



**Information and Privacy
Commissioner/Ontario**
**Commissaire à l'information
et à la protection de la vie privée/Ontario**

ORDER P-277

Appeal 900369

Ministry of Health



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O R D E R

On June 20, 1990, a request was made to the Ministry of Health (the "institution") for access under the Freedom of Information and Protection of Privacy Act (the "Act"). The requester was seeking access to his OHIP records, and to a list of all other persons who had been provided with access to these records.

The institution responded to the first part of the request by providing the requester with access to his OHIP records, with the personal information of other individuals removed. That portion of the response was not appealed by the requester and is therefore not at issue.

With respect to the list of persons who had been provided with access to his OHIP records, the institution advised the requester that the only persons who had access were those OHIP employees who required access to the records in order to perform their job duties, and that a list of persons who had been given access to his OHIP records did not exist. It was this portion of the response which the requester appealed. The sole issue in this appeal is, therefore, whether or not the institution's search for the requested record was reasonable under the circumstances.

In accordance with the usual practice, the appeal was assigned to an Appeals Officer, who contacted the appellant and the institution's Freedom of Information and Protection of Privacy Co-ordinator to investigate the circumstances of the appeal. During that process, the appellant told the Appeals Officer that he believed security agents had accessed his OHIP files. The appellant did not provide any specific information to

substantiate this belief, and the institution continued to maintain that no list of persons who had been granted access to the appellant's OHIP records existed. As a result, mediation was not possible and the appeal moved to the inquiry stage.

At the outset of the inquiry, an Appeals Officer's Report was sent to both parties, outlining the issues in the appeals, and inviting representations. Representations were received from both parties and I have taken them into account in reaching my decision in this Order.

In its representations, the institution explained the normal procedure followed in instances where a request for OHIP information was received from a subscriber or any other person outside the Ministry of Health. Whenever such a request is received, a correspondence file is opened and all correspondence, notes, and other records related to the particular request are maintained in this file, which is stored in the institution's Central Filing System. Information concerning who has accessed a particular OHIP file is kept in the relevant correspondence file, and a separate list of persons is not created.

The institution's representations also indicate that if a request for access to OHIP records is received from security personnel, an accompanying search warrant or subpoena is required before access is granted, and any such document is maintained in the correspondence file of the particular OHIP subscriber, in the same manner as other requests for access to OHIP records.

Because the correspondence file, if it existed, would contain the information the appellant was seeking, two different employees of the institution conducted separate searches on separate occasions for a correspondence file relating to the appellant's OHIP records, and no such file was found.

The appellant's representations did not contain any particulars or evidence to support his belief that someone had accessed his OHIP records, nor did they provide any evidence to support the existence of a list of such persons, or any other record containing the requested information.

In my view, the submissions provided by the institution which document its efforts to locate records which would contain the information sought by the appellant substantiate the position that a reasonable search was conducted. No records which were responsive to the request were located and, in the absence of any credible evidence to support the existence of any such records, I find that the actions of the institution in responding to the appellant's request were reasonable and satisfactory in the circumstances.

ORDER:

1. I uphold the head's decision that the record at issue in this appeal does not exist.

Original signed by: _____
Tom Mitchinson
Assistant Commissioner

February 26, 1992
Date