



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

November 30, 1995

Ms. Jan Greenberg
Attorney
Office of General Counsel
Texas Department of Health
1100 West 49th Street
Austin, Texas 78756-3199

OR95-1315

Dear Ms. Greenberg:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 35531.

The Texas Department of Health (the "department") received a request for information regarding the VISTA Program, specifically, "reimbursement figures on bonus system, data regarding project goals met/not met, [and] final figures." You claim that the requested information is excepted from disclosure under sections 552.101 and 552.110 of the Government Code. Pursuant to section 552.305 of the Government Code, this office informed the VISTA Health Plan ("VISTA") of the request and of its obligation to claim the exceptions to disclosure it believes apply to the requested information, together with its arguments as to why it believes the claimed exceptions apply. VISTA did not reply. Therefore, we will consider only the arguments raised by the department.

Section 552.101 excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." This section encompasses information protected by other statutes. Section 602(a)(9) of Title 42 of the United States Code provides that a state plan for aid and services to needy families with children must provide safeguards which restrict the use or disclosure of information concerning applicants or recipients. In Open Records Decision No. 584 (1991) at 3, this office concluded that

[t]he Open Records Act does not authorize the disclosure of any information about individual clients of the Aid to Families with Dependent Children and Medicaid programs administered by the Texas Department of Human Services. Sections 12.003 and 21.012 of the Human Resources Code, in accordance with title 42, section 602(a)(9), of the United States Code, forbid disclosure of any such information for purposes not directly connected with the administration of the programs.

This office further concluded that the legislature intended to encompass the broadest range of *individual* client information. Open Records Decision No. 584 (1991) at 3. The information submitted to this office for review does not appear to be *individual* client information but information relating to groups of patients and to VISTA's financial performance. After reviewing the information submitted to this office for review, we conclude that it is not the type of information made confidential under the United States Code or the Texas Human Resources Code. Therefore, the department may not withhold this information under section 552.101 of the Government Code.

The department also claims that the submitted information may be excepted under the second part of section 552.110 of the Government Code as confidential financial information. To fall within this part of section 552.110, the information must be made confidential by a statute or judicial decision. Open Records Decision No. 592 (1991) at 6. As we have concluded that neither federal nor state law protects the requested information from disclosure and neither the department nor VISTA has demonstrated that a judicial decision excepts this information from disclosure, we conclude that this information is not excepted from disclosure by the second part of section 552.110 of the Government Code.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination under section 552.301 regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Stacy E. Sallee
Assistant Attorney General
Open Records Division

SES/rho

Ref.: ID# 35531

Enclosures: Submitted documents

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