

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, ss.

SUPERIOR COURT DEPARTMENT
OF THE TRIAL COURT
CIVIL ACTION NO.

24-0762

SUFFOLK SUPERIOR COURT
CIVIL CLERK'S OFFICE
2024 MAR 20 P 12:29 PM
JOHN E. POWERS III
ACTING CLERK MAGISTRATE

COMMONWEALTH OF MASSACHUSETTS,
Petitioner,
v.
UNITEDHEALTHCARE INSURANCE
COMPANY,
Respondent.

PETITION FOR ENFORCEMENT OF CIVIL INVESTIGATIVE DEMAND

The Commonwealth of Massachusetts, acting through the Attorney General Andrea Joy Campbell (the "Attorney General"),¹ pursuant to the Massachusetts False Claims Act, G.L. c. 12, § 5N(10), brings this enforcement action against UnitedHealthcare Insurance Company ("United"), seeking an order compelling United to comply with the Civil Investigative Demand issued to it on July 25, 2023 and received via certified mail on July 31, 2023 (the "CID" and "Petition").

G.L. c. 12, § 5C(1) grants the Attorney General exclusive authority to investigate potential violations of the Massachusetts False Claims Act (the "MFCA") involving state funds or funds from any political subdivision, including MassHealth. The Respondent, United, is a national health benefits program provider for the MassHealth program, which means that United administers and pays services for MassHealth members enrolled in United's Senior Care Options program ("SCO"). The Attorney General is now investigating whether United improperly

¹ The defined term of "Attorney General" as used in this Petition includes both the Attorney General and those Assistant Attorneys General in the Medicaid Fraud Division working on this Massachusetts False Claims Act investigation.

inflated care levels for MassHealth members participating in United's SCO, such that United would be paid comparatively higher capitation rates by MassHealth. In order to properly conduct this investigation, the Attorney General first issued a Civil Investigative Demand to United dated January 12, 2022. United reported that it had completed its response to this first Civil Investigative Demand in March 2023.

The Attorney General issued a second Civil Investigative Demand to United in July 2023 seeking different and additional records than those requested in the first civil investigative demand. Despite many attempts to have United comply with the CID, United has refused to fully respond, purposefully stymieing the Attorney General's proper investigation.

In support of this Petition, the Attorney General submits a Memorandum of Law and the Affidavit of Kevin O'Keefe, Assistant Attorney General, filed herewith.

The Attorney General further states in summary:

PARTIES

1. Petitioner, the Attorney General, is conducting an investigation pursuant to the MFCA, G.L. c. 12, §§ 5A to 5O (the "MFCA Investigation"), into the business methods, acts or practices of United with respect to its contract with MassHealth to provide a SCO program to MassHealth members.

2. Respondent, United, is a corporation, organized under the laws of the State of Connecticut, and having its principal place of business and its home office at 185 Asylum Street, Hartford, Connecticut. United is a wholly owned subsidiary of UHIC Holdings, Inc. UHIC Holdings, Inc. is a wholly owned subsidiary of United Healthcare Services, Inc. United Healthcare Services, Inc. is a foreign corporation registered to do business in the

Commonwealth. United's ultimate parent company is United Health Group, Inc. which is a publicly held company traded on the New York Stock Exchange.

FACTUAL BACKGROUND

3. United is a national health benefit program provider and has contracted with MassHealth to provide MassHealth members with an SCO program.

4. Under the SCO program, United is responsible for delivering and paying for the members' health care services. MassHealth pays for the services provided to MassHealth members enrolled in the SCO on a capitated basis from Medicaid funds MassHealth receives from the United States and the Commonwealth. United contracts with providers within its network.

5. The capitated rates paid by MassHealth to United for its SCO program are determined by rate cells, also known as rating categories. Rate cell classifications are a set of mutually exclusive categories of enrollees that are defined by one or more characteristics for the purpose of determining the capitation rate and making a capitation payment; such characteristics may include age, gender, eligibility category, and region or geographic area.

6. For SCO members not residing in institutional settings, *e.g.*, nursing homes, there are generally three levels of care that determine the final rating category. Level 1 members can independently perform activities of daily living ("ADLs"), *e.g.*, bathing, dressing, toileting, and do not require health or social services. Level 2 members demonstrate independence with ADLs but typically have mental health diagnoses, such as Alzheimer's disease or major depressive disorder, and may need additional support for instrumental activities of daily living ("IADLs"), *e.g.*, meal preparation, laundry, and grocery shopping. Level 3, also known as "nursing home-

certifiable,” members require hands-on daily assistance with ADLs, such that they would qualify for nursing home care without qualified caregivers.

7. Care level assessments are conducted and documented by United in Minimum Data Set, or “MDS,” reviews which are ultimately submitted to MassHealth after completion by registered nurses or other United staff.

