



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

May 17, 2012

Mr. Stanton Strickland
Associate Commissioner
General Counsel Division
Texas Department of Insurance
P.O. Box 149104
Austin, Texas 78714-9104

OR2012-07383

Dear Mr. Strickland:

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# 453926 (TDI # 125267).

The Texas Department of Insurance (the "department") received a request for specified information pertaining to rate increase filings submitted to the department during a specified time period for all individual market major medical products and small group major medical products. You state the department has released some of the requested information. You state that, although the department takes no position with respect to the remaining requested information, it may implicate the interests of third parties.¹ Accordingly, you state, and provide documentation demonstrating, the department notified the third parties of the request for information and of their right to submit arguments stating why their information should not be released.² See Gov't Code § 552.305 (permitting interested third party to submit to

¹In a letter dated March 27, 2012, the department withdrew its request for a decision from our office as to the information pertaining to Blue Cross Blue Shield of Texas ("Blue Cross") and UnitedHealthcare of Texas ("United") because the department will release the information pertaining to Blue Cross and United.

²The third parties notified pursuant to section 552.305 are: Aetna Health, Inc.; Cigna HealthCare of Texas; Community First Health Plans; Connecticut General Life Insurance Company; Humana Insurance Company; Scott and White; and SHA, LLC.

attorney general reasons why requested information should not be released); Open Records Decision No. 542 (1990) (determining statutory predecessor to section 552.305 permits governmental body to rely on interested third party to raise and explain applicability of exception in certain circumstances). We have reviewed the submitted information.

An interested third party is allowed ten business days after the date of its receipt of the governmental body's notice under section 552.305(d) to submit its reasons, if any, as to why requested information relating to it should be withheld from disclosure. *See* Gov't Code § 552.305(d)(2)(B). As of the date of this letter, this office has not received comments from any of the third parties whose information is at issue explaining why their information should not be released to the requestor. Thus, we have no basis to conclude that the release of any portion of the requested information would implicate any third party's interests. *See id.* § 552.110; Open Records Decision Nos. 661 at 5-6 (1999) (to prevent disclosure of commercial or financial information, party must show by specific factual evidence, not conclusory or generalized allegations, that release of requested information would cause that party substantial competitive harm), 552 at 5 (1990) (party must establish *prima facie* case that information is trade secret), 542 at 3. Accordingly, we conclude that the department may not withhold any of the submitted information on the basis of any interest the third parties may have in the information. As no exceptions to disclosure have been raised, the department must release the submitted information.

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, 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, toll free at (888) 672-6787.

Sincerely,



Lindsay E. Hale
Assistant Attorney General
Open Records Division

LEH/ag

Ref: ID# 453926

Enc. Submitted documents

c: Requestor
(w/o enclosures)

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