



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

April 27, 2015

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

OR2015-08047

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# 562810.

The Texas Health and Human Service Commission (the "commission") received a request for information documenting each item of durable medical equipment ("DME") that was denied to certain Medicaid clients. 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 information. 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." *Id.* § 552.101. This section encompasses information protected by other statutes, such as 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")]<sup>1</sup> 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 pertains to medical services that were denied to certain individual Medicaid clients. You further state the requested disclosure of this information is not directly connected for use in the administration of a health and human service program. Upon review, we find the submitted information is confidential under section 12.003 of the Human Resources Code. Thus, the submitted information must be withheld under section 552.101 of the Government Code in conjunction with section 12.003 of the Human Resources Code.

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/>

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<sup>1</sup>*See* Act of June 10, 2003, 78th Leg., R.S., ch. 198, 2003 Tex. Gen. Laws 611, 641 (abolished Texas Department of Human Services).

[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,

A handwritten signature in black ink that reads "Mili Gosar". The signature is written in a cursive style with a large, sweeping "M" and "G".

Mili Gosar  
Assistant Attorney General  
Open Records Division

MG/akg

Ref: ID# 562810

Enc. Submitted documents

c: Requestor  
(w/o enclosures)