

BEFORE THE IOWA DEPARTMENT OF REVENUE  
HOOVER STATE OFFICE BUILDING  
DES MOINES, IOWA

<p>IN THE MATTER OF</p> <p>CIOX HEALTH, LLC 925 NORTH POINT PKWY ALPARETTA GA 30005</p> <p>SALES AND USE TAX</p>	<p><b>DECLARATORY ORDER</b></p> <p>DOCKET NO. 238058</p>
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Pursuant to a Petition for Declaratory Order (“Petition”) filed with the Iowa Department of Revenue (“Department”) by Ciox Health, LLC (“Ciox”) on October 19, 2022, and in accordance with Iowa Code section 17A.9 (2022) and Iowa Administrative Code rule 701—7.24(17A) (2022), the Director issues the following order.

**FACTS AND ISSUE PRESENTED**

The findings of fact are based on the Petition submitted to the Department and further information submitted by Ciox at the Department’s request.<sup>1</sup> Ciox furnishes healthcare information management and medical records reproduction to “healthcare providers, patients, insurers, and other entities involved in the healthcare industry.” Ciox contracts with healthcare providers to fulfill records requests including those requests made for “Medicare audits, continuing care requests among providers, payer requests, patient requests, and government agency requests via subpoenas and search warrants.”

Contracts furnished by Ciox identify that under the contract terms, Ciox is responsible for processing and fulfilling the release of information requests received by the facility. A provided contract identifies one such group of requests as “billable requests” which are defined as “those requests by a third party requestor, including but not limited to, attorneys, insurances companies, government agencies and patients who are billed as provided by state and/or federal laws.” Ciox’s

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<sup>1</sup> Ciox responded to the Department’s request for information on March 2, 2023.

duties also include copying and scanning the requested information, certifying requested records, mailing or delivering the requested records, invoicing all requests, in addition to customer service support, such as providing the status of a request.

These requests may be in relation to potential or ongoing personal injury, worker's compensation or disability litigation, although Ciox states it is not always informed whether there is litigation or potential litigation involved when requests are made. Often, those seeking the medical records will request the records from the healthcare provider directly, which then sends the requests to Ciox "for validation, record retrieval, per page review, and delivery."<sup>2</sup> Ciox provided examples of medical records requests it has received, which were addressed to the healthcare facility along with a release of information signed by the patient or patient's representative.

Communication, whether electronic or via letter, between Ciox and the party that initially requested the records is typically limited to the delivery of records requested and an invoice, unless there is an issue with the documents that requires further information. Fees charged can include a base fee (which covers the first 20 pages of records), per page fees (the amount charged depends on the number of total pages of the records), and fees for shipping, optional data archiving, and optional certification (when needed for admission in court). The specific fees charged for records requests are itemized on the invoice sent with the records.

The Petition presents one issue for consideration: Whether the fees charged by Ciox for medical record requests are exempt from sales tax pursuant to Iowa Code sections 423.3(96) and 622.10(6)(c) when the records requested by patients, patient legal representatives, or an attorney are related to a Worker's Compensation claim?

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<sup>2</sup> Ciox identified that patients may directly request their own records which are processed in a different manner than when third-parties make the request, but this process is not at issue in this Petition.

## STANDARD OF REVIEW

### **I. Declaratory Orders under the Iowa Administrative Procedure Act**

Iowa's Administrative Procedure Act ("IAPA") was enacted "to provide a minimum procedural code for the operation of all state agencies when they take action affecting the rights and duties of the public." Iowa Code § 17A.1(2). Under the IAPA, "[a]ny person may petition an agency for a declaratory order as to the applicability to specified circumstances of a statute, rule, or order within the primary jurisdiction of the agency." *Id.* at § 17A.9(1)(a). The IAPA also describes agency rights and responsibilities with respect to declaratory order proceedings. *Id.* at § 17A.9(8). Pursuant to Iowa Code section 17A.9(2), the Department adopted Iowa Administrative Code rule 701—7.24, which outlines department-specific rules governing declaratory orders.

