

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA**

AMERICAN HOSPITAL ASSOCIATION, *et al.*,

Plaintiffs,

v.

SYLVIA M. BURWELL, in her official capacity as  
SECRETARY OF HEALTH AND HUMAN  
SERVICES,

Defendant.

Civil Action No. 14-cv-00851 (JEB)

**DECLARATION OF LESTER D. CASH**

I, Lester D. Cash, declare as follows:

1. I am the Associate Deputy Assistant Secretary for Budget of the U.S. Department of Health and Human Services (HHS). In this role, I serve in the Office of Budget within the Office of the Assistant Secretary for Financial Resources within HHS. I have held this position since January 2007. Among my duties, I am responsible for certain aspects of Department-wide budget execution. In fiscal year 2014, these responsibilities included assuring that transfers executed under section 206 of division H of the Consolidated Appropriations Act, 2014 (Pub. L. 113-76) were consistent with the authorities provided in that section. The statements made in this declaration are based on my personal knowledge, information contained in agency files, and information furnished to me in the course of my official duties.

2. Attached as Exhibit 1 is a true and correct copy of a February 21, 2014 letter from former Secretary of Health and Human Services Kathleen Sebelius to the Chairman of the Subcommittee on Labor, Health and Human Services, Education, and Related Agencies of the Committee on Appropriations of the House of Representatives and a true and correct copy of the attachment to that letter. Identical letters and attachments were sent to the Ranking Member of such subcommittee, and to the Chairman and Ranking Member of the Subcommittee on Labor,

Health and Human Services, Education, and Related Agencies of the Committee on Appropriations of the Senate.

3. Attached as Exhibit 2 is a true and correct copy of a May 23, 2014 letter from former Secretary of Health and Human Services Kathleen Sebelius to the Chairman of the Subcommittee on Labor, Health and Human Services, Education, and Related Agencies of the Committee on Appropriations of the House of Representatives and a true and correct copy of the attachment to that letter. Identical letters and attachments were sent to the Ranking Member of such subcommittee, and to the Chairman and Ranking Member of the Subcommittee on Labor, Health and Human Services, Education, and Related Agencies of the Committee on Appropriations of the Senate.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge and belief.

Executed this 17<sup>th</sup> day of October, 2014, in Washington, District of Columbia.

A handwritten signature in black ink, appearing to read "L. D. Cash", written in a cursive style. The signature is positioned above a horizontal line.

Lester D. Cash



THE SECRETARY OF HEALTH AND HUMAN SERVICES  
WASHINGTON, D.C. 20201

February 21, 2014

The Honorable Jack Kingston  
Chairman  
Subcommittee on Labor, Health and  
Human Services, Education, and Related Agencies  
Committee on Appropriations  
U.S. House of Representatives  
Washington, DC 20515

Dear Mr. Chairman:

I am writing to inform you that the Department of Health and Human Services (HHS) plans to reallocate \$162 million in resources to support activities that are vital to accomplishing the mission of HHS. I am providing this notification consistent with the requirements of section 206 of division H of the Consolidated Appropriations Act, 2014 (P.L. 113-76).

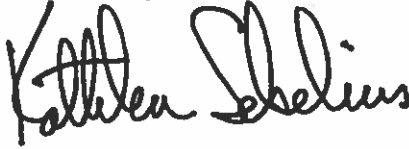
HHS will transfer the funds to two operating divisions to carry out the following activities:

- Centers for Medicare & Medicaid Services (CMS). HHS will transfer approximately \$119 million to CMS, of which approximately \$109 million will help ensure continued operations of the Marketplace. Even after the open enrollment period ends on March 31, 2014, CMS will continue to provide assistance to consumers to newly enroll in plans and to access their new benefits. CMS will also provide support to issuers in their first year of offering Marketplace plans, as well as plan for 2015 offerings. In addition, HHS will transfer approximately \$9 million to CMS to support ongoing information technology maintenance and support.
- Administration for Children and Families (ACF). HHS will transfer approximately \$44 million to ACF's Refugee and Entrance Assistance appropriation to care for the increasing number of unaccompanied alien children arriving in the United States. Following eight years of stability, Unaccompanied Alien Children (UAC) arrivals increased 108 percent in fiscal year (FY) 2012, an additional 81 percent in FY 2013, and are projected to increase another 143 percent in FY 2014. ACF has streamlined its placement process, cutting the average amount of time children spend in care in half since FY 2011, and is implementing further cost reductions, but UAC costs continue to rise with the increase in arrivals. Congress has provided an additional \$492 million for UAC in FY 2014 but the additional funds and savings are not sufficient to shelter 60,000 UAC arrivals. This transfer is needed to serve ACF's current estimate of the number of arriving UAC without reducing other refugee services.

