



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

June 6, 2013

Mr. Carey E. Smith
General Counsel
Texas Health and Human Services Commission
P.O. Box 13247
Austin, Texas 78711

OR2013-09453

Dear Mr. Smith:

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# 489275.

The Texas Health and Human Services Commission (the "commission") received a request for (1) specified communications between or among current and former employees of the commission and current or former employees of any of the entities comprising the Texas Medicaid Healthcare Partnership and (2) specified information from the commission's Predicate Manual. You state the commission will release some information to the requestor. You claim the remaining requested information is excepted from disclosure under sections 552.101, 552.103, 552.107, 552.108, and 552.116 of the Government Code. We have considered the exceptions you claim and reviewed the submitted representative sample of information.¹ We have also received and considered comments submitted by the Office of the Attorney General (the "OAG"). *See* Gov't Code § 552.304 (providing that interested party may submit written comments regarding why information should or should not be released).

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 protected by other statutes, including section 531.1021 of the Government Code, which provides in relevant part:

(g) All information and materials subpoenaed or compiled by the [Office of the Inspector General of the commission ("OIG")] in connection with an

¹We assume the "representative sample" of information 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 those submitted to this office.

audit or investigation or 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 [OIG] or the [OAG] or their employees or agents involved in the audit or investigation conducted by the [OIG] or the [OAG], 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). You inform us the information at issue was compiled by the OIG and the OAG in connection with investigations of Medicaid fraud and abuse. Based on your representations and our review, we conclude the commission must withhold the information at issue under section 552.101 in conjunction with section 531.1021(g) of the Government Code.²

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.texasattorneygeneral.gov/open/orl_ruling_info.shtml, 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 may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



Sean Nottingham
Assistant Attorney General
Open Records Division

SN/tch

²As our ruling is dispositive, we need not address your remaining arguments.

Ref: ID# 489275

Enc. Submitted documents

c: Requestor
(w/o enclosures)

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(w/o enclosures)