



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

May 11, 2017

Mr. Jonathan Miles  
Open Records Attorney  
Texas Health & Human Services Commission  
P.O. Box 13247  
Austin, Texas 78711

OR2017-10191

Dear Mr. Miles:

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# 657686 (HHSC Ref. No. 12371).

The Texas Health and Human Services Commission (the "commission") received a request for complaints submitted by certain parties during a specified time period regarding the commission's STAR Kids program.<sup>1</sup> You claim the submitted information is excepted from disclosure under section 552.101 of the Government Code.<sup>2</sup> We have considered the

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<sup>1</sup>You state 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 that when a governmental entity, acting in good faith, requests clarification or narrowing of an unclear or over-broad request for public information, the ten-day period to request an attorney general ruling is measured from the date the request is clarified or narrowed).

<sup>2</sup>We note the commission did not comply with section 552.301 of the Government Code in requesting this decision. *See* Gov't Code § 552.301(b). Nonetheless, because section 552.101 of the Government Code can provide a compelling reason to overcome the presumption of openness, we will consider its applicability to the submitted information. *See id.* §§ 552.007, .302, .352.

exception you claim and reviewed the submitted representative sample of information.<sup>3</sup> We have also received and considered comments submitted by the requestor. *See* Gov't Code § 552.304 (interested party may submit written comments 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 section 12.003 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 assistance programs of the [Texas Health and Human Services Commission (the "commission")] or Department of Aging and Disability Services [(the "department")], as applicable, 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 department or acquired by employees of the commission or department in the performance of their official duties.

Hum. Res. Code § 12.003(a). 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(1); *see also id.* ch. 31 *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." 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).

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<sup>3</sup>This letter ruling assumes the submitted representative sample of information is truly representative of the requested information as a whole. This ruling does not reach, and therefore does not authorize the withholding of, any other requested information to the extent that the other information is substantially different than that submitted to this office. *See id.* §§ 552.301(e)(1)(D), .302; Open Records Decision Nos. 499 at 6 (1988), 497 at 4 (1988).

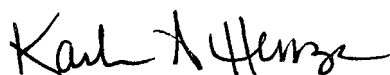
You assert the submitted information relates to recipients of Medicaid benefits. You inform us the release of this information in this instance would not be for purposes directly connected with the administration of an assistance program. Based on your representations and our review, we conclude the commission must withhold the submitted information under section 552.101 of the Government Code in conjunction with section 12.003 of the Human Resources Code.

You ask this office to issue a previous determination that would allow the commission to withhold information made confidential under section 552.101 of the Government Code in conjunction with section 12.003 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](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,



Kaelan A. Henze  
Assistant Attorney General  
Open Records Division

KAH/eb

Ref: ID# 657686

Enc. Submitted documents

c: Requestor  
(w/o enclosures)