



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

January 5, 2016

Mr. Robert W. Patterson  
Open Records Coordinator  
Texas Health and Human Services Commission  
P.O. Box 13247  
Austin, Texas 78711

OR2016-00237

Dear Mr. Patterson:

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# 593060.

The Texas Health and Human Services Commission (the "commission") received a request for the fraud, waste, and abuse plans for five specified entities. The commission states it has released most of the requested information. Although the commission takes no position as to whether the submitted information is excepted under the Act, the commission informs us release of this information may implicate the proprietary interests of Molina Healthcare of Texas, Inc., and Cigna HealthSpring. Accordingly, the commission states, and provides documentation showing, it notified these third parties of the request for information and of their right to submit arguments to this office as to why the information at issue 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 correspondence from Cigna HealthSpring stating its intent to submit objections to release at a later date. We have reviewed the submitted information.

An interested third party is allowed ten business days after the date of its receipt of the governmental body's notice under section 552.305(d) of the Government Code to submit its reasons, if any, as to why information relating to that party should be withheld from public disclosure. *See* Gov't Code § 552.305(d)(2)(B). As of the date of this letter, we have not received arguments from either of the third parties explaining why the submitted information should not be released. Therefore, we have no basis to conclude either third party has a

protected proprietary interest in the submitted information. *See id.* § 552.110; Open Records Decision Nos. 661 at 5-6 (1999) (to prevent disclosure of commercial or financial information, party must show by specific factual evidence, not conclusory or generalized allegations, release of requested information would cause that party substantial competitive harm), 552 at 5 (1990) (party must establish *prima facie* case information is trade secret), 542 at 3. Accordingly, the commission may not withhold the submitted information on the basis of any proprietary interest either third party may have in the information. As no exceptions to disclosure have been raised, the submitted information must be released.

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,



Rahat Huq  
Assistant Attorney General  
Open Records Division

RSH/som

Ref: ID# 593060

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

Mr. William M. Welch, II  
Associate Chief Counsel  
Cigna  
900 Cottage Grove Road  
B6LPA  
Bloomfield, Connecticut 06152  
(w/o enclosures)

Ms. Katherine Stevenson  
Compliance Director  
Molina Healthcare of Texas, Inc.  
5605 North MacArthur Boulevard  
Suite 400  
Irving, Texas 75038-2617  
(w/o enclosures)