2024.

[4]320 ILCS 20/7.5(a-5) (West 2022).

[5]89 Ill. Admin. Code § 270.275(b), (c) (2024), as amended at 42 Ill. Reg. 9226, effective July 1, 2018).

In its denial letter, the Department indicated that records regarding alleged abuse are exempt from disclosure and that release requires a written authorization from the subject of the records or their authorized agent for the release of the requested information. On August 1, 2024, this office received your completed Request for Review contesting the Department's denial.

Section 7.5(y) of FOIA exempts from disclosure:

> **Confidential information under the Adult Protective Services Act** and its predecessor enabling statute, the Elder Abuse and Neglect Act, including information about the identity and administrative finding against any caregiver of a verified and substantiated decision of abuse, neglect, or financial exploitation of an eligible adult maintained in the Registry established under Section 7.5 of the Adult Protective Services Act. (Emphasis added.)

Section 8 of the Adult Protective Services Act (320 ILCS 20/8 (West 2023 Supp.)) states that "[a]ll records concerning reports of abuse, abandonment, neglect, financial exploitation, or self-neglect and all records generated as a result of such reports shall be confidential and shall not be disclosed except as specifically authorized by this Act or other applicable law." Section 8 lists the categories of individuals or entities permitted access to those records. Among the individuals eligible to receive copies of the records is "[a]n eligible adult reported to be abused, abandoned, neglected, financially exploited, or self-neglected, or such adult's authorized guardian or agent, unless such guardian or agent is the abuser or the alleged abuser[.]" 320 ILCS 20/8(4) (West 2023 Supp.).

The administrative rules implementing section 8 of the Adult Protective Services Act, which the Department cited, further specify that the records may be released to a legal guardian or agent "who has current authority to act on behalf of the eligible adult when access to those records is relevant to representing the interests of the eligible adult, and a complete authorization for release of records is submitted, unless the guardian or agent is the substantiated abuser or is the alleged abuser in an open case[.]" 89 Ill. Admin. Code § 270.275(d)(6) (2024), as amended at 42 Ill. Reg. 9226, effective July 1, 2018. (Italics removed.) The rules further explain:

> An authorization for release of records by the Department or the APS provider agencies must be legally sufficient and include:

1) supporting documentation of the agency or guardianship evidencing current authority and the extent of the authority to act on behalf of the eligible adult or his or her estate; and

2) a sworn statement as to the purpose of the request and its relevance to representing the interests of the eligible adult or his or her estate.[6]

The Department has indicated that your FOIA request concerns records relating to alleged abuse. Under section 8 of the Adult Protective Services Act, all records related to abuse are confidential, and therefore exempt from disclosure pursuant to section 7.5(y) of FOIA. Additionally, your FOIA request to the Department did not include the required written authorization certifying that you are your mother's legal guardian or agent, the extent of your authority to act on her behalf, and a sworn statement describing the purpose of your request and its relevance to the interests of your mother. Please note, however, that even with a signed authorization, the Department is prohibited from disclosing records where the "guardian or agent is the substantiated abuser or is the alleged abuser in an open case."[7] Because the rules implementing the Adult Protective Services Act prohibit disclosure of the responsive records without the required written authorization, this office concludes that the Department did not improperly deny your request.

This file is closed. If you have any questions, please contact me at the Chicago address on the first page of this letter.

Very truly yours,

[redacted]

KATIE GOLDSMITH
Assistant Attorney General
Public Access Bureau

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[6]89 Ill. Admin. Code § 270.275(e) (2024), as amended at 42 Ill. Reg. 9226, effective July 1, 2018.

[7]89 Ill. Admin. Code § 270.275(d)(6) (2024), as amended at 42 Ill. Reg. 9226, effective July 1, 2018.

cc: *Via electronic mail*
Ms. Priscilla Chapman
FOIA Officer and Deputy General Counsel
Illinois Department on Aging
555 West Monroe Street, Suite 1500S
Chicago, Illinois 60661
aging.foia@illinois.gov