The purpose of a declaratory order is to provide a "generally available means for persons to obtain reliable information about agency administered law as it applies to their particular circumstances." *Sierra Club Iowa Chapter v. Iowa Dep't of Transp.*, 832 N.W.2d 636, 647 (2013) (citing Arthur Earl Bonfield, Amendments to Iowa Administrative Procedure Act, Report on Selected Provisions to Iowa State Bar Association and Iowa State Government, 1–8 (1998)). Declaratory orders are not contested cases that "entitle[] parties affected by the agency action to an adversarial hearing" in order to "adjudicate disputed facts pertaining to particular individuals in specific circumstances." *Greenwood Manor v. Iowa Dep't of Pub. Health, State Health Facilities Council*, 641 N.W.2d 823, 834 (Iowa 2002); Iowa Code § 17A.12. Instead, the IAPA "contemplates declaratory rulings by administrative agencies on purely hypothetical sets of facts." *City of Des Moines v. Pub. Emp't Relations Bd.*, 275 N.W.2d 753, 758 (1979).

As such, "[t]he procedure established by section 17A.9 allows persons to seek formal opinions on the effect of future transactions and arrange their affairs accordingly." *Bennett v. Iowa Dep't of Nat. Res.*, 573 N.W.2d 25, 26 (Iowa 1997). Declaratory orders issued by an administrative agency do, however, have "the same status and binding effect as any final order issued in a contested case proceeding." Iowa Code § 17A.9(7). The Department's rules governing

declaratory orders are consistent with this understanding of the role of declaratory orders in administrative procedure. See Iowa Admin. Code r. 701—7.24.

## II. **Statutory Construction and Interpretation of Tax Statutes**

“When engaging in statutory interpretation,” the Department “first examine[s] the language of the statute and determine[s] whether it is ambiguous.” *Kay-Decker v. Iowa State Bd. of Tax Review*, 857 N.W.2d 216, 223 (Iowa 2014) (citing *Rolfe State Bank v. Gunderson*, 794 N.W.2d 561, 564 (Iowa 2011)). “Generally, we presume words used in a statute have their ordinary and commonly understood meaning.” *Id.* (quoting *McGill v. Fish*, 790 N.W.2d 113, 119 (Iowa 2010)). “Legislative intent is expressed by what the legislature has said, not what it could or might have said. When a statute’s language is clear, we look no further for meaning than its express terms. Intent may be expressed by the omission, as well as the inclusion of statutory terms . . . .” *Hawkeye Land Co. v. Iowa Util. Bd.*, 847 N.W.2d 199, 210 (Iowa 2014) (quoting *State v. Beach*, 630 N.W.2d 598, 600 (Iowa 2001) (internal citations omitted)).

In addition to applying the general principles of statutory construction, “[s]tatutes which impose taxes are construed liberally in favor of the taxpayer and strictly against the taxing body. It must appear from the language of a statute that the tax assessed against the taxpayer was clearly intended.” *Iowa Auto Dealers Ass’n v. Iowa Dep’t of Revenue*, 301 N.W.2d 760, 762 (Iowa 1981). However, the Department construes tax exemption statutes narrowly in favor of taxation. See *Dial Corp. v. Iowa Dep’t of Revenue*, 634 N.W.2d 643, 646 (Iowa 2001) (“Tax exemption statutes are construed strictly, with all doubts resolved in favor of taxation.”); see also *Lowe’s Home Ctrs., LLC v. Iowa Dep’t of Revenue*, 921 N.W.2d 38, 46 (Iowa 2018).

