



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

October 13, 2022

Ms. Mary Dougherty
Open Records Attorney
Texas Department of Insurance
P.O. Box 12030
Austin, Texas 78711

OR2022-31526

Dear Ms. Dougherty:

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# 978283 (TDI# R016266).

The Texas Department of Insurance (the "department") received a request for specified dispute resolution information. 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 public disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. This section encompasses information protected by other statutes, such as section 38.004 of the Insurance Code. In 2019, the Texas legislature enacted Senate Bill 1264, which, among other things, amended chapter 1467 of the Insurance Code and established new dispute resolution programs for out-of-network claims. Section 38.004 of the Insurance Code requires the department to conduct a study and submit a report biennially on the impacts of Senate Bill 1264, portions of which relate to arbitrations and mediations under chapter 1467 of the Insurance Code. *See* Ins. Code § 38.004(a). Section 38.004 provides, in relevant part, as follows:

(b) In conducting the study described by Subsection (a), the department shall collect settlement data and verdicts or arbitration awards, as applicable, from parties to mediation or arbitration under Chapter 1467.

(c) The department may not publish a particular rate paid to a participating provider in the study described by Subsection (a), identifying information

of a physician or health care provider, or non-aggregated study results. Information described by this subsection is confidential and not subject to disclosure under Chapter 552, Government Code.

(d) The department:

(1) shall collect data quarterly from a health benefit plan issuer or administrator subject to Chapter 1467 to conduct the study required by this section; and

(2) may utilize any reliable external resource or entity to acquire information reasonably necessary to prepare the report required by Subsection (e).

Id. § 38.004(b)-(d). The department asserts the information at issue was collected for a study under section 38.004 and consists of the types of information made confidential by section 38.004(c). Based upon these representations and our review, the department must withhold the submitted information under section 552.101 of the Government Code in conjunction with section 38.004(c) of the Insurance Code.¹

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 <https://www.texasattorneygeneral.gov/open-government/members-public/what-expect-after-ruling-issued> or call the OAG's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Public Information Act may be directed to the Cost Rules Administrator of the OAG, toll free, at (888) 672-6787.

Sincerely,

Cesar Mata
Attorney
Open Records Division

CM/pt

Ref: ID# 978283

Enc. Submitted documents

c: Requestor
(w/o enclosures)

¹ As our ruling is dispositive, we need not consider the remaining arguments against disclosure of the submitted information.