



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

ORDER PO-1671

Appeal PA-990112-1

Ministry of Health



80 Bloor Street West,
Suite 1700,
Toronto, Ontario
M5S 2V1

80, rue Bloor ouest
Bureau 1700
Toronto (Ontario)
M5S 2V1

416-326-3333
1-800-387-0073
Fax/Télé: 416-325-9195
TTY: 416-325-7539
<http://www.ipc.on.ca>

NATURE OF THE APPEAL:

This is an appeal under the Freedom of Information and Protection of Privacy Act (the Act). The requester asked the Ministry of Health (the Ministry) for access to the amount of legal fees incurred by the Ontario Health Insurance Plan in defending an action commenced by four named individuals against the General Manager, Ontario Health Insurance Plan. The request is dated July 13, 1998 and was received by the Ministry on July 27, 1998.

On August 28, 1998, the Ministry sent the requester a letter acknowledging receipt of the request and indicating that the Ministry had opened a file for the request on August 27, 1998. The Ministry stated that they anticipated providing the requester with a decision by September 26, 1998.

The Ministry did not issue a decision letter to the requester as required by sections 26 and 29 of the Act within the 30 days prescribed by the Act, nor did the Ministry request a time extension to process the request under section 27(1) of the Act. Accordingly, the Ministry placed itself in a "deemed refusal" situation pursuant to section 29(4) of the Act. On March 16, 1999 the requester (now the appellant) appealed the Ministry's deemed refusal to provide access to the records.

On April 7, 1999, the Ministry and the appellant were each sent a Notice of Inquiry. The Notice stated that the Ministry was in a "deemed refusal" situation because a decision letter had not been issued to the appellant within the time period set out in section 26 of the Act. The Notice also indicated that I would attempt to settle the appeal but if a settlement was not reached by April 21, 1999 I would be in the position to issue an order requiring the Ministry to issue a decision letter to the appellant.

Section 26 of the Act states that an institution shall issue a decision to a requester within 30 days of receipt of the request. In this case, the Ministry received the request on July 27, 1998 but did not open a file until August 27, 1998, 1 month after receiving the request. The Ministry then proceeded to use the August 27th date as the start of the 30-day period.

I contacted the Ministry on several occasions to ascertain if they would be issuing a decision letter to the appellant. On all occasions I was advised that the Ministry was in the process of issuing a decision but the Ministry could not commit to a date on which a decision would be issued. The Ministry provided no other explanation regarding why a decision letter had not been issued. To date, the Ministry has not issued a decision letter to the appellant.

Given the above, I am ordering the Ministry to issue a decision letter to the appellant with respect to his request for records.

ORDER:

1. I order the Ministry to provide the appellant with a decision on access to the records responsive to the request of July 13, 1998 by **May 7, 1999**, without recourse to a time extension.

2. In order to verify compliance with Provision 1 of this order, I order the Ministry to provide me with a copy of the decision letter referred to in Provision 1 by **May 10, 1999**. This should be forwarded to my attention, c/o Information and Privacy Commissioner/Ontario, 80 Bloor Street West, Suite 1700, Toronto, Ontario, M5S 2V1.

Original signed by: _____
Janice E. Nemeth
Acting Adjudicator

_____ April 28, 1999