



**Information and Privacy
Commissioner/Ontario**

**Commissaire à l'information
et à la protection de la vie privée/Ontario**

ORDER PO-2134

Appeal PA-020061-1

Ministry of Health and Long-Term Care



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NATURE OF THE APPEAL:

The appellant made a request under the *Freedom of Information and Protection of Privacy Act* (the *Act*) to the Ministry of Health and Long-Term Care (the Ministry) for access to the records of all approved drugs obtained by her and paid under the Ontario Drug Benefit (ODB) scheme. The appellant also requested the drug dispenser billings records concerning each drug paid under said scheme. The appellant provided her OHIP number to the Ministry to assist in the search for responsive records.

The Ministry located responsive records and assessed a fee. The appellant paid the fee and was granted access to the responsive records in full.

The appellant appealed the Ministry's decision, however, arguing that more records exist.

At the mediation stage, the appellant asserted that further responsive records exist from 1994/1995 to date given her use of the particular Ministry service since 1995. The appellant provided further information to the mediator in an effort to assist the Ministry with additional searches for further records. For its part, the Ministry conducted three searches but was unable to locate additional records.

The matter proceeded to inquiry.

Initially, I sought representations from the Ministry, which were shared in their entirety with the appellant. The appellant did not provide representations.

DISCUSSION:

Introduction

In appeals involving a claim that further responsive records exist, as is the case in this appeal, the issue to be decided is whether the institution has conducted a reasonable search for the records as required by section 24 of the *Act*. If I am satisfied that the search carried out was reasonable in the circumstances, I will uphold the Ministry's decision. If not, I may order further searches.

Where a requester provides sufficient detail about the records sought and the Ministry indicates that further records do not exist, it is my responsibility to ensure that the Ministry has made a reasonable search to identify any records responsive to the request. The *Act* does not require the Ministry to prove with absolute certainty that further records do not exist. However, in my view, in order to properly discharge its obligations under the *Act*, the Ministry must provide me with sufficient evidence to show that it has made a **reasonable** effort to identify and locate records responsive to the request.

Although an appellant will rarely be in a position to indicate precisely which records have not been identified in the Ministry's response to a request, the appellant must, nevertheless, provide a reasonable basis for concluding that such records exist.

Representations

The Ministry provided the following background information in order to explain the method for obtaining access to an ODB claims history:

The Health Network System (HNS) is the province-wide computer network through which the ODB program adjudicates and pays benefit claims on line to pharmacies. The HNS links over 2,700 Ontario pharmacies directly to the ministry through a complex communications network.

....

The HNS compiles and retains claims history on ODB-eligible recipients of all eligible prescriptions submitted by pharmacies for payment on behalf of the patient. ODB-eligible recipients can request access to their ODB claims history by providing either their valid Ontario Health Card number or a valid ODB-eligibility number (i.e., the number assigned by Ministry of Community, Family and Children's Services (MCFCS). Patient claims history is tracked using either of these numbers.

Drug Programs Branch staff submit a query on the HNS database using either of these numbers in order to extract specific ODB claims history information for a particular individual. Queries on the HNS database can be done as far back as April 1, 1992. However, data from April 1, 1992 to March 31, 1995 has been archived....

The appellant made no representations at the inquiry stage. During mediation, however, as indicated, the appellant gave the mediator more information in an effort to assist the Ministry with additional searches for further records. In its inquiry representations, the Ministry acknowledges that the appellant provided this additional information:

During mediation, the appellant provided an additional eligibility number and requested that the search be repeated using this new number for all records from 1995 onwards. As a result of assessing this new information, the Ministry's Drug Programs Branch indicated that this was not a valid Health Card Number or a valid Ontario Drug Benefit eligibility number, and therefore, could not conduct another query. Nevertheless, the original query was once again repeated for the period of April 1, 1995 to July 29, 2002 using the original number provided by the appellant.

This search confirmed the original search results of only four claims being responsive to this request.

The appellant again, through the mediation process, provided the ministry with two other numbers which she declared to be valid ODB-eligibility numbers. The branch confirmed that these two numbers were not valid ODB-eligibility numbers and therefore, were unable to conduct a search.

The Ministry also makes these representations:

As the requester provided sufficient information to conduct a thorough search of the Ontario Drug Benefits database, there was no need to contact the appellant for clarification. The search was conducted by an experienced individual in the branch who is responsible for the day to day maintenance and operations of the database.

....

...Data in the Ontario Drug Benefits database prior to April 1, 1995 has been archived and requires authorization from the appellant to retrieve the archived data and to perform a further search. Archived data is maintained by a service provider outside the MOHLTC. Queries are invoiced to MOHLTC at a cost of approximately \$450 per fiscal year. The requester would be provided with an invoice for these specific costs as permitted by Regulation 6.1 (4). No authorization was obtained from the requester to retrieve the archived data and to perform a search.

Findings

The Ministry has provided sufficient evidence to satisfy me that it conducted a reasonable search for records responsive to the appellant's request. The appellant's request for information was a fairly narrow and straightforward one, and I am satisfied that a search for responsive records was conducted in the database where this kind of information is routinely and ordinarily retained. Based on the evidence before me, it is also clear that the Ministry reasonably acted on the additional information provided by the appellant and conducted several searches as necessary to locate further responsive records.

The appellant, on the other hand, has not provided any foundation upon which I might conclude that more responsive records exist.

Therefore, I conclude that the Ministry has conducted a reasonable search for responsive records.

ORDER:

I uphold the Ministry's decision.

Original signed by: _____
Rosemary Muzzi
Adjudicator

March 26, 2003