

will enhance competition between Lumière and River City—which Pinnacle tries to minimize today. The geographic positioning of the casinos (*i.e.*, the fact that Lumière is closer to Ameristar St. Charles and River City than Ameristar St. Charles and River City are to each other) and the quantitative and qualitative evidence gathered during the investigation support the conclusion that competition will be enhanced by the divestiture of Lumière notwithstanding the competition of Ameristar and River City.

If Pinnacle does not divest Lumière to a Commission-approved acquirer within six months, the Consent Order provides that a divestiture trustee may be appointed to sell Lumière, and includes a crown-jewel provision requiring the divestiture trustee to divest either Lumière or the Ameristar St. Charles casino. Until the completion of the divestiture, Pinnacle is required to abide by the Order to Hold Separate and Maintain Assets, which requires Pinnacle to hold Lumière separate and maintain its viability, marketability, and competitiveness until the Lumière divestiture is completed. The proposed Consent Order appoints a Hold Separate Monitor to manage Lumière's operations pending the divestiture.

Additionally, the proposed Consent Order requires Pinnacle, upon request by the acquirer and subject to prior approval of the Commission, to provide transitional services to the approved acquirer for one year, as needed, to assist the acquirer with the transfer of necessary administrative support services. Finally, the proposed Consent Order contains standard terms regarding the acquirer's access to employees, protection of Material Confidential Information, and compliance-reporting requirements, among other things.

#### B. Lake Charles

In Lake Charles, the proposed Consent Order remedies the likely anticompetitive effects of the proposed acquisition by requiring Pinnacle to divest all of the assets associated with Ameristar's development and construction of Mojito Pointe to a Commission-approved buyer within six months. The divestiture assets include the Mojito Pointe real property, licenses and permits, equipment, customer databases, intellectual property, contracts, books and records, including construction documents, and other assets necessary for a Commission-approved acquirer to independently and effectively build, open, and operate Mojito Pointe. The proposed Consent Order would preserve five independent

casino operators in Lake Charles and ensure that the owner of the Mojito Pointe assets has the incentive to expedite construction of Mojito Pointe and to compete vigorously with Pinnacle's L'Auberge casino.

Under the proposed Consent Order, the potential acquirer of Mojito Pointe is subject to prior approval by the Commission. If Pinnacle is unable to find a Commission-approved acquirer for Mojito Pointe within six months, the Consent Order provides for the appointment of a divestiture trustee and includes a crown-jewel provision that permits the divestiture trustee to divest either Mojito Pointe or Pinnacle's L'Auberge casino. Additionally, the proposed Consent Order requires Pinnacle, upon request by the acquirer and subject to prior approval of the Commission, to provide transitional services to the approved acquirer for one year, as needed, to assist the acquirer with the transfer of necessary administrative support services. The proposed Consent Order also contains standard terms regarding the acquirer's access to employees, protection of Material Confidential Information, and compliance-reporting requirements, among other things.

The Hold Separate Order requires Pinnacle to hold Mojito Pointe separate until the Mojito Pointe divestiture is completed. Pinnacle is also required to maintain the economic viability, marketability, and competitiveness of Mojito Pointe and L'Auberge, the crown-jewel asset. The proposed Consent Order appoints a Hold Separate Monitor to oversee the development and construction of Mojito Pointe prior to divestiture.

\* \* \* \* \*

The sole purpose of this analysis is to facilitate public comment on the proposed Consent Order. This analysis does not constitute an official interpretation of the proposed Consent Order or modify its terms in any way.

By direction of the Commission.

**Richard C. Donohue,**

*Acting Secretary.*

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## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Centers for Medicare & Medicaid Services

#### Privacy Act of 1974; CMS Computer Match No. 2013-10; HHS Computer Match No. 1310

**AGENCY:** Centers for Medicare & Medicaid Services (CMS), Department of Health and Human Services (HHS).

**ACTION:** Notice of Computer Matching Program (CMP).

**SUMMARY:** In accordance with the requirements of the Privacy Act of 1974, as amended, this notice announces the establishment of a CMP that CMS plans to conduct with the Department of Homeland Security (DHS), United States Citizenship and Immigration Services (USCIS).

**DATES:** *Effective Dates:* Comments are invited on all portions of this notice. Public comments are due 30 days after publication. The matching program will become effective no sooner than 40 days after the report of the matching program is sent to the Office of Management and Budget (OMB) and Congress, or 30 days after publication in the **Federal Register**, whichever is later.

**ADDRESSES:** The public should send comments to: CMS Privacy Officer, Division of Privacy Policy, Privacy Policy and Compliance Group, Office of E-Health Standards & Services, Offices of Enterprise Management, CMS, Room S2-24-25, 7500 Security Boulevard, Baltimore, Maryland 21244-1850. Comments received will be available for review at this location, by appointment, during regular business hours, Monday through Friday from 9:00 a.m.–3:00 p.m., Eastern Time zone.

#### FOR FURTHER INFORMATION CONTACT:

Aaron Wesolowski, Director, Verifications Policy & Operations Branch, Division of Eligibility and Enrollment Policy and Operations, Center for Consumer Information and Insurance Oversight, CMS, 7501 Wisconsin Avenue, Bethesda, MD 20814, Office Phone: (301) 492-4416, Facsimile: (443) 380-5531, E-Mail: [Aaron.Wesolowski@cms.hhs.gov](mailto:Aaron.Wesolowski@cms.hhs.gov).

