



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

ORDER P-1103

Appeal P_9500530

Ministry of Health



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NATURE OF THE APPEAL:

The appellant submitted a request under the Freedom of Information and Protection of Privacy Act (the Act) to the Ministry of Health (the Ministry). The request was for access to any OHIP billings made to the appellant's health card during the period of January 1994 through July 1995. The request also indicated that the appellant would like to be provided with "continuing access" to his OHIP billing information for a period of two years, under section 24(3) of the Act.

The Ministry located one record which was responsive to the request, namely, the appellant's OHIP Claims Reference File ("CREF"). This record was disclosed to the appellant.

In its decision letter, the Ministry stated that it could not grant the appellant's request for continuing access because a CREF "is not a report that is produced on a set schedule".

The appellant filed an appeal of the Ministry's refusal to grant continuing access.

A Notice of Inquiry was sent to the appellant and the Ministry. In response to this notice, only the Ministry submitted representations.

DISCUSSION:

CONTINUING ACCESS

Continuing access is provided for by section 24(3) of the Act, which states:

The applicant may indicate in the request that it shall, if granted, continue to have effect for a specified period of up to two years.

The Ministry's representations set out two arguments to the effect that a requester's CREF is not the type of record which falls within the scope of section 24(3) of the Act. First, the Ministry argues that section 24(3) does not apply to requests made by individuals for their own personal information. The Ministry also submits that a CREF is not produced on any scheduled or foreseeable dates and, therefore, section 24(3) of the Act does not apply. I will begin my analysis with the second of these arguments.

In Order 164, former Commissioner Sidney B. Linden made the following comments about the application of section 24(3):

I am of the view that subsections 24(3) and (4) are intended by the Legislature to apply to the kind of record which is likely to be produced and/or issued in series; for example, the results of public opinion polls which are conducted by an institution on a regular basis. These subsections are not intended to provide ongoing access to the kind of record of which only one edition is produced, as in the present case.

I agree with this interpretation. I am satisfied based on the representations of the Ministry that a CREF is not a report that is produced, issued or updated in series or on a regular basis. It is

possible that no information will be added to the appellant's CREF during the two year period following his request.

Moreover, I note that additions to the appellant's CREF will result from his own use of OHIP-insured medical services. Therefore, from a practical perspective, the appellant will be in a better position than the Ministry to know when new information has been added to the CREF.

Under these circumstances, I find that section 24(3) of the Act does not apply to permit continuing access to the appellant's CREF. I would point out, however, that the appellant is free to file an additional access request should he believe that the Ministry has added new information to the CREF.

Because of the way I have disposed of this issue, it is not necessary for me to address the question of whether section 24(3) applies to individuals requesting access to their own personal information.

ORDER:

I uphold the Ministry's decision.

Original signed by: _____
John Higgins
Inquiry Officer

_____ January 19, 1996