

1980 WL 121143 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

April 3, 1980

**\*1 RE: Blue-Cross and Blue-Shield of South Carolina vs. South Carolina Industrial Commission**

The Honorable Harold Trask  
Chairman  
South Carolina Industrial Commission  
1800 St. Julian Place  
Columbia, South Carolina 29204

Dear Commissioner Trask:

You have asked whether Blue-Cross and Blue-Shield of South Carolina is entitled to have access to the files of the Industrial Commission in cases which are settled prior to hearing. In its decision dated January 16, 1980 in the case of Blue-Cross and Blue-Shield of South Carolina vs. South Carolina Industrial Commission, the Supreme Court held that Blue-Cross is not entitled to participate in Industrial Commission proceedings; the Court did hold however, that all transcripts, opinions and awards of the Commission are public and that they are available to Blue-Cross.

The Court's opinion makes it clear that the reason for access to these transcripts, opinions and awards is that hearings of the Commission are open to the public; once a hearing has been held, any confidentiality conferred by Section 42-19-40 disappears. The key is the hearing. If there is no hearing, Section 42-19-40 controls, and such records remain confidential. Accordingly, where a case has been settled prior to a hearing, Section 42-19-40 would require that these files be kept confidential. Blue-Cross would not be entitled to access to these files or the settlement agreements.

If you have any questions, please do not hesitate to contact me.

With warm personal regards, I am  
Sincerely,

James W. Johnson, Jr.  
Assistant Attorney General

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