The Honorable Jack Kingston  
February 21, 2014  
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Enclosed is a table that details the contributions that support the transfers described above. In the current fiscal environment, the use of this transfer authority is necessary to allow HHS to implement the Department's legally mandated responsibilities effectively. I appreciate the Subcommittee's continued interest in and support of the activities of HHS.

Sincerely,

A handwritten signature in black ink, appearing to read "Kathleen Sebelius". The signature is fluid and cursive, with the first name "Kathleen" written in a larger, more prominent script than the last name "Sebelius".

Kathleen Sebelius

Enclosure

Operating Division	Budget Authority	Transfer Out	Transfer In	Revised Level
<b>Health Resources and Services Administration (HRSA):</b>				
Primary Health Care .....	1,495.276	-3.754	-	1,491.522
Health Workforce.....	734.236	-1.845	-	732.391
Maternal and Child Health.....	846.017	-2.124	-	843.893
Ryan White.....	2,293.781	-5.757	-	2,288.024
Health Care Systems.....	103.193	-0.258	-	102.935
Rural Health.....	142.335	-0.357	-	141.978
Family Planning.....	286.479	-0.719	-	285.760
Program Management.....	153.061	-0.384	-	152.677
<b>HRSA Total</b>		<b>-15.198</b>		
<b>Centers for Disease Control and Prevention (CDC):</b>				
Immunization and Respiratory Diseases.....	611.384	-1.575	-	609.809
HIV/AIDS, Viral Hepatitis, Sexually Transmitted Diseases, and Tuberculosis Prevention.....	1,120.566	-2.957	-	1,117.609
Emerging and Zoonotic Infectious Diseases.....	340.814	-0.792	-	340.022
Chronic Disease Prevention and Health Promotion.....	741.962	-1.961	-	740.001
Birth Defects, Developmental Disabilities, Disabilities and Health.....	132.337	-0.337	-	132.000
Public Health Scientific Services.....	397.266	-0.957	-	396.309
Environmental Health.....	166.811	-0.407	-	166.404
Injury Prevention and Control.....	150.839	-0.392	-	150.447
National Institute for Occupational Safety and Health.....	220.860	-0.497	-	220.363
Global Health.....	414.434	-1.056	-	413.378
Public Health Preparedness and Response.....	1,371.198	-3.647	-	1,367.551
<b>CDC Total</b>		<b>-14.578</b>		
<b>National Institutes of Health (NIH):</b>				
NCI - National Cancer Institute.....	4,923.238	-12.359	-	4,910.879
NHLBI - National Heart, Lung, and Blood Institute.....	2,988.605	-7.502	-	2,981.103
NIDCR - National Institute of Dental and Craniofacial Research.....	398.650	-1.001	-	397.649
NIDDK - National Institute of Diabetes and Digestive and Kidney Diseases.....	1,744.274	-4.379	-	1,739.895
NINDS - National Institute of Neurological Disorders and Stroke.....	1,587.982	-3.986	-	1,583.996
NIAD - National Institute of Allergy and Infectious Diseases.....	4,358.841	-10.942	-	4,347.899
NIGMS - National Institute of General Medical Sciences.....	2,364.147	-5.935	-	2,358.212
NICHD - Eunice Kennedy Shriver National Institute of Child Health and Human Development.....	1,282.595	-3.220	-	1,279.375
NEI - National Eye Institute.....	682.077	-1.712	-	680.365
NIEHS - National Institute of Environmental Health Sciences.....	665.439	-1.670	-	663.769
NIA - National Institute on Aging.....	1,171.038	-2.940	-	1,168.098
NIAMS - National Institute of Arthritis and Musculoskeletal and Skin Diseases.....	520.053	-1.305	-	518.748
NIDCD - National Institute on Deafness and Other Communication Disorders.....	404.049	-1.014	-	403.035
NINR - National Institute of Nursing Research.....	140.517	-0.353	-	140.164
NIAAA - National Institute on Alcohol Abuse and Alcoholism.....	446.025	-1.120	-	444.905
