

Information and Privacy Commissioner,  
Ontario, Canada



Commissaire à l'information et à la protection de la vie privée,  
Ontario, Canada

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## ORDER PO-3190

Appeal PA12-158

eHealth Ontario

April 25, 2013

**Summary:** The appellant sought access from eHealth Ontario to information relating to consultant contracts and remuneration in 2011. eHealth provided a fee estimate of \$2,400 to process the request. The appellant appealed the fee estimate. eHealth reduced its fee estimate to \$1,307.40. The appellant requested a fee waiver which was denied by eHealth. This order reduces the fee estimate to \$210 and upholds eHealth's denial of a fee waiver.

**Statutes Considered:** *Freedom of Information and Protection of Privacy Act*, R.S.O. 1990, c. F.31, as amended, sections 57(1) and 57(4)(b); section 6 of Regulation 460.

**Orders Considered:** PO-3035 and PO-2299.

### OVERVIEW:

[1] In February 2012, eHealth Ontario (eHealth) received a five-part request under the *Freedom of Information and Protection of Privacy Act* (the *Act*) for access to the following information:

1. Number of individuals remunerated as "consultants" by eHealth Ontario in calendar year 2011.

2. Number of individuals employed for full-time work (defined as working 1,560 hours in a 12-month period) as "consultants" by eHealth Ontario in calendar year 2011.
3. Total value of all payments by eHealth Ontario to all individuals employed as "consultants" in calendar year 2011.
4. For each person employed as a "consultant" for full time work (defined as working 1,560 hours in a 12-month period) by eHealth in calendar year 2011, I would like to know for how many years in succession that person has been continuously employed in this manner by eHealth Ontario and its predecessor agency, the Smart Systems for Health Agency?
5. Total value of all payments by eHealth Ontario to all individuals employed full time (defined as working 1,560 hours in a 12-month period) as "consultants" in calendar year 2011.

[sic]

[2] The requester subsequently clarified that by "consultants" he meant individuals for whom one or more of the following conditions applies:

- A. Individuals who have signed service contracts with eHealth Ontario who are not formally employed on a continuing basis by eHealth Ontario.
- B. Individuals who are have been seconded to work for eHealth Ontario by external organizations that eHealth Ontario has signed service contracts with.
- C. Individuals who work for eHealth Ontario for whom payroll income tax deductions are not made.

[sic]

[3] The requester also clarified that "full-time work" in his request, was defined as "more than 37.5 hours a week."

[4] In accordance with section 27(2) of the *Act*, eHealth notified the requester that it required an extension of 60 days to respond to the request as it had to search through a large number of records. In the same correspondence, eHealth provided a fee estimate for the request pursuant to section 57(3), in which it estimated a fee of \$2,400 for processing the request based on a representative sampling of the records. eHealth stated that its calculation of the fee estimate was based on 80 hours of anticipated search time at a cost of \$30 per hour. It further noted that additional costs could be

incurred as part of the ongoing search for and severing of responsive records. eHealth asked the requester for a deposit of 50 per cent of the estimate, before it continued to process the request.

[5] The requester and eHealth had subsequent communications about the fee estimate, in which eHealth provided details of the search required to respond to the request. Following these communications, the requester, now the appellant, appealed the fee estimate to this office.

[6] During mediation, eHealth issued a revised fee estimate in the amount of \$1,307.40. eHealth advised that because it was in the process of moving from several legacy systems for record management to one consolidated contract management system, it would waive fees related to searching for records in the legacy system. Accordingly, eHealth stated that its revised fee estimate of \$1,307.40 reflected only the cost of processing the request if all of the responsive records and information were located in the consolidated contract management system.

[7] The appellant asked eHealth to waive the fee on the basis of financial hardship. eHealth denied the request for a fee waiver on the basis that the appellant provided insufficient evidence in support of his claim of financial hardship.

[8] As further mediation was not possible, the appellant asked that a determination of the validity of the fee estimate and the denial of the fee waiver be moved to the adjudication stage of the appeal process, where an adjudicator conducts an inquiry under the *Act*.

[9] During my inquiry into this appeal, I sought and received representations from the parties that were shared in accordance with section 7 of this office's *Code of Procedure*, and *Practice Direction Number 7*.

[10] For the reasons that follow, I reduce the fee estimate to \$210, and I uphold eHealth's decision to deny the appellant's fee waiver request.

## **ISSUES:**

Issue A: Should the fee estimate be upheld?