8. United receives the highest monthly capitated payment from MassHealth for members classified as Level 3 and a higher rate for Level 2 than it does Level 1. The capitated rates² are set forth in the contract between MassHealth and United. The contract shows a substantial difference in capitated rates for Level 1 and Level 3 members. For example, under Q1 2019 rates, for a dual-eligible Level 1 member in the Boston area, MassHealth would pay United a monthly rate of \$328.36. If that member were instead classified as Level 3, MassHealth would pay \$2,371.40 per month—over seven times the Level 1 rate.

9. The Attorney General has reviewed audit reports prepared by the Office of Long Term Services and Supports (“OLTTS”) regarding United. The OLTTS audit found that, in a significant portion of the records reviewed, United’s documentation failed to support its assertion that the MassHealth member required Level 3 care.

ISSUANCE OF THE CIVIL INVESTIGATIVE DEMAND

10. Based, *inter alia*, on the OLTTS audit, the Attorney General had reason to believe that United might be in possession, custody or control of documentary material or information relevant to the MFCA Investigation.

² A capitation rate is a set dollar payment per enrollee per month that MassHealth pays to a SCO, here United, to cover a specified set of services and administrative costs without regard to the actual number of services provided.

11. The Attorney General first issued a Civil Investigative Demand to United dated January 12, 2022. Counsel for United and the Attorney General engaged in multiple discussions regarding United's response to this request for documents, and United offered, and the Attorney General agreed to accept, responsive documents on a rolling basis. United reported that it had completed its response in April 2023.

12. On July 25, 2023, the Attorney General issued a second Civil Investigative Demand to United (the "CID"), which was received via certified mail on July 31, 2023, with a courtesy copy provided to United's counsel on July 25, 2023. A copy of the CID is attached hereto and incorporated herein as Exhibit A

13. In accordance with G.L. c. 12, § 5N(9), the CID sets forth the time by which United had to file a motion to modify or set aside the CID and/or seek a protective order. That time was any time prior to the date specified for compliance, which was August 8, 2023, or within 21 days after the CID had been served, whichever period was shorter. Thus, United had to file any motion to set aside or modify the CID, and/or seek a protective order, by August 8, 2023.

14. United did not file a motion to modify or set aside the United CID and/or seek a protective order prior to August 8, 2023 and to date, has not done so.

**UNITED'S FAILURE TO COMPLY
WITH THE CIVIL INVESTIGATIVE DEMAND**

15. The CID required United to respond to just four document requests and to provide a sworn certificate, required pursuant to G.L. c. 12, § 5N(6), averring that United's production was full and complete.

16. United has represented that it cannot prepare the data requested by Document Request Number 1 of the CID, which seeks data reflecting the diagnoses and other bases for assigning members in the SCO program to their respective rate cells.

17. Upon review of the documents produced by United in regard to Document Request Number 2 of the CID, the Attorney General has received what appears to be a compliant response from United (excepting the lack of a certificate swearing completion).

18. Upon review, the Attorney General determined that United has failed to produce a substantial quantity of documents required by the CID with respect to Document Request Number 3. Document Request Number 3 seeks chat messages related to United's categorization of SCO members into Rate Cells. In November 2023, United produced 496 messages from a limited number of custodians which cover a period of only two months, as opposed to the forty-two months requested.³

19. With respect to Document Request Number 4 of the CID, United's counsel has reported in a telephone call in October 2023 that there are no responsive records. The Attorney General has requested that United confirm this representation in writing; as of today, United has not confirmed that representation.

20. The documents not produced by United contain information that is crucial to the MFCA investigation.

21. United did not file a motion setting forth good cause, as G.L. c. 12, § 5N(9) requires in order to object to a civil investigative demand, requesting that the Court set aside or issue a protective order regarding the CID, nor did it have good cause to do so. The time period allowed by G.L. c. 12, § 5N(9) to take such action has passed.

22. On August 16, 2023, the Attorney General notified United that it was in default of its obligations regarding the CID. The parties have continued to negotiate a production schedule,

³ Counsel for United has represented that United maintained records of chat messages for only the time period from May 1, 2020 to the present.

but United has engaged in a pattern of non-responsiveness that cannot be construed in any way other than intentional delay.

23. Commencing in or about June 2022, the Attorney General and United entered into a series of written agreements to toll the statute of limitations through and including May 5, 2023 to allow the Attorney General's MFCA investigation to proceed. However, after May 5, 2023, United refused to enter into any further tolling agreements with the Attorney General.

24. United's dilatory tactics coupled with its refusal to enter into a further written agreement to toll the statute of limitations made it necessary to file the Petition.

25. United has not complied with its obligations under the MFCA, as set forth in G.L. c. 12, § 5N(1), (5), and (6), by refusing to produce all documentary information and material required by the CID, along with a sworn certificate confirming that the production was full and complete.

WHEREFORE, the Attorney General requests that this Court allow the Petition and enter orders:

- a. compelling United to produce all remaining documentary material as requested in the United CID to the Attorney General within 21 days of the entry of its Order, along with a sworn certificate confirming that United's production to the Attorney General was full and complete; and
- b. for such other and further relief as this Court deems appropriate.

