



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

August 29, 2014

Mr. Stanton Strickland  
Associate Commissioner  
Legal Section  
General Counsel Division  
Texas Department of Insurance  
P.O. Box 149104, Mail Code 110-1A  
Austin, Texas 78714-9104

OR2014-15336

Dear Mr. Strickland:

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# 534689 (TDI# 151816).

The Texas Department of Insurance (the "department") received a request for the latest small group insurance premium rate filings for Aetna Life Insurance Company ("Aetna"), Blue Cross Blue Shield of Texas ("BCBS"), Connecticut General Life Insurance Company ("Connecticut"), and Humana Insurance Company ("Humana").<sup>1</sup> You claim the submitted information is excepted from disclosure under section 552.101 of the Government Code. Additionally, you state release of the submitted information may implicate the proprietary interests of Aetna, BCBS, Connecticut, and Humana. Accordingly, you state, and provide documentation showing, you notified these third parties of the request for information and of their right to submit arguments to this office as to why the submitted information should not be released. *See* Gov't Code § 552.305(d); *see also* Open Records Decision No. 542 (1990) (statutory predecessor to section 552.305 permits governmental body to rely on interested third party to raise and explain applicability of exception in the Act in certain circumstances). We have received comments from Aetna, BCBS, and Humana. We have reviewed the submitted arguments and the submitted information.

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<sup>1</sup>We note the department sought and received clarification of the information requested. *See* Gov't Code § 552.222 (providing if request for information is unclear, governmental body may ask requestor to clarify request).

Section 552.101 of the Government Code exempts from disclosure “information considered to be confidential by law, either constitutional, statutory, or by judicial decision.” Gov’t Code § 552.101. Section 552.101 encompasses section 1501.215 of the Insurance Code, which provides:

(a) Annually, each small employer health benefit plan issuer that offers a small employer health benefit plan shall file with the commissioner an actuarial certification stating that the issuer’s underwriting and rating methods:

(1) comply with accepted actuarial practices;

(2) are uniformly applied to each small employer health benefit plan covering a small employer; and

(3) comply with this subchapter.

(b) Each small employer health benefit plan issuer shall maintain at its principal place of business a complete and detailed description of its rating practices and renewal underwriting practices, including information and documentation that demonstrate that its rating methods and practices are based on commonly accepted actuarial assumptions and are in accordance with sound actuarial principles.

(c) A small employer health benefit plan issuer shall make the information and documentation described in Subsection (b) available to the commissioner on request. Unless the information or documentation relates to a violation of this chapter, the information or documentation is considered proprietary and trade secret information and is not subject to disclosure by the commissioner to a person outside the department except as agreed to by the issuer or as ordered by a court.

Ins. Code § 1501.215. The department explains the submitted information consists of information subject to section 1501.215(c). The department explains the submitted information consists of rating practices and renewal underwriting practices submitted to the department by small employer insurance issuers. We understand the submitted information consists of documentation submitted to the department in order to obtain approval for these issuers’ rate increases. You also state the exception for violations of this chapter does not apply in this instance. Based on your representations and our review, we agree the submitted information is exempted from disclosure under section 552.101 of the Government Code in conjunction with section 1501.215(c) of the Insurance Code, and must be withheld on this basis.<sup>2</sup>

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<sup>2</sup>As our ruling is dispositive, we need not address the remaining arguments against disclosure.

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](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,



Nicholas A. Ybarra  
Assistant Attorney General  
Open Records Division

NAY/bhf

Ref: ID# 534689

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

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