



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

April 20, 2015

Ms. Elaine M. Chaney
Director of Legal Services
Office of Injured Employee Counsel
7551 Metro Center Drive, Suite 100
Austin, Texas 78744-1609

OR2015-07582

Dear Ms. Chaney:

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# 561542.

The Office of Injured Employee Counsel (the "counsel") received a request for specified letters sent by the counsel to certain injured employees. 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.

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 exception encompasses information other statutes make confidential, including section 404.111 of the Labor Code, which provides, in part:

(a) When assisting an injured employee, the [counsel] is entitled to the same access to information related to the employee's injury and workers' compensation claim as the employee or any other party to the claim.

...

(e) The [counsel] may not make public any confidential information provided to the [counsel] under this chapter. . . . The [counsel] may not release, and an individual or entity may not gain access to, any information that:

(1) could reasonably be expected to reveal the identity of a health care provider or an injured employee; [or]

(2) reveals the zip code of an injured employee's primary residence[.]

(f) Information collected or used by the [counsel] under this chapter is subject to the confidentiality provisions and criminal penalties of Section 402.091.

(g) Information on health care providers and injured employees that is in the possession of the [counsel], and any compilation, report, or analysis produced from the information that identifies providers and injured employees, is not:

(1) subject to discovery, subpoena, or other means of legal compulsion for release to any individual or entity; or

(2) admissible in any civil, administrative, or criminal proceeding.

Labor Code § 404.111(a), (e)-(g); *see also id.* § 404.002 (establishing the counsel). Section 402.091 of the Labor Code makes it a criminal offense to “knowingly, intentionally, or recklessly publish[], disclose[], or distribute[] information that is confidential under [subchapter E of chapter 402 of the Labor Code] to a person not authorized to receive the information directly from the [Division of Workers’ Compensation of the Texas Department of Insurance (the “division”).” *Id.* § 402.091(a). Section 402.083 of the Labor Code is part of subchapter E of chapter 402 and provides, in part, that “[i]nformation in or derived from a claim file regarding an employee is confidential and may not be disclosed by the division except as provided by this subtitle or other law.” *Id.* § 402.083(a).

This office has interpreted section 402.083 to protect only that “information in or derived from a claim file that explicitly or implicitly discloses the identities of employees who file workers’ compensation claims.” Open Records Decision No. 619 at 10 (1993). Prior decisions of this office have found that information revealing the date of injury, as well as an injured employee’s name, beneficiary name, claim number, social security number, home telephone number, home address, and date of birth implicitly or explicitly identifies claimants and is therefore confidential under section 402.083.

You claim the information you have marked, which consists of the injured employees’ names, home addresses, and the corresponding claim numbers, constitutes claim information made confidential under section 402.083 of the Labor Code. You indicate this information was obtained from the division’s claim files pursuant to the access granted to the counsel under section 404.111 of the Labor Code. Based on your representations and our review of the submitted information, we agree the information you have marked implicitly or explicitly identifies injured employees. Thus, we conclude the counsel must withhold the information you have marked under section 552.101 of the Government Code in conjunction with section 404.111(e) of the Labor Code.

You also ask this office to issue a previous determination that would permit the counsel to withhold information under section 552.101 of the Government Code in conjunction with section 404.111 of the Labor Code without the necessity of again requesting a decision under the Act. *See* Gov't Code § 552.301(a); Open Records Decision No. 673 (2001). We decline to issue such a decision at this time. 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,



Lee Seidlits
Assistant Attorney General
Open Records Division

CLS/cbz

Ref: ID# 561542

Enc. Submitted documents

c: Requestor
(w/o enclosures)