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February 12, 2026

VIA E-MAIL ONLY: heus@quinnheus.com

Theodore Heus
Quinn & Heus, LLC
PO Box 22366
Beaverton, OR 97008

Re: Petition for Public Records Fee Waiver
Oregon Workers' Compensation Division
DOJ File No.: 440420 GA0034-26

Dear Mr. Heus:

This letter is the Attorney General's response to your petition under the Oregon Public Records Law, ORS 192.311 to 192.478. Your petition, which we received February 5, 2026, asks the Attorney General to order disclosure of certain records in the custody of the Oregon Workers' Compensation Division (the Division). Your petition also argues that the Division unreasonably denied your request for a fee waiver or reduction. For the reasons that follow, we respectfully dismiss your petition in part and deny your petition in part.

Your petition explains that you are an attorney representing workers in the field of Oregon workers' compensation and that you are researching the involvement and efficacy of Managed Care Organizations (MCOs). Your petition stems from a December 5, 2025, request to the Workers' Compensation Division (the Division) for contracts and plan records relating to the certification of three MCOs.[1] The Division explained that it had identified several thousand pages of responsive records and that reviewing them would take considerable time. To reduce costs, the Division directed you to a public listing of existing MCO contracts and suggested that narrow your request by "choosing a few contracts for each MCO," rather than requesting all active contracts. You declined this approach and asked for a cost estimate.

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[1] Kaiser-On-the-Job, Providence MCO, and Majoris Health Systems.

In connection with its estimate, the Division identified responsive records including MCO plan materials totaling 3,881 pages along and 113 active MCO contracts totaling an additional 2,486 pages. The Division also notified the three affected MCOs of your request. The MCOs asserted that many, if not most, of the records you seek are protected as trade secrets and made confidential under ORS 656.260. The Division rejected the MCOs' blanket claim that all records are confidential or trade-secret protected. However, it believes it must review and potentially redact confidential material including, but not limited to, (1) pricing between each MCO and its contracted insurers; (2) mentions of fees discounts that providers accept to be on the MCO panels; and (3) the processes each MCO has developed that enable the MCO to deliver on their statutory mandate to provide quality medical care to injured workers at an affordable price for Oregon employers.

Based on an estimate of time provided by it assigned Department of Justice attorney, the Division provided you with a fee estimate of $16,896. The Division explained its belief that some portion of the responsive records would be exempt and stated that it "has an affirmative obligation to protect trade secrets and other confidential information" in its possession.

You requested a fee waiver stating that "the requested information is in the public interest and will contribute significantly to the general public's understanding of the Oregon Workers' Compensation Act, how workers' benefits are affected by MCO involvement, and how they affect access to justice." The Division denied your fee waiver request. You elected not to pay the fee and instead filed this petition.

Your petition asks the Attorney General to order the Division to disclose the requested records. But the Division has not yet identified which records or portions of records it believes are exempt. Under ORS 192.338, public bodies must separate exempt from nonexempt material and disclose the nonexempt portions. To do so, public bodies may charge fees for "the cost of time spent by an attorney * * * redacting material from the public records or segregating the public records into exempt and nonexempt records." ORS 192.324(4)(b). The Division has given you its estimated fee for this work, and providing that estimate suspended its obligation to continue processing your request. ORS 192.329(3)(a). Because the Division has not completed its response, your petition for disclosure is premature. The Attorney General cannot review potentially exempt records until the Division identifies them, and the Division need not do so until the fee is paid. We therefore respectfully dismiss this portion of your petition. Once the Division identifies any records it considers exempt, you may file a new petition challenging those determinations.

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You also seek review of the Division's denial of your fee waiver request. Agencies may establish fees reasonably calculated to recover actual costs in making public records available, but "may furnish copies without charge or at a substantially reduced fee if the custodian determines that the waiver or reduction of fees is in the public interest because making the record available primarily benefits the general public." ORS 192.324(4) and (5). The furnishing of public records primarily benefits the general public when its greatest utility is to the community or society as a whole. *See In Defense of Animals*, 199 Or App 160, 189 (2005). Even if waiving or reducing the fee is in the public interest, agencies have discretion whether or not to grant such a waiver or reduction. *Id*. However, if disclosure is in the public interest, an agency's decision to deny a request for a fee waiver or reduction must be reasonable under the totality of the circumstances. *Id*. at 190. Any person who believes there has been an unreasonable denial of a fee waiver or reduction by a state agency may petition the Attorney General for review. ORS 192.324(6). The agency carries the burden to sustain its actions. ORS 192.411(1).

In support of your request for a public interest fee waiver, your petition explains that you have no personal financial interest in the records. You indicate that you are "requesting the material in preparation for the upcoming advisory committee meeting and to ensure, on behalf of Oregon's workers generally that the [Division] provides necessary and adequate oversight of MCOs operating within the workers' compensation system." You state that you intend to "disseminate relevant material to interested stakeholders in preparation for the advisory committee meeting * * *."

The Division indicates that it exercised its discretion to deny your fee waiver request primarily due to the significant cost and burden associated with the response. The Division also states that your identified public interest, preparation for an advisory committee meeting, does not constitute a benefit to the general public.

Because the Division has indicated that it exercised its discretion to deny your fee waiver request, we do not need to address the threshold issue of whether you are eligible for a public interest fee waiver under ORS 192.324(5). Instead, we evaluate whether the Division's fee waiver denial was reasonable under the totality of the circumstances. In making this determination, we do not ask whether our office would have made the same decision in this instance; rather, we may only assess whether the Division exercised its discretion "within the range of lawful options available to it under the relevant law." *In Defense of Animals*, 199 Or App at 189. When exercising this discretion, we have concluded that agencies should consider: (1) the character of the public interest in the particular records; (2) the extent to which the fee impedes the public interest; and (3) the extent to which a waiver or reduction would burden the agency. *Attorney General's Public Records & Meetings Manual* at 20 (2024). Facts typically relevant to this evaluation include how narrowly tailored the request is to a matter of public interest; the time and expense needed to fulfill the request; the volume of the records requested; the need to segregate exempt from nonexempt materials; whether the fee was avoidable; and the ability of the requester to pay the fee. *Id*.

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In this case, we find that the Division has adequately explained the significant burden that a fee waiver would impose.[2] Its estimated review cost—$16,896—is substantial. As for the public interest, you state that you need these materials for an upcoming rulemaking advisory committee meeting on MCO issues. As support, you attach two emails between you and the Division about that meeting, but you identify no broader media interest or coverage of this matter. Although oversight of MCOs may be a matter of some public concern, the breadth of your request makes it unlikely that all documents you seek would meaningfully advance that interest. For example, it is doubtful that disclosure of all 113 contracts would significantly inform the public or be useful to the advisory committee at the meeting you reference. Under these circumstances, we conclude that the Division did not unreasonably deny your fee-waiver request and therefore respectfully deny this portion of your petition.

Sincerely,

BENJAMIN GUTMAN
Deputy Attorney General

DP:pjn
c via e-mail only: Marie Rogers (Workers' Compensation Division)

[2] *See* Public Records Order, May 17, 2010, Dimitre, at 4–5 (no fee reduction was reasonable where the estimated cost to produce 14,266 pages was $4,566)