Issue B: Should the fee be waived?

## DISCUSSION:

### Issue A: Should the fee estimate be upheld?

[11] Where the fee to process an access request exceeds \$25, an institution must provide the requester with a fee estimate.<sup>1</sup> Where the fee is \$100 or more, the fee estimate may be based on either:

- the actual work done by the institution to respond to the request, or
- a review of a representative sample of the records and/or the advice of an individual who is familiar with the type and content of the records.<sup>2</sup>

[12] The purpose of a fee estimate is to give the requester sufficient information to make an informed decision on whether or not to pay the fee and pursue access.<sup>3</sup> The fee estimate also assists requesters to decide whether to narrow the scope of a request in order to reduce the fees.<sup>4</sup>

[13] In all cases, the institution must include a detailed breakdown of the fee, and a detailed statement as to how the fee was calculated.<sup>5</sup>

[14] This office may review an institution's fee and determine whether it complies with the fee provisions in the *Act* and Regulation 460, as set out below. In determining whether to uphold a fee estimate, my responsibility under section 57(5) is to ensure that the estimated fee is reasonable. The burden of establishing the reasonableness of the fee estimate rests with eHealth. To discharge this burden, eHealth must provide me with detailed information on how the fee estimate was calculated in accordance with the applicable provisions of the *Act*, and it must produce sufficient evidence to support its claim.

[15] Section 57(1) requires an institution to charge fees for requests under the *Act*. That section reads:

A head shall require the person who makes a request for access to a record to pay fees in the amounts prescribed by the regulations for,

- (a) the costs of every hour of manual search required to locate a record;

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<sup>1</sup> Section 57(3).

<sup>2</sup> Order MO-1699.

<sup>3</sup> Orders P-81, MO-1367, MO-1479, MO-1614 and MO-1699.

<sup>4</sup> Order MO-1520-I.

<sup>5</sup> Orders P-81 and MO-1614.

- (b) the costs of preparing the record for disclosure;
- (c) computer and other costs incurred in locating, retrieving, processing and copying a record;
- (d) shipping costs; and
- (e) any other costs incurred in responding to a request for access to a record.

[16] More specific provisions regarding fees are found in section 6 of Regulation 460, which reads, in part:

6. The following are the fees that shall be charged for the purposes of subsection 57(1) of the *Act* for access to a record:

- 1. For photocopies and computer printouts, 20 cents per page.
- 2. For records provided on CD-ROMs, \$10 for each CD-ROM.
- 3. For manually searching a record, \$7.50 for each 15 minutes spent by any person.
- 4. For preparing a record for disclosure, including severing a part of the record, \$7.50 for each 15 minutes spent by any person.
- ...

### ***eHealth's Representations***

[17] In its representations, eHealth states that the *Act* requires requesters to pay for the time taken to search for responsive records. eHealth explains the initial fee estimate of \$2,400 was based on "search and preparation time based on reviews of representative samples and the advice of individuals familiar with the type and content of the records." eHealth also states that although it is not obliged to create a record that does not exist, it was "willing to review more than 1,200 invoices and purchase orders in order to respond to the request."

[18] eHealth explains that it had to conduct a preliminary manual search of computer records in two separate computer systems within its Human Resources department to identify the individuals that fell within the scope of the request. It continues that it then had to conduct a second search to determine whether, and for how long, any of the

identified consultants had been employed in succession at eHealth. eHealth states that the second search involved the following steps:

- Enter the last name or identification of the consultant in the status history screen.
- Review the current status screen to determine if the consultant is still active; if so, go to another screen to retrieve the contract end date.
- If there is an end date, navigate to another termination screen to confirm dates of break in service whereby the consultant remained "terminated."
- The status screen may have more than one record depending on whether the consultant's contract was extended or whether the consultant was rehired at a later date with a break in service; manually enter this information into the report.
- Once the start and end dates with the status are entered into the report, calculate, using a formula, the length of time for each contract, and manually calculate the number of times a contract was extended.
- Generate a report listing the professionals remunerated as consultants in 2011 for procurement to identify the number of individuals employed for full-time work by eHealth in 2011.

[19] eHealth submits that its Human Resources department spent 20 hours in total searching for information responsive to the request, at a cost of \$600.

