



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

August 20, 2009

Ms. Denise L. Kurt  
Texas Health and Human Services Commission  
Regional Services Attorney  
P.O. Box 16017  
Houston, Texas 77222

OR2009-11750

Dear Ms. Kurt:

You ask whether certain information is subject to required public disclosure under the Public Information Act (the "Act"), chapter 552 of the Government Code. Your request was assigned ID# 352857.

The Texas Health and Human Services Commission (the "commission") received a request for fourteen categories of information related to a former employee, e-mails sent by the commission, and specified clients. You claim that the submitted information, responsive to one of the requested categories, is excepted from disclosure under section 552.101 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

Initially, we note you have not submitted any information responsive to the remaining thirteen categories of the request. Therefore, to the extent this information existed when the present request was received, we assume it has been released. If such information has not been released, then it must be released at this time. *See* Gov't Code §§ 552.301(a), .302; *see also* Open Records Decision No. 664 (2000) (if governmental body concludes that no exceptions apply to requested information, it must release information as soon as possible).

Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. This section encompasses information other statutes make confidential. You argue that a portion of the submitted information is excepted from disclosure under

section 552.101 in conjunction with sections 12.003 and 21.012 of the Human Resources Code. Section 12.003 of the Human Resources Code provides in relevant part:

(a) Except for purposes directly connected with the administration of the [commission's] assistance programs, it is an offense for a person to solicit, disclose, receive, or make use of, or to authorize, knowingly permit, participate in, or acquiesce in the use of the names of, or any information concerning, persons applying for or receiving assistance if the information is directly or indirectly derived from the records, papers, files, or communications of the [commission] or acquired by employees of the [commission] in the performance of their official duties.

Hum. Res. Code § 12.003(a); *see also id.* § 21.012 (requiring provision of safeguards that restrict use or disclosure of information concerning applicants for or recipients of assistance programs to purposes directly connected with administration of programs).<sup>1</sup> The term "assistance" in sections 12.003 and 21.012 includes "all forms of assistance and services for needy persons authorized by Subtitle C" of title 2 of the Human Resources Code. *Id.* § 11.001(4); *see also id.* § 31.001 *et seq.* (Hum. Res. Code tit. 2, subtit. C, Assistance Programs).

In Open Records Decision No. 584 (1991), this office concluded that "[t]he inclusion of the words 'or any information' juxtaposed with the prohibition on disclosure of the names of the [department's] clients clearly expresses a legislative intent to encompass the broadest range of individual client information, and not merely the clients' names and addresses." Open Records Decision No. 584 at 3 (1991). Consequently, it is the specific information pertaining to individual clients, and not merely the clients' identities, that is made confidential under section 12.003. *See also* 42 U.S.C. § 1396a(a)(7) (state plan for medical assistance must provide safeguards that restrict use or disclosure of information concerning applicants and recipients to purposes directly connected with administration of plan); 42 C.F.R. §§ 431.300 *et seq.*; Hum. Res. Code § 21.012(a) (requiring provision of safeguards that restrict use or disclosure of information concerning applicants for or recipients of assistance programs to purposes directly connected with administration of programs); Open Records Decision No. 166 (1977).

You state that the submitted applications for assistance and list of client names identify or could lead to the identification of recipients of assistance under the Medicaid, Food Stamp, and Temporary Assistance for Needy Families programs. You also state that the release of these applications and the client information in this instance would not be for purposes

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<sup>1</sup>We note that the former Texas Department of Human Services ("DHS") ceased operations on September 1, 2004, and that the Texas Health and Human Services Commission now administers the Medicaid program formerly administered by DHS. *See* Health and Human Services Commission website at <http://www.hhsc.state.tx.us>; Act of June 2, 2003, 78th Leg., R.S., ch. 198, 2003 Tex. Gen. Laws 611.

directly connected with the administration of these programs.<sup>2</sup> Based on your representations and our review of the submitted information, we conclude that the information at issue concerns clients of the commission's assistance programs and thus is confidential under section 12.003 of the Human Resources Code. The commission must withhold the submitted information under section 552.101 of the Government Code.

This letter ruling is limited to the particular information at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other information or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For more information concerning those rights and responsibilities, please visit our website at [http://www.oag.state.tx.us/open/index\\_orl.php](http://www.oag.state.tx.us/open/index_orl.php), or call the Office of the Attorney General's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Act must be directed to the Cost Rules Administrator of the Office of the Attorney General at (512) 475-2497.

Sincerely,



Tamara Wilcox  
Assistant Attorney General  
Open Records Division

TW/dls

Ref: ID# 352857

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

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<sup>2</sup>You also state that under section 272.1 of title 7 of the Code of Federal Regulations, information relating to a recipient of Food Stamps may be released to "a responsible member of the household, its currently authorized representative, or a person acting on its behalf[.]" 7 C.F.R. § 272.1(c)(3). You inform us that the commission has no basis on which to conclude that the requestor is acting as a representative of any Food Stamp recipient identified in the submitted information.