COMMONWEALTH OF MASSACHUSETTS

ANDREA JOY CAMPBELL
ATTORNEY GENERAL



Kevin O'Keefe, BBO #697101

Mary-Ellen Kennedy, BBO #548270

kevin.okeefe@mass.gov

mary-ellen.kennedy@mass.gov

Assistant Attorneys General

Medicaid Fraud Division

Office of the Attorney General

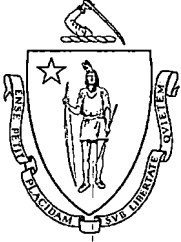
One Ashburton Place

Boston, MA 02108

Tel: 617-727-2200

Date: March 20, 2024

EXHIBIT A



THE COMMONWEALTH OF MASSACHUSETTS
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CIVIL INVESTIGATIVE DEMAND FOR DOCUMENTARY MATERIALS

TO: UnitedHealthcare Insurance Company
185 Asylum Drive
Hartford, CT 06103

Date Issued: July 25, 2023

As authorized by G.L. c. 12 § 5N, the Attorney General of the Commonwealth of Massachusetts issues this civil investigative demand ("CID") to UnitedHealthcare Insurance Company ("United"), in the course of an investigation to determine whether there is, has been, or may be a violation of G.L. c. 12 § 5B by conduct of the following nature:

Causing the submission of false claims for payment to the Massachusetts Executive Office of Health and Human Services based on inaccurate Rate Cell classification.

This CID requires that you produce documents, as described below. *See* G.L. c. 12 § 5N(1). Documents must be produced in accordance with the directions and instructions appearing herein by **August 8, 2023**, by delivering them to:

Kevin O'Keefe
Assistant Attorney General
Medicaid Fraud Division
Office of the Attorney General
One Ashburton Place
Boston, MA 02108

Assistant Attorney General O'Keefe and other agents of the Attorney General's Office working under his supervision will review the documents produced in conjunction with this investigation.

Your production of documentary material in response to this CID must be made under a sworn certificate, in Attachment "A," attached hereto, by a person having knowledge of the facts and circumstances relating to such production and authorized to act on behalf of United.

PROTECTED HEALTH INFORMATION

The Attorney General has issued this CID as part of her oversight of the health care system in the Medicaid Fraud Control Unit's capacity as a "health oversight agency" as defined in the Health

Insurance Portability and Accountability Act of 1996 (“HIPAA”) under 45 C.F.R. § 164.512(d). This CID complies with the HIPAA standard for disclosures to law enforcement officials set forth in 45 C.F.R. § 164.512(f)(1)(ii)(C), *i.e.*, the information sought is relevant and material to a legitimate law enforcement inquiry, the request is specific and limited in scope to the extent reasonably practicable, and de-identified information cannot reasonably be used to complete the investigation.

CONFIDENTIALITY

Under G.L. c. 12 § 5N(11) all information and documentary materials obtained by the Attorney General by means of this CID are not public records and are exempt from disclosure under G.L. c. 66, § 10 and other laws. Under G.L. c. 12, § 5N(8), the Attorney General may disclose information obtained by means of this CID in court proceedings or in papers filed in court and may disclose such information to officials of the United States, the Commonwealth of Massachusetts, or any political subdivision thereof charged with the responsibility for enforcement of federal, state, or local laws respecting fraud or false claims upon federal, state or local governments, subject to the agreement of said officials to abide by the restrictions of section 5N(8). Without limitation to any other permitted use, any such evidence obtained by means of this CID may be used in any subsequent criminal, civil, or administrative proceeding that is substantially based upon the same or similar allegations of fraudulent conduct or filing of false claims as described in this document.

DEFINITIONS

- A. “United” means UnitedHealthcare Insurance Company, whose principal office is at 185 Asylum Drive, Hartford, CT 06103, its predecessors, successors, assigns, parent corporations, affiliates, subdivisions, subsidiaries, officers, directors, agents, servants and/or employees.
- B. “EOHHS” means the Executive Office of Health and Human Services, including all subdivisions thereof.
- C. “MassHealth” means the Massachusetts Medicaid Program.
- D. “Member” means a person enrolled in MassHealth.
- E. “Concerning” means referring to, describing, evidencing, or constituting.
- F. “Document” is defined to be synonymous in meaning and equal in scope to the usage of this term in Mass. R. Civ. P. 34(a). A draft or non-identical copy is a separate document within the meaning of this term. An e-mail and its attachment(s) is a single document within the meaning of this term.
- G. “Communication” means any disclosure, transfer or exchange of information or opinion, however made.

- H. The "SCO Contract" means the Contract for Senior Care Organizations by and between EOHHS and United entered into in or around June 2015, as well as any amendments to and/or restatements of the same.
- I. The terms "Individualized Plan of Care," "Initial Assessment," "Ongoing Assessment," "Comprehensive Assessment," "Rating Category," "Rate Cell," "Nursing Home Certifiable" and "Senior Care Options Program" have the meanings set out in Definitions of Terms section of the SCO Contract.
- J. Unless otherwise defined, all words and phrases used herein shall be accorded their usual meaning and shall be interpreted in their common, ordinary sense.

