



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

October 5, 2017

Ms. Alma Valencia
Office of Injured Employee Counsel
7551 Metro Center Drive, Suite 100
Austin, Texas 78744

OR2017-22730

Dear Ms. Valencia:

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# 679915.

The Office of Injured Employee Counsel (the "OIEC") received a request for all claims and related documents filed by a named individual.¹ 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 [OIEC] 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.

¹We note the OIEC 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).

...

(e) The [OIEC] may not make public any confidential information provided to the [OIEC] under this chapter. . . . The [OIEC] 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 [OIEC] under this chapter is subject to the confidentiality provisions and criminal penalties of Section 402.091 [of the Labor Code].

(g) Information on health care providers and injured employees that is in the possession of the [OIEC], 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 OIEC). 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 contend the OIEC must withhold the entirety of the submitted information under section 404.111 because the requestor has requested information pertaining to a named individual's worker's compensation claim. We agree. Because the requestor only seeks information from a named individual's worker's compensation claim file, release of any information obtained from the division would disclose the identity of a worker's compensation claimant. Therefore, the OIEC must withhold all of the submitted information, which consists of the claim information made confidential by section 402.083 that it obtained from the division and the injured employee's information in its possession, under section 552.101 of the Government Code in conjunction with subsections 404.111(e) and (g) of the Labor 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/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,



Emily Buchanan
Attorney
Open Records Division

EB/eb

Ref: ID# 679915

Enc. Submitted documents

c: Requestor
(w/o enclosures)