[20] eHealth states that the report generated by Human Resources was then used by the Senior Director of Strategic Sourcing and Vendor Management (SSVM) to complete the next part of the search as follows:

- Identify consultants by name using the spreadsheet generated by Human Resources.
- Identify all purchase orders associated with the consultant by searching the financial system for any item descriptions including the consultant's name.
- Search the contract management system and Procurement shared drive to determine the vendor and contract details.
- If more than one expense type is included in the contract, pull invoices to determine and summarize payments related to the consultant.
- Run a query in accounts payable on each purchase order to determine the total payments made for the consultant.

[21] eHealth submits that its SSVM department determined 40 additional hours would be needed to complete its search and produce a list in response to the request, bringing the search and preparation costs to \$1,200. Finally, eHealth states that it estimated an additional 20 hours of work, at a cost of \$600, would be required for its Freedom of

Information (FOI) Office to review the lists prepared by the three departments, to pull out the responsive content, and to prepare this for disclosure by entering all of the information in aggregate form into a spreadsheet.

[22] eHealth relates that it reduced the fee estimate for the Human Resources portion of the fee from \$600 to \$490, which represents what the search time would have been if the responsive information were located in one computer system instead of two. eHealth states that its revised fee estimate was based on both a representative sampling of records and the advice of individuals familiar with the type and content of the records. eHealth states that it advised the appellant it was willing to waive the time spent looking for records and information in its legacy record management system "given IPC orders that have been issued on this matter." It asserts its belief that had all of the records and information been located in its contract management system, 27.25 hours of search time would have been required based on the following steps:

- Query approximately 180 purchase orders.
- Review, in the contract management system, the contracts associated with each consultant from the search conducted by Human Resources.
- Pull the associated payment information from the accounts payable database and approximately 1,200 related invoices to come up with a total value amount awarded to each consultant.

[23] eHealth submits that the revised fee estimate for search time is therefore \$817.50 for the SSVM search and \$490 for the Human Resources search. eHealth states that approximately three hours would be required to put the information provided by Human Resources and Procurement into a list to send to the appellant, which would result in \$90 of preparation costs, bringing the total revised fee estimate to \$1,397.50.<sup>6</sup>

[24] eHealth concludes by asserting that its revised fee estimate is both fair and equitable given the large volume of records requested. eHealth adds that it cannot simply enter a search parameter into a computer and generate a list of responsive records. It states that information has to be retrieved from three departments and a number of computer systems, and then this information needs to be reviewed and compiled by its FOI Office into a standalone list to disclose to the appellant. eHealth argues that while it has "demonstrated good faith in trying to work with the appellant to arrive at a reduced fee, the appellant has not shown any interest in reaching a compromise solution." eHealth states that this request is one of six that the appellant has submitted since February 2012, with each request requiring comprehensive detailed searches by the same individual within Procurement. eHealth adds that three of these requests have since been abandoned.

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<sup>6</sup> Although eHealth refers to \$1,397.50 as the revised fee estimate in its representations, the revised fee estimate discussed during mediation and confirmed in the Mediator's Report and the Notice of Inquiry, was \$1,307.40. Nonetheless, because this discrepancy does not affect the outcome of this appeal, both numbers are included in this order to reflect eHealth's representations accurately.

[25] Along with its representations, eHealth submits two affidavits; one from the Senior Director and one from its Counsel & FOI Manager.

[26] The Senior Director deposes that:

- She has been engaged in her procurement and contract management duties with eHealth for two years.
- As no responsive records existed within the SSVM department, she and a staff member reviewed a report provided by the Human Resources department of individuals remunerated as consultants in 2011 to determine how much time was needed to generate the remaining responsive information.
- She determined that a number of steps had to be taken to complete the next part of the search, including:
  - Identify the consultants by name from the Human Resources report.
  - Identify the purchase orders for each consultant in the finance system.
  - Search the contract management system and Procurement shared drive to determine the vendor and contract details.
  - Where more than one type of expense is included in the contract, pull the invoices to determine and summarize payments related to consultants.
  - Run a query in the accounts payable system for each purchase order to determine the total payments made for each consultant.
- She identified more than 1,200 invoices and purchase orders that had to be reviewed to verify that the names returned in the search were within the scope of the request. She then had to print off another list that included the amounts paid to these consultants in the relevant time period.
- Because her department is in the process of moving from several legacy systems for record management to one consolidated contract management system, several databases have to be searched. This search has taken 20 hours thus far. She estimated another 20 hours will be needed to complete the search and prepare a responsive list.
- If all of the responsive information had been located in eHealth's consolidated contract management system, 27.25 hours of search time would be required based on the following steps:
  - Query the 180 purchase orders.
  - Review in the contract management system, the contract for each consultant identified by Human Resources.