INSTRUCTIONS

1. This CID does not call for the production of materials covered by 42 CFR Part 2, Confidentiality of Substance Use Disorder Patient Records regulations, as authorized by 42 U.S.C. § 290dd-2.
2. Scope of search required: This CID calls for all documents in your possession, custody, or control
3. Unless otherwise specified, the relevant time period for this CID is July 1, 2015 to the present.
4. The words "and" and "or" in this CID shall be read in both the conjunctive and the disjunctive (i.e. "and/or"), so as to give the document request its broadest meaning.
5. The documents submitted in response to this CID shall be marked or organized in such a way as to identify the source and location where each document was found.
6. To the extent that documents are found in file folders and other similar containers that have labels or other identifying information, the documents shall be produced with such file folder and label information intact.
7. To the extent that documents are found attached to other documents, by means of paper clips, staples, or other means of attachment, including electronic means of attachment, such documents shall be produced together in the condition when found.
8. Documents maintained as electronic documents in the regular course of business must be produced as electronic documents. Documents maintained in hard copy may be produced in either electronic or hard copy format. To the extent hard-copy and electronic documents are produced in electronic format, the Attorney General requests that all such documents be produced in accordance with the specifications outlined in Attachment "B," attached hereto.
9. If any document requested in this CID is no longer in your possession or custody or subject to your control, please identify the document by its author(s), recipient(s) and

subject matter, and state whether the document is lost, has been destroyed, or has been transferred to others (identify the transferee(s)).

10. Each request for a document or documents in this CID requests not only the document or documents in their current form, but also all other versions of the document or documents, including but not limited to drafts or prior versions.
11. Unless otherwise indicated, your production of documents shall include all documents created or prepared during the relevant period, or concerning that period, regardless of when the document was created or prepared.
12. If a claim of privilege is asserted in response to any document requested by this CID, and such document, or any part thereof, is not produced on the basis of such claim, for each such document or part thereof that is not produced, you are directed to provide a privilege log wherein you identify the type of document being withheld (e.g. letter, memorandum, handwritten notes, marginalia. Etc.), all actual and intended recipients of the document, its date and the specific privilege being asserted, all with sufficient particularity so as to allow the Massachusetts Attorney General's Office, and potentially the Court, to assess the validity of the claims of privilege.
13. If you believe that the production of documents required by this CID would be unduly burdensome, or if you require clarification of any request, please contact Assistant Attorney General O'Keefe within ten (10) days of receipt hereof.

DOCUMENTS REQUESTED

1. Documents sufficient to show, for each Initial Assessment, Ongoing Assessment, and/or Comprehensive Assessment ("Assessment") of each Member enrolled in the Senior Care Options Program at any time:
 - a. The date of the Assessment;
 - b. The reasons for the Assessment;
 - c. The diagnoses listed in the Assessment with corresponding ICD codes;
 - d. The Rating Category or Rate Cell of the Member as of the date of the Assessment;
 - e. Any changes to the Rating Category or Rate Cell as a result of the Assessment;
 - f. Where applicable, the request for service(s) resulting from the Assessment and corresponding summary notes; and
 - g. Where applicable, whether the Member had a significant change in condition (i.e., "Improvement" or "Deterioration") and corresponding description.

2. Any and all documents previously or currently saved or stored in the "MDS Corner," as referenced in UHICMA000138323 at slide 22.
3. Any and all communications concerning Rating Categories, Rate Cells, Assessments and corresponding diagnoses and services (as well as policies, practices, procedures, directives, instructions, guidance, and training, whether formal or informal, pertaining to such Rating Categories, Rate Cells, Assessments, diagnoses, and services) located in Microsoft Teams Chats, Cisco Webex Messages, or Yammer, including but not limited to group communications between and among any MDS nurses or RN Case Managers performing or reviewing Assessments of Members in the Senior Care Options Program.
4. Any and all documents and communications concerning audits or reviews of Fieldglass, Resource Partners, CareBridge, and any other contractors that performed Assessments of Members in the Senior Care Options Program.

COMMONWEALTH OF MASSACHUSETTS
ANDREA JOY CAMPBELL
ATTORNEY GENERAL

By: Kevin O'Keefe
Kevin O'Keefe (BBO # 697101)
Assistant Attorney General
Medicaid Fraud Division
Office of the Attorney General
One Ashburton Place
Boston, MA 02108
617-963-2532
kevin.okeefe@mass.gov

CERTIFICATE OF SERVICE

I hereby certify that I served the above document on UnitedHealthcare Insurance Company at 185 Asylum Drive, Hartford, CT 06103, by registered or certified mail, pursuant to G.L. c. 12 § 5N(2), on July 25, 2023.

