



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

This ruling has been modified by court action.
The ruling and judgment can be viewed in PDF
format below.



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

November 5, 2014

Ms. Maureen Franz
Deputy Chief Counsel
Texas Health and Human Services Commission
P.O. Box 13247
Austin, Texas 78711

The ruling you have requested has been amended as a result of litigation and has been attached to this document.

OR2014-20095

Dear Ms. Franz:

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# 542220.

The Texas Health and Human Services Commission (the "commission") received a request for certain categories of information pertaining to individual Medicaid claims for the years 2012, 2013, and the first six months of 2014. You claim the submitted information is excepted from disclosure under section 552.101 of the Government Code. We have considered the exception you claim and reviewed the submitted representative sample of information.¹ We have also received and considered comments from the requestor. *See* Gov't Code § 552.304 (providing that an interested party may submit documents stating 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, such as

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.

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 [Texas Health and Human Services Commission's (the "commission")]² 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) (footnote added). The term "assistance" in section 12.003 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.* (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 [commission]'s clients clearly expresses a legislative intent to encompass the broadest range of individual client information, and not merely the clients' names and addresses." ORD 584 at 3. 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); Open Records Decision No. 166 (1977).

You state the submitted information could lead to the identification of Medicaid recipients. You state each line in the submitted information represents a single claim filed on behalf of individual Medicaid clients. Upon review, we find the claim numbers are confidential under section 12.003 of the Human Resources Code. Thus, the claim numbers must be withheld under section 552.101 of the Government Code in conjunction with section 12.003 of the Human Resources Code. However, we find the remaining information consists of identifying information of providers rather than Medicaid recipients. Accordingly, we find the commission may not withhold the remaining information under section 552.101 of the Government Code in conjunction with section 12.003 of the Human Resources Code, and it must be released to the requestor.

²*See* Act of June 10, 2003, 78th Leg., R.S., ch. 198, 2003 Tex. Gen. Laws 611, 641 (abolished Texas Department of Human Services).

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,



Daniel Olds
Assistant Attorney General
Open Records Division

DO/ac

Ref: ID# 542220

Enc. Submitted documents

c: Requestor
(w/o enclosures)

UNOFFICIAL COPY

DC BK15279 PG1661

Filed in The District Court
of Travis County, Texas

OCT - 6 2015 *SS*

At 9:30 a.m.
Velva L. Price, District Clerk

Cause No. D-1-GN-14-005065

TEXAS HEALTH AND HUMAN
SERVICES COMMISSION,
Plaintiff,

IN THE DISTRICT COURT

v.

419th JUDICIAL DISTRICT

KEN PAXTON,
ATTORNEY GENERAL OF TEXAS,
Defendant.

TRAVIS COUNTY, TEXAS

ORDER GRANTING PLAINTIFF'S MOTION FOR SUMMARY JUDGMENT

After considering the Motion for Summary Judgment of Plaintiff, Texas Health and Human Services Commission, and the Cross-Motion for Summary Judgment of Defendant, Ken Paxton, Attorney General of Texas, the pleadings, and other evidence on file, the Court determines that the information at issue is protected from disclosure by section 552.101 of the Texas Government Code and sections 12.003 and 21.012 of the Texas Human Resources Code and, accordingly

GRANTS Plaintiff's Motion for Summary Judgment and **DENIES** Defendant's Cross Motion for Summary Judgment.

SIGNED on Oct. 5, 2015.

[Signature]
PRESIDING JUDGE

AGREED AS TO FORM:

[Signature]
ANN HARTLEY
State Bar No. 09157700
Financial Litigation, Tax, and
Charitable Trusts Division
PO Box 12548
Austin, TX 78711-2548
Telephone: (512) 936-1313
Ann.Hartley@texasattorneygeneral.gov
Attorney for Plaintiff

[Signature]
Matthew Entsminger
State Bar No. 24059723
Open Records Litigation
Administrative Law Division
P.O. Box 12548, Capitol Station
Austin, TX 78711-2548
512-475-4151 - Tel
Matthew.Entsminger@texasattorneygeneral.gov
Attorney for Defendant



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