§ 401.105  Rules for disclosure.

(a) General rule. The Freedom of Information Act rules shall be applied to every proposed disclosure of information. If, considering the circumstances of the disclosure, the information would be made available in accordance with the Freedom of Information Act rules, then the information may be disclosed regardless of whether the requester or beneficiary of the information has a statutory right to request the information under the Freedom of Information Act, 5 U.S.C. 552, or whether a request has been made.

(b) Application of the general rule. Pursuant to the general rule in paragraph (a) of this section,

(1) Information shall be disclosed—
   (i) To a subject individual when required by the access provision of the
       Privacy Act, 5 U.S.C. 552a(d), as implemented by the Department Privacy Act
       regulation, 45 CFR part 5b; and
   (ii) To a person upon request when required by the Freedom of Informa-
        tion Act, 5 U.S.C. 552;

(2) Unless prohibited by any other statute (e.g., the Privacy Act of 1974, 5
    U.S.C. 552a(b), the Tax Reform Act of 1976, 26 U.S.C. 6103, or section 1106(d)
    and (e) of the Social Security Act), information may be disclosed to any re-
    quester or beneficiary of the information, including another Federal agency
    or a State or Federal court, when the information would not be exempt from
    mandatory disclosure under Freedom of Information Act rules or when the
    information nevertheless would be made available under the Department’s
    public information regulation’s criteria for disclosures which are in the
    public interest and consistent with obligations of confidentiality and admin-
   istrative necessity, 45 CFR part 5, sub-
    part F, as supplemented by §§ 401.106 to
    401.152 of this subpart.

[42 FR 14704, Mar. 16, 1977. Redesignated at 45
FR 74913, 74914, Nov. 13, 1980, and correctly
redesignated at 46 FR 24924, May 23, 1983]

§ 401.108  CMS rulings.

(a) After September 1981, a precedent
final opinion or order or a statement of
policy or interpretation that has not
been published in the FEDERAL REG-
ISTER as a part of a regulation or of a
notice implementing regulations, but
which has been adopted by CMS as hav-
ing precedent, may be published in the
FEDERAL REGISTER as a CMS Ruling
and will be made available in the publi-
cation entitled CMS Rulings.

(b) Precedent final opinions and or-
ders and statements of policy and in-
terpretation that were adopted by CMS
before October, 1981, and that have not
been published in the FEDERAL REG-
ISTER are available in CMS Rulings.

(c) CMS Rulings are published under
the authority of the Administrator,
CMS. They are binding on all CMS
components, on all HHS components
that adjudicate matters under the ju-
risdiction of CMS, and on the Social
Security Administration to the extent
that components of the Social Security