By: Kevin O'Keefe
Kevin O'Keefe
Assistant Attorney General
Medicaid Fraud Division
Office of the Attorney General
One Ashburton Place
Boston, MA 02108
617-963-2532
kevin.okeefe@mass.gov

ATTACHMENT A

M.G.L. c. 268 § 13E(b): Whoever alters, destroys, mutilates, or conceals a record, document, or other object, or attempts to do so, with the intent to impair the record, document or object's integrity or availability for use in an official proceeding, whether or not the proceeding is pending at that time, shall be punished . . .

M.G.L. c. 268 § 13B(1)(c)(iii), (iv): Whoever, directly or indirectly, willfully . . . misleads . . . [a] prosecutor, . . . investigator, . . . [or] person who is furthering a . . . civil proceeding of any type with the intent to impede, obstruct, delay, harm, punish or otherwise interfere thereby, or do so with reckless disregard, with such a proceeding shall be punished . . .

Form of Certificate of Compliance*

I/We have read the provisions of M.G.L. c. 268 §§ 13E(b) and 13B(1)(c) and have knowledge of the facts and circumstances relating to the production of the documentary material propounded in the civil investigative demand issued to UnitedHealthcare Insurance Company on January 12, 2022.

I/We do hereby certify that all documentary material and all information required by said civil investigative demand which is in the possession, custody, control, or knowledge of the person to whom the demand is directed has been submitted to a custodian named therein.

If any documentary material otherwise responsive to this demand has been withheld, the objection to such demand and the reasons for the objection have been stated in lieu of production or an answer.

Signed under the pains and penalties of perjury this _____ day of _____ 2023.

Signature _____

Title _____

*In the event that more than one person is responsible for producing the documents, the certificate shall identify the documents for which each certifying individual was responsible.

Attachment B



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AGO Everlaw

Data Delivery Standard

This document describes the technical requirements for making paper and electronic document production to the Massachusetts Office of the Attorney General (AGO). ****Any questions or proposed file formats other than those described below must be discussed with the legal and technical eDiscovery staff of the AGO prior to submission. ****



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I. General Instructions

The producing party must make electronic productions in the format specified below. If this format is not available, electronic files must be produced in their native format, that is, the format in which they are ordinarily used and maintained during the normal course of business. For example, an e-mail must be produced as a PST, MSG or EML, rather than a PDF print out of the email message. ***(Note: An Adobe PDF file is not considered a native file unless the document was initially created as a PDF or the PDF is produced with the requested metadata.)***

If your production will be deduplicated, you must 1) preserve any unique metadata associated with the duplicate files, for example, custodian name, and, 2) make that unique metadata part of your production to the AGO.

We prefer electronic file transfer or FTP. If electronic file transfer is not available or possible, then, please send the clearly labeled physical media (hard drive, thumb drive, DVD or CD) with a cover letter to our office's mailing address.

Each production should include a cover letter stating the following information:

- A. List of custodians
- B. The Bates range (and any gaps therein; gaps should be avoided)
- C. Total number of records
- D. Total number of images
- E. Total number of native files
- F. Time zone in which emails were standardized during conversion (email collections only).



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All productions should be scanned and produced free of computer viruses. Label all media or file transfers with the following:

- A. Case name and number, if applicable
- B. Volume Name
- C. Production date
- D. Bates range

II. Production Format: Structured Format with Load File

The AGO requests that all electronic documents and data be produced in a structured format with a load file. All scanned paper and electronic file collections should be unitized and converted to Bates numbered (page level) PDF files at 300dpi or more, and include fully searchable text files.

A. Overview

The structured production format has four main components:

- A directory containing PDF images of every document in the production, Bates numbered sequentially.
- A directory containing native files for a subset of the documents, each file named with the Bates number of the first page of the document it represents, and with the same extension as the original native file type of the document.
- A directory containing OCR or extracted text files, one file per document, each file named with the Bates number of the first page of the document it represents, followed by ".txt".
- A load file containing Bates ranges and metadata for each document.



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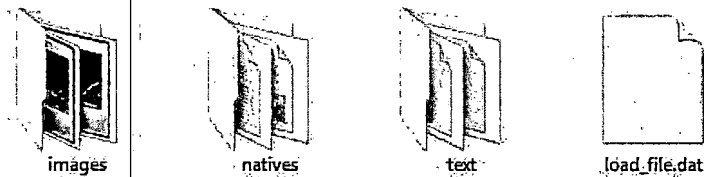
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B. Folder Structure, File Types, and Load File Requirements

1. Folder Structure

Consider a production in which the first document is two pages long (Bates numbers ABCD00001-ABCD00002), the second is one page long (Bates number ABCD00003), the third is three pages long (Bates numbers ABCD00004-ABCD00006), and the fourth is two pages long (Bates number ABCD00007-ABCD00008). Graphically, here is the root directory of the production:



Screenshot 1: An example of a structured production

2. Images

The IMAGES/ directory contains a multi-page PDF image file for every document, Bates-numbered sequentially with a fixed alphabetic prefix:

