



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

June 4, 2012

Mr. Reg Hargrove
Assistant Attorney General
Public Information Coordinator
General Counsel Division
Office of the Attorney General
P.O. Box 12548
Austin, Texas 78711-2548

OR2012-08540

Dear Mr. Hargrove:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code, the Public Information Act (the "Act"). Your request was assigned ID# 455394 (PIR# 12-33081).

The Office of the Attorney General (the "OAG") received a request for information pertaining to a specified lawsuit and Maxim Healthcare Services, Inc. The OAG has released some information and asserts the remainder is excepted from disclosure under sections 552.101, 552.107, and 552.111 of the Government Code. We have considered the OAG's claimed exceptions to disclosure and have reviewed the submitted sample of information.¹

Section 552.101 of the Government Code excepts from disclosure information that is made confidential by law, including information made confidential by statute. Gov't Code § 552.101. This section encompasses information protected by other statutes such as section 531.1021 of the Government Code, which provides in relevant part:

¹We assume the representative sample of records submitted to this office is truly representative of the requested records as a whole. *See* Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent those records contain substantially different types of information than that submitted to this office.

(g) All information and materials subpoenaed or compiled by . . . the office of the attorney general in connection with a Medicaid fraud investigation are confidential and not subject to disclosure under [the Act], and not subject to disclosure, discovery, subpoena, or other means of legal compulsion for their release to anyone other than the [Office of the Inspector General of the Health and Human Services Commission] or the attorney general or their employees or agents involved in the audit or investigation conducted by . . . the attorney general, except that this information may be disclosed to the state auditor's office, law enforcement agencies, and other entities as permitted by other law.

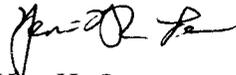
(h) A person who receives information under Subsection (g) may disclose the information only in accordance with Subsection (g) and in a manner that is consistent with the authorized purpose for which the person first received the information.

Id. § 531.1021(g), (h). Section 531.1021(g) expressly states information connected to investigations of Medicaid fraud is confidential. The OAG explains its Civil Medicaid Fraud Division compiled the requested information in connection with a Medicaid fraud investigation. We therefore find the OAG must withhold the information under section 552.101 of the Government Code in conjunction with section 531.1021(g) of the Government Code. Because section 531.1021(g) is dispositive, we do not address the OAG's other arguments.

The OAG asks this office to issue a previous determination permitting the OAG to withhold information it compiles in connection with a Medicaid fraud investigation under section 552.101 of the Government Code in conjunction with section 531.1021(g) of the Government Code. *See id.* § 552.301(a) (allowing governmental body to withhold information subject to previous determination); Open Records Decision No. 673 (2001) (listing elements of second type of previous determination under section 552.301(a) of the Government Code). After due consideration, we have decided to grant the OAG's request. Therefore, this letter ruling serves as a previous determination under section 552.301(a) authorizing the OAG to withhold information it compiles in connection with a Medicaid fraud investigation under section 552.101 of the Government Code in conjunction with section 531.1021(g) of the Government Code without the need of requesting a ruling from this office when requests for such information are not made by individuals or entities who are authorized to obtain such information under chapter 531 of the Government Code. *See, e.g.,* Gov't Code §§ 531.1021(g) (information may be disclosed to state auditor's office, law enforcement agencies, and other entities as permitted by other law), .1031 (permitting participating agencies to exchange criminal history record information relating to health care professional or managed care organization). So long as the elements of law, fact, and circumstances do not change so as to no longer support the findings set forth above, the OAG need not ask for a decision from this office again with respect to this type of information. *See* ORD 673 at 7.

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,



Yen-Ha Le
Assistant Attorney General
Open Records Division

YHL/bhf

Ref: ID# 455394

Enc: Submitted documents

c: Requestor
(w/o enclosures)