### **DISCUSSION**

Iowa Code section 423.3(96) provides a sales tax exemption on “[t]he sale price of fees charged for the release of medical records as described in section 622.10.” Iowa Code section 622.10(6) provides that “upon a written request from a patient, a patient’s legal representative or attorney, or an adverse party [in a civil action as described in Iowa Code section 622.10(3)], any

provider shall provide copies of the requested records or images to the requester within thirty days of receipt of the written request.” Subsection (6)(c) of section 622.10, reiterates the exemption from sales tax for these types of records requests, stating that “[f]ees charged pursuant to this subsection are exempt from the sales tax pursuant to section 423.3, subsection 96.” In the present matter, the question is whether the fees charged for records requests processed and furnished by Ciox pursuant to Iowa Code section 622.10(6) are exempt from sales tax.

Here, there is a contract between Ciox and healthcare providers which puts the responsibility of fulfilling all records requests made to the provider on Ciox. This includes Ciox processing requests by third parties sent to the healthcare provider, reviewing records to determine the specific ones requested, copying or scanning the records, preparing or printing those documents, certifying records when requested for use in court, and ultimately delivering the records, including via mail, to the requesting party. Invoices sent to the requesting parties identify Ciox is providing the records they requested from the healthcare provider, demonstrating that it is acting on the provider’s behalf.

Further, the requests Ciox is responsible for fulfilling on the healthcare provider’s behalf include those made under Iowa Code section 622.10(6), as some of the requests Ciox provided to the Department referenced section 622.10 in the original request. Ciox also indicated in the information provided that “[t]hird party law firm requestors may be charged several specific product SKU line items that are used for billing under Iowa Code [section] 622.10.” The Iowa Supreme Court has found that transactions that are nearly identical to Ciox’s activities are subject to Iowa Code section 622.10(6). See *Young v. HealthPort Technologies, Inc.*, 877 N.W.2d 124, 130-31 (Iowa 2016).

Additionally, the Petition and response to the Department’s information request include references to Iowa Administrative Code rule 876—8.9, which Ciox identifies attorneys have used to protest paying sales tax. Iowa Code section 86.8 provides the workers' compensation

commissioner's duties include "adopt[ing] and enforc[ing] rules necessary to implement [Iowa Code chapter 86] and chapters 85, 85A, 85B, and 87." Further, "[a]ny person may file a petition with the workers' compensation commissioner for a declaratory order as to the applicability to specified circumstances of a statute, rule, or order within the primary jurisdiction of the workers' compensation commissioner, at the office of the workers' compensation commissioner." Iowa Admin. Code r. 876—5.1.

Iowa Administrative Code rule 876—8.9 identifies that it is meant to "implement Iowa Code sections 85.27, 85.31, 85.33 to 85.37, 85.39, 85.61, 86.8, 86.10, 86.18 and 86.39." Given that this rule is implementing the specified chapters within the worker's compensation commissioner's primary jurisdiction and purview to enforce, no determination about its application in the described circumstances will be made in this order. Any petitions for declaratory orders regarding the applicability of rule 876—8.9 should instead be filed with the worker's compensation commissioner.

Finally, the Petition notes that the Department found a similar provision of medical records subject to sales tax in a 2003 declaratory order, *In re Smart Solutions*, Docket #03-30-6-034. The 2003 declaratory order predated the legislature's 2012 enactment of the exemption in Iowa Code sections 423.3(96) and 622.10(6)(c). Iowa Acts, ch. 1110, §§ 19 & 22, 84th G.A. (2012). Therefore, this order and Iowa Code sections 423.3(96) and 622.10(6)(c) control over any conflicting holdings in *In re Smart Solutions*.

### **ORDER**

THEREFORE, based on the facts presented, foregoing reasoning, and applicable provisions of the law, the Director finds that when a provider, as defined in 622.10(6)(e), is fulfilling records requests made pursuant to Iowa Code section 622.10(6) and is utilizing Ciox to fulfill those requests, the fees charged by Ciox are exempt from sales tax under Iowa Code sections 423.3(96) and 622.10(6)(c). This order is limited only to these circumstances and no

determination is made regarding the taxability of any other records requests or services furnished by Ciox.

Issued at Des Moines, Iowa this 11th day of April, 2023.

IOWA DEPARTMENT OF REVENUE

By Mary Mosiman  
Mary Mosiman, Director