



May 18, 2001

Ms. Susan K. Steeg  
General Counsel  
Texas Department of Health  
1100 West 49<sup>th</sup> Street  
Austin, Texas 78756-3199

OR2001-2059

Dear Ms. Steeg:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 147409.

The Texas Department of Health (the "department") received a request for eight categories of information relating to the administration of the state Medicaid program and the department's relationship with National Heritage Insurance Company ("NHIC"), the state's Medicaid Claims Administrator. You seek a decision from our office concerning only items 3 through 6 of the request. Therefore, we presume that you have released the remaining requested information. *See* Gov't Code §§ 552.006, .301, .302; *see also* Open Records Decision No. 664 (2000) (noting that if governmental body concludes that no exceptions apply to requested information, it must release information as soon as possible).

You state that the documents responsive to request items 3 through 6 were the subject of a previous request for a ruling. In response to that request for a ruling, this office issued Open Records Letter No. 2001-1946 (2001). Based on your representation that the documents at issue are precisely the same records that we addressed in Open Records Letter No. 2001-1946 (2001), we conclude that the department may rely on that letter ruling as a previous determination. *See* Open Records Decision No. 673 (2001) (previous determination exists where requested information is precisely same information addressed in prior attorney general ruling, ruling is addressed to same governmental body, ruling concludes that information is or is not excepted from disclosure, and law, facts, and circumstances on which ruling was based have not changed).

This letter ruling is limited to the particular records 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 records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following three things: 1) release the public records; 2) notify the requestor of the exact day, time, and place that copies of the records will be provided or that the records can be inspected; or 3) notify the requestor of the governmental body's intent to challenge this letter ruling in court. If the governmental body fails to do one of these three things within 10 calendar days of this ruling, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at 877/673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

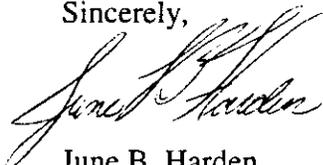
If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Department of Public Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.--Austin 1992, no writ).

Please remember that under the Act the release of information triggers certain procedures for costs and charges to the requestor. If records are released in compliance with this ruling, be sure that all charges for the information are at or below the legal amounts. Questions or complaints about over-charging must be directed to Hadassah Schloss at the General Services Commission at 512/475-2497.

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. Although there is no statutory deadline for

contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,

A handwritten signature in black ink, appearing to read "June B. Harden". The signature is fluid and cursive, with the first name "June" being particularly prominent.

June B. Harden  
Assistant Attorney General  
Open Records Division

JBH/RJB/seg

Ref: ID# 147409

cc: Ms. Polly Ross Hughes  
Houston Chronicle  
1005 Congress Avenue, Suite 770  
Austin, Texas 78701