



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

April 15, 2015

Mr. Edwin J. Cook
Regional Attorney
Legal Services Department
Texas Health & Human Services Commission
P.O. Box 960
Edinburg, Texas 78540-0960

OR2015-07283

Dear Mr. Cook:

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# 559997.

The Texas Health and Human Services Commission (the "commission") received a request for information pertaining to a specified case for a named individual.¹ You claim the submitted information is excepted from disclosure under section 552.101 of the Government Code.² We have considered the exception you claim and reviewed the submitted representative sample of information.³

¹We note the commission 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); *see also* *City of Dallas v. Abbott*, 304 S.W.3d 380, 387 (Tex. 2010) (holding when governmental entity, acting in good faith, requests clarification of unclear or overbroad request for public information, ten-business-day period to request attorney general opinion is measured from date request is clarified or narrowed).

²We note the commission failed to comply with the procedural requirements of section 552.301 of the Government Code in seeking a ruling from this office. However, section 552.101 of the Government Code can provide a compelling reason to overcome the presumption of openness caused by a failure to comply with section 552.301. *See* Gov't Code §§ 552.007, .301, .302, .352. Accordingly, we will address the commission's arguments under section 552.101 of the Government Code.

³We 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.

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 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 [commission’s]⁴ 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); *see also id.* § 21.012 (requiring provision of safeguards that restrict use or disclosure of information concerning applicants for or recipients of assistance programs to purposes directly connected with administration of programs). The term “assistance” in sections 12.003 and 21.012 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.* (Hum. Res. Code title 2, subtitle C, 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.” Open Records Decision No. 584 at 3 (1991). 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.*; Open Records Decision No. 166 (1977).

You assert the submitted information relates to a recipient of benefits from the Medicaid program, the Supplemental Nutrition Assistance Program, and the Temporary Assistance for Needy Families program, which are assistance programs administered by the commission. You inform us the release of this information in this instance would not be for purposes directly connected with the administration of an assistance program. Based on your representations and our review, we conclude the commission must withhold the submitted

⁴*See* Act of June 10, 2003, 78th Leg., R.S., ch. 198, 2003 Tex. Gen. Laws 611, 641 (abolished Texas Department of Human Services).

information under section 552.101 of the Government Code in conjunction with section 12.003 of the Human Resources Code.⁵

You ask this office to issue a previous determination permitting the commission to withhold information and materials concerning applicants for or recipients of benefits from assistance programs administered by the commission under section 552.101 of the Government Code in conjunction with sections 12.003 and 21.012 of the Human Resources Code without seeking a ruling from this office. *See* Gov't Code § 552.301(a) (allowing governmental body to withhold information subject to previous determination); Open Records Decision No. 673 (2001) (listing elements of second type of previous determination under section 552.301(a) of the Government Code). We decline to issue such a previous determination at this time. Accordingly, 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 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,



Kenny Moreland
Assistant Attorney General
Open Records Division

KJM/som

Ref: ID# 559997

Enc. Submitted documents

c: Requestor
(w/o enclosures)

⁵As our ruling is dispositive, we need not address your remaining argument against disclosure of the submitted information.