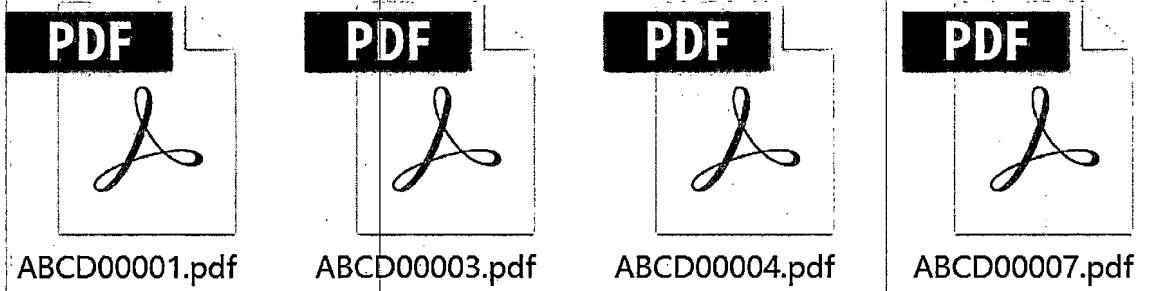


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Screenshot 2: Bates Numbered PDFs inside the Images Folder

Here, ABCD00001.pdf composes the first document, ABCD000000003.pdf is the second, ABCD000000004.pdf composes the third, and so on.

1. Folder names cannot have embedded spaces or special characters (including the comma).
2. Images produced to the AGO should be multi-page PDFs with 300 dpi or better quality. PDFs may be Black and White or color.
3. Photograph files should be produced as a single page JPEG file in color.
4. All PDF images must be named for a unique Bates number.
5. Document identifiers (BegBates and EndBates) must have alphanumeric prefixes. Records that contain only numbers (e.g. 00002844) are not allowed.
6. Both BegBates and EndBates (if included) numbers should follow the same numbering convention.
7. Alphabetical or numerical suffixes are not supported. Example: ABCD00001-4.pdf and ABCD00001-B.pdf is not acceptable.
8. The BegBates number should be stamped in the lower right-hand corner unless to do so would obscure the underlying image. In such cases, the BegBates number should be



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placed as close to that position as possible while preserving the underlying image.



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BegBates numbers should have no spaces, hyphens, or underscores. Example:

ABCD00001 or ABCD_00001 is acceptable, but ABCD00001_001 is not. Previously used

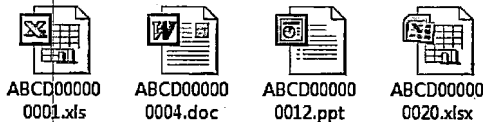
Bates numbers are also not acceptable.

9. The names of the image files must exactly match the BegBates of the entry in the load file. See the load file section below.
10. It is NOT acceptable to have multiple DATA folders (IMAGES, TEXT, OR NATIVES) or references to multiple IMAGES, TEXT, or NATIVES folders in the load file. The IMAGES, TEXT and NATIVES folders may contain subfolders numbered 0001, 0002, 0003. For example: //Data/IMAGES/001 and //Data/IMAGES/002.

3. Native Documents

Spreadsheets (e.g. Excel), presentations (e.g. PowerPoint), and audio/video files must be produced as Native documents.

The NATIVES directory contains native document files. Here, imagine that documents 1 (starting Bates ABCD00001), 3 (starting Bates ABCD00004) and others have native files.



Screenshot 3: Bates Numbered Native Files

Files produced natively, such as Excel spreadsheets and audio/video files:

1. Should be produced as individual native files and named for a unique Bates number of the first page but keeping its original file extension.



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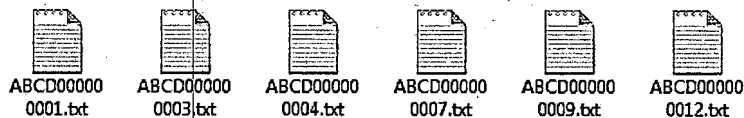
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2. If the item has a confidentiality designation, please DO NOT append it to the bates numbered file name. The confidentiality designation should be stored in a field in the DAT file.
3. Should have an associated Bates numbered placeholder image named for the Bates number of the file showing that the file was produced natively in the Images folder.
4. For any ESI that exists in an encrypted format or is password-protected, instructions on means for access should be provided with the production to the AGO. (For example, by supplying passwords.)
5. The full path of the native file must be provided in the .DAT load file for the Native LINK field.
6. There should only be a single NATIVES folder in a production. Subfolders numbered 0001, 0002, 0003...etc. within the Natives folder are permissible. For example: \\DATA\Natives\001 and \\Data\Natives\002.
7. It is NOT acceptable to have multiple NATIVES folders.

4. Text Files

The TEXT directory contains a text file for every document, each named with the Bates number of that document's first page:



Screenshot 4: Bates Numbered Text Files



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These filenames are aligned with the starting Bates numbers of each documents.