NIDA - National Institute on Drug Abuse.....	1,025.435	-2.574	-	1,022.861
NIMH - National Institute of Mental Health.....	1,446.172	-3.630	-	1,442.542
NHGRI - National Human Genome Research Institute.....	497.813	-1.250	-	496.563
NIBIB - National Institute of Biomedical Imaging and Bioengineering.....	329.172	-0.826	-	328.346
NCCAM - National Center for Complementary and Alternative Medicine.....	124.296	-0.312	-	123.984
NIMHD - National Institute on Minority Health and Health Disparities.....	268.322	-0.674	-	267.648
FIC - John E. Fogarty International Center.....	67.577	-0.169	-	67.408
NLM - National Library of Medicine.....	327.723	-0.823	-	326.900
NCATS - National Center for Advancing Translational Sciences.....	633.267	-1.590	-	631.677
OD - Office of the Director.....	1,400.134	-3.515	-	1,396.619
B&F - Buildings and Facilities.....	128.663	-0.322	-	128.341
<b>NIH Total</b>		<b>-75.123</b>		
<b>Substance Abuse and Mental Health Services Administration (SAMHSA):</b>				
Mental Health.....	1,055.347	-2.634	-	1,052.713
Substance Abuse Treatment.....	2,052.661	-5.181	-	2,047.480
Substance Abuse Prevention.....	175.631	-0.431	-	175.200
Health Surveillance and Program Support.....	151.296	-0.377	-	150.919
<b>SAMHSA Total</b>		<b>-8.623</b>		
<b>Centers for Medicare &amp; Medicaid Services (CMS):</b>				
Program Management.....	3,647.740	-	+109.432	3,757.172
Sec. 222 Medicare Program.....	305.000	-	+9.150	314.150
<b>CMS Total</b>	<b>3,952.740</b>	<b>-</b>	<b>+118.582</b>	<b>4,071.322</b>
<b>Administration for Children and Families (ACF):</b>				
Low Income Home Energy Assistance.....	3,424.549	-34.245	-	3,390.304
Refugee and Entrant Assistance.....	1,486.095	-	+43.848	1,529.943
Children and Families Services Programs.....	10,346.943	-6.400	-	10,340.543
<b>ACF Total</b>		<b>-40.645</b>	<b>+43.848</b>	
<b>Administration for Community Living (ACL)</b>	<b>1,662.258</b>	<b>-4.042</b>	<b>-</b>	<b>1,658.216</b>
<b>Office of the Secretary (OS):</b>				
General Departmental Management.....	458.056	-1.247	-	456.809
Office of the National Coordinator for Health Information Technology.....	15.556	-0.039	-	15.517
Public Health and Social Services Emergency Fund.....	1,243.430	-2.935	-	1,240.495
<b>OS Total</b>		<b>-4.221</b>		
<b>Department of Health and Human Services Total</b>		<b>-162.430</b>	<b>+162.430</b>	



THE SECRETARY OF HEALTH AND HUMAN SERVICES  
WASHINGTON, D.C. 20201

May 23, 2014

The Honorable Jack Kingston  
Chairman  
Subcommittee on Labor, Health and  
Human Services, Education, and Related Agencies  
Committee on Appropriations  
U.S. House of Representatives  
Washington, DC 20515

Dear Mr. Chairman:

I am writing to inform you that the Department of Health and Human Services (HHS) plans to transfer \$12.7 million in fiscal year (FY) 2014 resources using the one percent transfer authority and to reprogram \$5.7 million. I am providing this notification consistent with the requirements of sections 206 and 514 of division H of the Consolidated Appropriations Act, 2014 (P.L. 113-76). HHS will transfer and reprogram the funds to carry out the following activities:

Cybersecurity. To address Department-wide cybersecurity needs, HHS plans to transfer approximately \$10.6 million from other HHS accounts and reprogram approximately \$1.7 million within the Public Health and Social Services Emergency Fund. Funds will support operations costs for the Trusted Internet Connection, which will be implemented fully in FY 2014, and increases to operations and maintenance costs related to a previous critical upgrade carried out in FY 2013.