**SUPPLEMENTARY INFORMATION:** The Computer Matching and Privacy Protection Act of 1988 (Pub. L. 100-503), amended the Privacy Act (5 U.S.C. 552a) by describing the manner in which computer matching involving Federal agencies could be performed and adding certain protections for individuals applying for and receiving Federal benefits. Section 7201 of the Omnibus

Budget Reconciliation Act of 1990 (Pub. L. 101–508) further amended the Privacy Act regarding protections for such individuals. The Privacy Act, as amended, regulates the use of computer matching by Federal agencies when records in a system of records are matched with other Federal, state, or local government records. It requires Federal agencies involved in computer matching programs to:

1. Negotiate written agreements with the other agencies participating in the matching programs;
2. Obtain the Data Integrity Board approval of the match agreements;
3. Furnish detailed reports about matching programs to Congress and OMB;
4. Notify applicants and beneficiaries that the records are subject to matching; and,
5. Verify match findings before reducing, suspending, terminating, or denying an individual's benefits or payments.

This matching program meets the requirements of the Privacy Act of 1974, as amended.

Dated: August 14, 2013.

**Michelle Snyder,**

*Chief Operating Officer, Centers for Medicare & Medicaid Services.*

**CMS Computer Match No. 2013–10;  
HHS Computer Match No. 1310**

*Name:* “Computer Matching Agreement between the Centers for Medicare & Medicaid Services and the Department of Homeland Security, United States Citizenship and Immigration Services, for the Verification of United States Citizenship and Immigration Status Data for Eligibility Determinations”.

*Security Classification:* Unclassified.

*Participating Agencies:* Department of Health and Human Services (HHS), Centers for Medicare & Medicaid Services (CMS), and Department of Homeland Security (DHS), United States Citizenship and Immigration Services (USCIS).

*Authority for Conducting Matching Program:* Sections 1411 and 1413 of the Patient Protection and Affordable Care Act of 2010 (Pub. L. 111–148), as amended by the Health Care and Education Reconciliation Act of 2010 (Pub. L. 111–152) (collectively, the ACA) require the Secretary of HHS to establish a program for determining eligibility for certain Insurance Affordability Programs and certifications of Exemption; in addition, these sections authorize use of secure, electronic interfaces and an on-line system for the verification of data and

information related to Eligibility Determinations.

*Purpose(s) of the Matching Program:* The purpose of the Computer Matching Agreement is to establish the terms, conditions, safeguards, and procedures under which USCIS will provide records, information, or data to CMS. CMS will access USCIS data needed to make Eligibility Determinations in its capacity as a Federally-facilitated Exchange, and Administering Entities (state agencies that administer Medicaid or the Children's Health Insurance Program, and State-based Exchanges) will receive the results of verifications using USCIS data accessed through the CMS Data Services Hub to make Eligibility Determinations. Eligibility Determinations include initial determinations made upon application, renewals, annual or periodic redeterminations, and appeals.

Data will be matched by CMS for the purpose of Eligibility Determinations enrollment in Insurance Affordability Programs and Eligibility Determinations for Exemptions. Specifically, USCIS will provide CMS with electronic access to immigrant, nonimmigrant, and naturalized or derived citizen status information contained within or accessed by the USCIS Verification Information System. Access to this information will assist with verification whether an applicant is lawfully present, a qualified non-citizen, a naturalized or derived citizen, and whether the 5 year bar applies and has been met in order to determine eligibility for the previously mentioned programs.

*Description of Records To Be Used In the Matching Program:* The matching program will be conducted with data maintained by CMS in the Health Insurance Exchanges (HIX) Program, CMS System No. 09–70–0560, as amended. The system is described in System of Records Notices (SORNs) published at 78 FR 8538 (Feb. 6, 2013) and 78 FR 32256 (May 29, 2013).

The matching program will also be conducted with data maintained by DHS in the Systematic Alien Verification for Entitlements (SAVE) System of Records Notice (SAVE SORN): DHS/USCIS–004 Systematic Alien Verification for Entitlements Program System of Records Notice, 77 FR 47415 (August 8, 2012).

*Inclusive Dates of the Match:* The CMP will become effective no sooner than 40 days after the report of the matching program is sent to OMB and Congress, or 30 days after publication in the **Federal Register**, whichever is later. The matching program will continue for 18 months from the effective date and

may be extended for an additional 12 months thereafter, if certain conditions are met.

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**DEPARTMENT OF HEALTH AND HUMAN SERVICES**

**Food and Drug Administration**

[Docket No. FDA–2013–N–0924]

**Determination That LIDEX (fluocinonide) Cream and LIDEX–E (fluocinonide) Cream and Nine Other Drug Products Were Not Withdrawn From Sale for Reasons of Safety or Effectiveness**

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Notice.

**SUMMARY:** The Food and Drug Administration (FDA) has determined that the drug products listed in this document were not withdrawn from sale for reasons of safety or effectiveness. This determination means that FDA will not begin procedures to withdraw approval of abbreviated new drug applications (ANDAs) that refer to these drug products, and it will allow FDA to continue to approve ANDAs that refer to the products as long as they meet relevant legal and regulatory requirements.

**FOR FURTHER INFORMATION CONTACT:** Mark Geanacopoulos, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, Rm. 6206, Silver Spring, MD 20993–0002, 301–796–6925.

**SUPPLEMENTARY INFORMATION:** In 1984, Congress enacted the Drug Price Competition and Patent Term Restoration Act of 1984 (Pub. L. 98–417) (the 1984 amendments), which authorized the approval of duplicate versions of drug products approved under an ANDA procedure. ANDA sponsors must, with certain exceptions, show that the drug for which they are seeking approval contains the same active ingredient in the same strength and dosage form as the “listed drug,” which is a version of the drug that was previously approved. Sponsors of ANDAs do not have to repeat the extensive clinical testing otherwise necessary to gain approval of a new drug application (NDA).

The 1984 amendments include what is now section 505(j)(7) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(j)(7)), which requires FDA to