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As previously mentioned, text must be produced as separate text files, not as fields within the .DAT file. The full path to the text file (OCRPATH) should be included in the .DAT load file. We require document level ANSI text files, named per the Begin BATES of the first page of the Image. Please note in the cover letter if any non-ANSI text files are included in the production. There should be no special characters, including commas, in the folder names.

For redacted documents, please provide the full text of the redacted version. Bates number should be OCRed and included inside the text files.

There should only be a single TEXT folder in a production. It is NOT acceptable to have multiple DATA folders or multiple TEXT folders. Subfolders named 001, 002, 003...etc. within the single TEXT folder are acceptable.

5. Load Files

Finally, the load file must contain metadata about each document, including Bates numbers, native file information, and other fields. The first line is the header that lists each of the fields by name. Values are delimited and separated using the special characters defined below, see screenshot 4b (but these marks are replaced with | 'pipe' symbols for display purposes in Screenshot 4a).

```

load_file.dat
1 SOURCE|CUSTODIAN|BEGINBATES|ENDBATES|NATIVELINK|FILEPATH|...
2 Sample_Source|Bob Jones|ABCD000000001|ABCD000000002|ABCD000000001.xls|c:\foobar\sample.xls|...
3 Sample_Source|Bob Jones|ABCD000000003|ABCD000000003||c:\messages\message1.msg|...
4 Sample_Source|Bob Jones|ABCD000000004|ABCD000000006|ABCD000000004.doc|c:\baz\letter.doc|...
5 Sample_Source|Jane Smith|ABCD000000007|ABCD000000008|||...
6 ...

```



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Screenshot 4a: Load File Example

```

pBegBatesp|pEndBatesp|pBegAttachp|pEndAttachp|pFamilyIdp|pVolumep|pMSHashp|pCustodian Sourcep|pTRAMPp|pTOPp|pCCp|pBCCp|pSubjectp|pSent Datep|pSent Timep|pFile Extensionp|pD
pAG00004507p|pAG00004510p|pAG00004507p|pAG00004512p|pAG00004507p|p701001p|p|pDoe, Johnp|pjohn.doe@someplace.comp|pjohn@somewhereelse.comp|pjohnboss@someplace.comp|p|p|p
pAG00004511p|pAG00004512p|pAG00004507p|pAG00004512p|pAG00004507p|p701001p|p|pDoe, Johnp|pjohn.doe@someplace.comp|pjohn@somewhereelse.comp|pjohnboss@someplace.comp|p|p|p

```

Screenshot 4b: Load File Example with ASCII delimiters

1. The load file can be any text-based file with consistent delimiters. Common formats include: Comma-separated values (CSV) files, DAT files, and TXT files.
2. Each line in the load file must represent exactly one document.
3. The load file must include fields containing a unique identifier representing the beginning of a document (such as BegBates), a document-ending identifier (such as EndBates), and a number of pages field such as Page Count. The BegBates accounts for the page numbering of the current document and/or of any previous document and the previous document's EndBates.
4. The .DAT load file must use the following MA AGO default delimiters:
 5. Comma ASCII character (020)
 6. Quote p ASCII character (254)
 7. Date fields should be provided in the format: mm/dd/yyyy
 8. Date and time fields can be two separate fields or can be combined as a Date/Time field without the inclusion of time zone.
 9. If the production includes imaged emails and attachments, the attachment fields (such as BEGATTACH and ENDATTACH) must be included to preserve the parent/child relationship between an email and its attachments. BEGATTACH and ENDATTACH fields must be two separate fields.



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10. An OCRPATH field must be included to provide the file path and name of the extracted text file on the produced storage media. The text file must be named after the BegBates.

Do not include the text in the .DAT file.

11. For productions with native files, a NATIVEPATH field must be included to provide the file path and name of the native file on the produced storage media. The native file must be named after the Begin BATES.

C. Deduplication (RemovedFrom data field)

If the producing party wishes to deduplicate, exact hash value duplicates may be removed on a global basis if the producing entity provides a field of created data for each deduplicated item that provides a concatenated list of all custodians or other sources where the item was original located. This list should be provided in the RemovedFrom data field.

Any other form of deduplication must be approved in advance by the Office of the Attorney General.

D. Metadata

All records should include at least the following fields of created data:

- BegBates (where PDF Images are produced)
- EndBates
- BegAttach (Page Level)
- EndAttach (Page Level)



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- RemovedFrom: If records were globally deduplicated, this field should have a concatenated list of all custodians or sources which originally held the item.
- MD5 Hash or other hash value
- Custodian / Source
- Original Path or folder structure
- Family or Parent ID (Document Level)
- Path/Link to natives
- Path/Link to text files (do not produce inline text in the dat file)
- Redacted – Bit Character field (1 or 0 where 1=Yes and 0=No)
- Production date (mm/dd/yyyy)
- Volume name
- Confidentiality or other treatment stamps

1. Metadata for E-mails

E-mail should be produced with at least the following fields of metadata:

