



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

# ORDER P-456

Appeal P-9300040

Ministry of Health



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## ORDER

The Ministry of Health (the Ministry) received a request under the Freedom of Information and Protection of Privacy Act (the Act) which reads as follows:

The Ministry of Health implemented (Aug 25/92) changes to the reimbursement methods for pharmacists for OTC's [Over-the-Counter Drugs] in the ODB [Ontario Drug Benefit] Would the Ministry please provide a copy of the estimated cost savings, through reduced payments to pharmacists, to the Ministry.

The Ministry sent a letter to the appellant acknowledging receipt of the request and confirming its understanding that the request was for the "the estimated cost savings" resulting from changes to the reimbursement methods for OTCs listed as benefits in the ODB Formulary. The Ministry did not make a decision on the request within the statutory 30 day period, and the requester appealed this lack of decision as a "deemed refusal", as provided under section 29(4) of the Act.

During mediation, the Ministry issued a decision denying access to a record which it identified as containing the responsive information. The Ministry stated that "access has been denied under the authority of section 12 of the Act as the document responsive to the request is contained in the Cabinet Submission." A copy of the record titled, "Ontario Drug Benefit (ODB) - Formulary No.32" which contains a page titled "Financial Implications" was forwarded to this office. This page contains the estimated "annualized savings" that would be gained as a result of OTC reimbursement changes.

The appellant advised the Appeals Officer processing the appeal that the record identified by the Ministry is not responsive to his request. He stated that his request was for records created subsequent to the decision of the Cabinet, as part of the Ministry's tracking of the impact of the Cabinet decision and not for records that were submitted to Cabinet. The Ministry took the position that the record it identified was responsive to the request.

Mediation was not successful, and notice that an inquiry was being conducted to review the Ministry's decision was sent to the appellant and the Ministry. Representations were received from the Ministry only.

The sole issue in this appeal is whether the Ministry has made a reasonable effort to identify the record that would be responsive to the request, in accordance with the provisions of sections 24(1) and (2) of the Act.

Sections 24(1) and (2) state:

- (1) A person seeking access to a record shall make a request therefor in writing to the institution that the person believes has custody or control of the record and shall provide sufficient detail to enable an experienced employee of the institution, upon a reasonable effort, to identify the record.
- (2) If the request does not sufficiently describe the record sought, the institution shall inform the applicant of the defect and shall offer

assistance in reformulating the request so as to comply with subsection (1).

The Ministry's representations indicate that the search for the record commenced after the Ministry confirmed with the appellant its understanding of his request. The search for the record was conducted by the Program Analyst, Drug Programs Branch, who discussed the request with the Assistant Director, the Special Projects Co-ordinator and the Co-ordinator, Drug Pricing and Formulary Production and requested the relevant files from each person. It was during this search that the record at issue was identified. The Ministry took the position that the record at issue is responsive to the request.

The appellant's position appears to be that the Ministry has misunderstood or misinterpreted his request. In my view, the request is clear and provides sufficient description of the record he sought to enable an experienced employee of the Ministry to correctly identify the responsive record. The Ministry' search for the responsive record is determined by the parameters set out in the wording of the request. In the circumstances of this appeal, the record which the Ministry has identified contains information that is fully responsive to the request.

In my view, the specificity of the appellant's request, worded as it is for a "copy of the **estimated cost savings**, through reduced payments to pharmacists, to the Ministry" (emphasis added) does not allow the meaning given to it by the appellant. It is not a request for information relating to the impact of the decision of Cabinet to change the method of reimbursement or for information regarding the implementation of the decision.

Therefore, I am satisfied that the Ministry has made a reasonable effort to identify the record that would be responsive to the request and I find that the record produced by the Ministry is in fact responsive to the request.

Original signed by: \_\_\_\_\_  
Asfaw Seife  
Inquiry Officer

\_\_\_\_\_ May 11, 1993