Ryan White HIV/AIDS Program. The Health Services and Resources Administration (HRSA) plans to transfer \$2.1 million and reprogram \$4.0 million within the Ryan White HIV/AIDS Program accounts. These actions will increase funding for Part C Early Intervention grants by \$4.5 million to mitigate the continuing effect of the FY 2013 sequestration and to address health care needs for vulnerable populations that are no longer funded through Part A. In addition, as a result of Ponce, Puerto Rico, losing its status as a Transitional Grant Area (TGA), HRSA will reallocate \$1.6 million from Part A grants to Eligible Metropolitan Areas/TGAs to Part B Grants to States and Territories, as required by the Public Health Service Act.

Enclosed is a table that provides detail on the transfers described above. In the current fiscal environment, the use of this transfer authority is necessary to allow HHS to implement the Department's legally mandated responsibilities effectively. I appreciate the Subcommittee's continued interest in and support of the activities of HHS.

Sincerely,  
Handwritten signature of Kathleen Sebelius in black ink.

Kathleen Sebelius

Enclosure

## Department of Health and Human Services

## FY 2014 Secretary's Transfer

## All Purpose Table

(Amounts in Millions)

	FY 2014 Enacted	FY 2014 Operating Level	Secretary's Transfer	Reprogramming	FY 2014 Revised Operating Level
<b>Health Resources and Services Administration</b>					
<b>HIV/AIDS Bureau</b>					
<b>Ryan White AIDS Programs</b>					
Emergency Assistance - Part A	655.878	653.100	-2.115	-1.612	649.373
Comprehensive Care Programs - Part B	1,315.005	1,312.834	-	1.612	1,314.446
Early Intervention Program - Part C	201.079	201.079	2.115	2.350	205.544
Children, Youth, Women, and Families - Part D	75.088	74.395	-	-2.000	72.395
AIDS Dental Services - Part F	13.122	13.089	-	-0.098	12.991
Education and Training Centers - Part F	33.811	33.527	-	-0.252	33.275
<b>Total: Health Resources and Services Administration</b>					
<b>Centers for Disease Control and Prevention</b>					
Public Health Scientific Services 1/ Buildings and Facilities	397.266	396.309	-1.011	-	395.298
	24.000	24.000	-0.228	-	23.772
<b>Total: Centers for Disease Control and Prevention</b>			-1.239	-	
1/ The FY 2014 Enacted level for the CDC includes the transfer of the Business Services Support appropriation to implement the Working Capital Fund.					
<b>National Institutes of Health</b>					
National Cancer Institute	4,923.238	4,917.186	-0.965	-	4,916.221
National Heart, Lung, and Blood Institute	2,988.605	2,979.347	-0.585	-	2,978.762
National Institute of Dental & Craniofacial Research	398.850	398.649	-0.078	-	398.571
Nat. Inst. of Diabetes & Digestive & Kidney Diseases	1,744.274	1,739.895	-0.342	-	1,739.553
National Institute of Neurological Disorders and Stroke	1,587.982	1,583.998	-0.311	-	1,583.685
National Institute of Allergy and Infectious Diseases	4,358.841	4,387.725	-0.855	-	4,388.870
National Institute of General Medical Sciences	2,364.147	2,359.212	-0.464	-	2,358.748
Eunice Kennedy Shriver Nat. Inst. of Child Health and Human Devel	1,282.595	1,279.375	-0.252	-	1,278.123
National Eye Institute	682.077	673.475	-0.134	-	673.341
National Institute of Environmental Health Sciences	665.439	663.769	-0.131	-	663.638
National Institute on Aging	1,171.038	1,168.098	-0.230	-	1,167.868