- To
- From
- CC
- BCC
- Subject
- Path to text file (do not produce inline text in the dat file)



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- Sent Date (must be produced in a field separate from the Sent Time)



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- Sent Time (must be produced in 24-hour format; do not include time zone)
- Date Received
- Time Received
- File extension (.txt, .msg, etc.)
- Has Attachment
- Attachment count

2. Metadata for Electronic Documents

Electronic Documents should be produced with at least the following individual fields of metadata:

- Author
- Custodian
- Date Created
- Time Created
- Date Modified
- Time Modified

3. Fields to be Produced in Data Load File – MA AGO Format

Field Name	Description/Notes
BegBates	Starting Bates Number for document
EndBates	Ending Bates Number for document
BegAttach	Starting Bates Number of Parent document



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EndAttach	Ending Bates Number of last attachment in family
Other Bates	



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Field Name	Description/Notes
Other Custodians	
Parent ID	
Family	Parent BegBates
Begin Family	
End Family	
Attachment IDs	
Attachment Names	
Family	
SHA1Hash	Needed for authentication and deduplication
MD5Hash	Needed for authentication and deduplication
All Custodians	
Custodian	If the source is a human custodian, please provide the name: Last name, first name. If this results in duplicates, add numbers or middle initials, last name, first name, middle initial or # If the source is not a human custodian, please provide a unique name for the source. Ex: AcctgServer
Application	
FROM	Email
TO	Email
CC	Email
BCC	Email
Subject	Email
Sent Date	Email
Sent Time	Email
File Extension	
Attachment Names	Email
Attachment IDs	
Document Type	Email, attachment
Extension	
Original Filename	



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Original File Path	Original location of the item at time of Preservation.
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Field Name	Description/Notes
Title	
FileName	
File Path	
File Range	
Date Created	Loose files or attachments.
Time Created	Loose files or attachments.
Date Modified	Loose files or attachments
Time Modified	Loose files or attachments.
Redacted	This is a Boolean/bit character field. Data value should be "0" or "1" where 0 = No and 1=Yes.
Confidentiality	NOTE: Do not append the Confidentiality Designation to the native file name
RemovedFrom	Last name, first name with semi colon as separator Lastname, firstname; nextlastname, nextfirstname etc.
Encrypted	This is a single character field. Data value should be "N" or "Y". (File is or is not encrypted/password protected)
EncryptKey_password	For those files where Encrypted pwp is Y, provide password or encryption key information in this field.
Endorsed Text	
Production Date	MM\DD\YYYY
TextLink	path to the text files should begin with TEXT\
NativeLink	path to the native files should begin with NATIVES\
Redacted	This is a single character field. Data value should be "N" or "Y". (File is Redacted or not Redacted).
Confidentiality	Designation endorsed on document
Chat Contributors	Named of users participating in Chat
Author	Document author
To	Addressee



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CC	Copied to
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Field Name	Description/Notes
BCC	Blind copied to
Title	Document title
Document Type	msg, pst., pptx,
Data Type	CD, DVD, Thumb Drive, Hard Drive
Data Set	
Date	
Date Created	
Time Created	
Date Accessed	
Time Accessed	
Date Modified	
Time Modified	
Date Printed	
Time Printed	
Date Received	
Time Received	
Date Saved	
Time Saved	
Date Sent	
Start Date	



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End Date	
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Field Name	Description/Notes
Hidden Content	Microsoft Office
Languages	
Message ID	Message Header
Mime Type	Email. Web browser
Placeholder	This is a single character field. A placeholder value should be "N" or "Y". (File is a Placeholder or not a Placeholder).
Placeholder Text	Reason produced as Native
Privilege Type	
Produced From	
Split From	
Track Changes	Microsoft Office
Translation Of	
Ticket No	
Speaker Notes	Power Point and Google Slides
Comments	Email
Native Link	
Text Link	
Page count	Number of total pages per record

III. Other Production Formats



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A. Adobe PDF File Production

WITH PRIOR APPROVAL ONLY, Adobe PDF files may be produced for scanned paper documents.

- PDF files should be produced in separate folders named by the custodian. The folders should not contain any special characters (including commas).
- All PDFs must be unitized at the document level, i.e., each PDF must represent a discrete document.
- If PDF files are Bates-stamped, the PDF files must be named by the Bates number. Gaps in Bates numbers are not allowed. A load file containing the metadata should be provided.

B. Databases

It is NOT acceptable to produce screenshots, PDF, or printouts of any electronic database.

Producing Party should discuss production of any database with members of the AGO's legal and eDiscovery teams.

C. Instant Messages and Chats

It is NOT acceptable to produce screenshots, PDFs, or printouts of any instant messages or chat transcripts without any accompanying metadata. The AGO prefers their native formats. Here are some of the acceptable formats for instant messages and chats:

- Google Chat (including legacy Hangouts in JSON format)
- iChat or iMessage (.db)
- Microsoft Teams (PST)
- Slack (in JSON)
- Lotus Notes (NSF)



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- WhatsApp databases