



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

October 19, 2015

Mr. Bob Davis
Staff Attorney
Texas Department of Insurance
Office of Agency Counsel
Legal Section
General Counsel Division
P.O. Box 149104
Austin, Texas 78714-9104

OR2015-21875

Dear Mr. Davis:

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# 583532 (TDI#163973).

The Texas Department of Insurance (the "department") received a request for the policies of companies with accident approvals that are reimbursement or indemnity based, including a specified policy and form. You state you do not have information responsive to a portion of the request.¹ You further state you will release some information to the requestor. Additionally, you state you will redact certain information pursuant to Open Records Decision No. 684 (2009).² Although you take no position with respect to the public availability of the submitted information, you state release of this information may implicate the proprietary interests of UnitedHealthcare Insurance Company ("UHIC"). Accordingly, you state and provide documentation showing, you have notified UHIC of the request for

¹The Act does not require a governmental body to release information that did not exist when a request for information was received or to prepare new information in response to a request. *See Econ. Opportunities Dev. Corp. v. Bustamante*, 562 S.W.2d 266, 267-68 (Tex. Civ. App.—San Antonio 1978, writ dismissed); Open Records Decision Nos. 605 at 2 (1992), 452 at 3 (1986), 362 at 2 (1983).

²Open Records Decision No. 684 is a previous determination to all governmental bodies authorizing them to withhold specific categories of information, including e-mail addresses of members of the public under section 552.137 of the Government Code, without the necessity of requesting an attorney general decision.

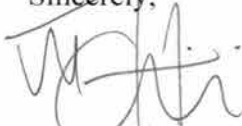
information and of its right to submit arguments to this office as to why the requested information should not be released. *See* Gov't Code §552.305 (permitting interested third party to submit to attorney general reasons why requested information should not be released); Open Records Decision No. 542 (1990) (statutory predecessor to section 552.305 permitted governmental body to rely on interested third party to raise and explain applicability of exception to disclosure under the circumstances). 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 to submit its reasons, if any, as to why information relating to that party should not be released. *See* Gov't Code § 552.305(d)(2)(B). As of the date of this letter, we have not received arguments from UHIC. Thus, UHIC has not demonstrated it has a protected proprietary interest in any of the submitted information. *See id.* § 552.110(a)-(b); 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, that release of requested information would cause that party substantial competitive harm), 552 at 5 (1990) (party must establish *prima facie* case that information is trade secret), 542 at 3. Accordingly, the department may not withhold the submitted information on the basis of any proprietary interests UHIC may have in the information. As no exceptions against 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, 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,



Thana Hussaini
Assistant Attorney General
Open Records Division

TSH/cbz

Ref: ID# 583532

Enc. Submitted documents

c: Requestor
(w/o enclosures)

Mr. Philip N. Anderson
UnitedHealthcare Insurance Company
48 Monroe Turnpike; MS: CT015-1000
Trumbull, Connecticut 06611
(w/o enclosures)

UnitedHealthcare Insurance Company
c/o CT Corporation
350 North St. Paul Street
Dallas, Texas 75201
(w/o enclosures)

Mr. Allen Jon Sorbo
UnitedHealthcare Insurance Company
185 Asylum Street
Hartford, Connecticut 06103
(w/o enclosures)