



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

September 16, 1998

Ms. Paula A. Jones
Acting Director of Legal Services
Employees Retirement System of Texas
P.O. Box 13207
Austin, Texas 78711-3207

OR98-2210

Dear Ms. Jones:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 118138.

The Employees Retirement System of Texas ("ERS") received a request for the following information:

the full name, position, title, medical certification/license, medical qualifications and business address/phone number of each and every person who was in the decision making process to limit [payment on a prescription drug] and also the same information for the board/directors of ERS.

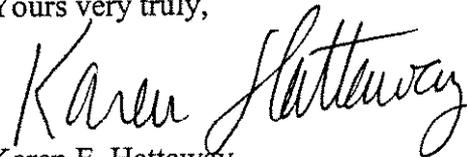
You state that you will provide the requestor with the information he is seeking about members of the Board of Trustees of ERS. A committee of Blue Cross and Blue Shield of Texas, Inc. ("Blue Cross") made the decision to limit payments for the prescription drug. You contend that you are not required to provide the requestor with information about the Blue Cross committee members because ERS does not possess the information and does not have a right of access to it.

Section 552.002 of the Government Code defines public information as "information that is collected, assembled, or maintained under a law or ordinance or in connection with the transaction of official business: (1) by a governmental body; or (2) for a governmental body and the governmental body owns the information or has a right of access to it." Although you say you have tried to obtain the requested information from Blue Cross, we understand from your letter to this office that the information is not in the actual or constructive possession of ERS. You also state that ERS does not have a right of access to the information and does not have the legal right to compel Blue Cross to disclose the

information. Based on your representations to the office, we find that the requested information about members of the Blue Cross committee is not subject to disclosure under the Open Records Act.

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 regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,

A handwritten signature in cursive script that reads "Karen Hattaway".

Karen E. Hattaway
Assistant Attorney General
Open Records Division

KEH/mjc

Ref: ID# 118138