



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

September 28, 1995

Mr. David Johnston
Open Records Coordinator
Office of General Counsel
Texas Department of Health
1100 West 49th Street
Austin, Texas 78756-3199

OR95-1001

Dear Mr. Johnston:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, Government Code chapter 552. We assigned your request ID# 34981.

The Texas Department of Health (the "department") has received a request for certain Texas Medicaid paid claim data. Specifically, the requestor seeks the same information that was the subject of Open Records Letter No. 94-691 (1994). In addition, the requestor, Data Niche Associates (DNA), has asked this office to reconsider our ruling in Open Records Letter No. 94-691 (1994). In that ruling, we determined that both state and federal law prohibited the department from releasing the requested information. We believe that the conclusion reached in Open Records Letter No. 94-691 (1994) is correct. *See also* Act of March 9, 1995, 74th Leg., R.S., ch. 6, § 1, 1995 Tex. Sess. Law Serv. 27-28 (Vernon) (clarifying that although the Texas Health and Human Services Commission is the state agency that administers Medicaid funds, it may "delegate to any health and human services agency the authority to operate or assist in the operation of any Medicaid program"). Therefore, the department must withhold the requested information in its entirety.¹

¹DNA claims that the department has previously released the requested information to one of its competitors. The department states that it has not and will not release the requested information to DNA's competitor. This office is unable to resolve factual disputes. Open Records Decision No. 426 (1985). We note, however, that even if the department has released this confidential information in the past, it is not required by section 552.007 to release it in this instance. *See* Open Records Decision No. 400 (1983) at 2 (concluding that prohibition against selective disclosure does not apply if a governmental body releases confidential information to a member of the public).

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination under section 552.301 regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Loretta R. DeHay
Assistant Attorney General
Open Records Division

LRD/rho

Ref.: ID# 34981

cc: Ms. Roshini George
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