Nat. Inst. Arthritis & Musculoskeletal & Skin Diseases	520.053	518.748	-0.102	-	518.646
Nat. Inst. on Deafness & Other Communication Disorders	404.049	403.035	-0.079	-	402.958
National Institute of Nursing Research	140.517	140.164	-0.028	-	140.138
National Institute on Alcohol Abuse and Alcoholism	446.025	444.905	-0.087	-	444.818
National Institute of Mental Health	1,446.172	1,415.185	-0.284	-	1,414.901
National Human Genome Research Institute	497.813	496.563	-0.098	-	496.465
National Institute of Biomedical Imaging and Bioengineering	329.172	325.988	-0.065	-	325.921
National Center for Advancing Translational Sciences	633.267	631.677	-0.124	-	631.553
National Center for Complementary and Alternative Medicine	124.298	123.984	-0.024	-	123.960
National Institute on Minority Health and Health Disparities	268.322	267.648	-0.053	-	267.595
John E. Fogarty International Center	67.577	67.408	-0.013	-	67.395
National Library of Medicine	327.723	327.400	-0.064	-	327.336
Office of the Director	1,400.134	1,396.819	-0.275	-	1,396.344
Buildings and Facilities	128.663	128.341	-0.025	-	128.316
<b>Total: National Institutes of Health</b>			-5.688	-	
<b>Substance Abuse &amp; Mental Health Services Administration</b>					
Health Surveillance and Program Support	151.296	150.919	-0.773	-	150.146
<b>Administration for Children and Families</b>					
Child Care and Development Block Grant	2,360.000	2,360.000	-1.754	-	2,358.246
Programs for Children, Youth and Families					
Head Start, current funded	8,598.095	8,598.095	-0.250	-	8,597.845
Child Abuse Discretionary Activities	28.744	28.744	-0.423	-	28.321
Individual Development Account Initiative	19.026	19.026	-0.076	-	18.950
<b>Total: Administration for Children and Families</b>			-2.503	-	
<b>Administration on Community Living</b>					
Aging Network Support Activities	7.461	7.442	-0.036	-	7.406
Alzheimer's Disease Demonstrations	3.800	3.790	-0.018	-	3.772
Lifespan Respite Care	2.360	2.354	-0.012	-	2.342
Elder Rights Support Activities	3.874	3.864	-0.019	-	3.845
Aging and Disability Resource Centers	6.119	6.104	-0.037	-	6.067
Developmental Disabilities Projects of National Significance	8.880	8.857	-0.036	-	8.821
Program Administration	30.035	29.960	-0.158	-	29.802
<b>Total: Administration on Community Living</b>			-0.316	-	

Department of Health and Human Services

## FY 2014 Secretary's Transfer

All Purpose Table

(Amounts in Millions)

	FY 2014 Enacted	FY 2014 Operating Level	Secretary's Transfer	Reprogramming	FY 2014 Revised Operating Level
<b>Office of the Secretary</b>					
<b>General Departmental Management</b>					
Federal Funds	208.112	207.490	-0.045	-	207.445
Teen Pregnancy Prevention	101.000	100.748	-0.021	-	100.727
Abstinence Education	5.000	4.988	-0.001	-	4.987
Minority Health	58.870	58.528	-0.012	-	58.516
Office of Women's Health	34.050	33.965	-0.007	-	33.958
Minority HIV/AIDS	52.224	52.093	-0.011	-	52.082
<b>Total: General Department Management</b>			<b>-0.097</b>	<b>-</b>	
<b>Office of the National Coordinator for Health IT</b>	<b>15.556</b>	<b>15.517</b>	<b>-0.003</b>	<b>-</b>	<b>15.514</b>
<b>Public Health and Social Services Emergency Fund</b>					
Cyber Security	41.125	41.125	10.599	1.693	53.417
Medical Reserve Corps	10.672	10.672	0.000	-1.693	8.979
<b>Total: Public Health and Social Services Emergency Fund</b>			<b>10.599</b>	<b>.</b>	