- Pull the associated payment information from the accounts payable database and approximately 1,200 related invoices to come up with the total value amount awarded to each consultant.

[27] The Counsel & FOI Manager deposes that:

- For two years, she has worked with eHealth program area directors, managers and staff, who are knowledgeable and experienced in their areas of specialty regarding the availability of the required information in eHealth's records as well as the estimated time it may take to compile the information and the number of photocopies required.
- She prepared the fee estimate based on information from program area directors, managers and staff most knowledgeable on the activities associated with the Human Resources information system, the time reporting system, the contract management system, the Procurement shared drive, the eRequisition and Purchase Order system, and the SSVM filing systems.
- Through discussions with program area directors, managers and knowledgeable staff, it was determined that no responsive records existed. Rather, databases and files within the Human Resources and SSVM departments would have to be searched and information pulled together into a new record, created specifically to respond to this request.
- Half of the responsive information was in the custody of the Human Resources department, where two searches had to be conducted to come up with a list of individuals remunerated as consultants, and a subsequent search was needed to determine whether and for how long these consultants had been employed in succession.
- Human resources advised her that it took 20 hours to complete the search and return a responsive list, based on five minutes to enter data, analyze and check each returned record (between three and eight minutes) and to prepare the initial list of consultants.
- This list of individuals remunerated as consultants in 2011 was then provided by Human Resources to the Senior Director to complete the search by identifying the consultants employed full-time during 2011.
- The Senior Director's search consisted of, reviewing more than 1,200 invoices and purchase orders associated with the consultants to verify that the list generated by Human Resources was accurate, and printing off another list that included the amounts paid to these consultants in the relevant time period.
- The Senior Director advised her that 40 hours would be required to complete this search and produce a final list for the FOI Office.
- She therefore estimated a total search time of 60 hours at \$30 per hour, for a total search cost of \$1,800.
- She estimated that it would take 20 hours to create a new record for disclosure based on pulling all of the responsive lists together from Human Resources and SSVM, which amounted to \$600 in preparation costs.

- Following mediation, she provided a reduced fee estimate of \$1,397.50 which reflected the cost of the search time that would have been required if the responsive information were stored in one computer system in each of the Human Resources and SSVM departments. This revised fee was based on 16.33 hours for the Human Resources search, and 27.25 hours for the SSVM search.
- She was advised that because no record existed that was responsive to the request, she would have to review the information generated by Human Resources and SSVM to ensure it was responsive, and then create a new record to provide to the appellant.
- She determined it would take approximately three hours to prepare the responsive record for disclosure, resulting in \$90 in preparation fees.

### ***Appellant's Representations***

[28] In his representations, the appellant asserts that eHealth is "using a highly legalistic, and antagonistic approach to blocking release of basic information about its spending of large amounts of public money."

[29] The appellant states that he did not limit the scope of his request because he could not do so in a way that would meet his information needs, however, he points out that he abandoned three of his requests with eHealth and this represents a dramatic narrowing both of scope and costs. The appellant adds that while he has acted in good faith, he is not convinced that eHealth has, as it revised the fee estimate only after he commenced his appeal, and it rejected his fee waiver request without explanation.

[30] The appellant argues that eHealth has now devoted vastly far more resources to denying his application for a fee waiver than the cost of the fees themselves. He asserts that from a public interest perspective, this is an irresponsible use of public money that thwarts the intention of the *Act*. The appellant states that the release of the requested information is in the public interest.

### ***Analysis and Findings***

[31] Having carefully reviewed the representations in this appeal, including the descriptions provided by eHealth of the various steps it claims it must take to locate and prepare records responsive to the request, I cannot accept eHealth's fee estimate as reasonable. I accept that eHealth relied on experienced employees familiar with the requested records to conduct its initial searches and to estimate the additional time required to complete the search for responsive information. I also note that eHealth reduced its initial fee estimate of \$2,400, in recognition of the fact that it is not appropriate to charge a requester search fees that are a result of records being maintained inefficiently in the legacy record management system. However, I agree with the appellant that the request is for "basic information" on how eHealth is

spending large amounts of public funds, and that information of this type should be much more readily available.

[32] Accordingly, for the reasons set out below, I find that the revised fee estimate is excessive.

[33] The estimated search time of 43.58 hours calculated under section 57(1)(a) is unreasonable considering the nature of the request. The request essentially involves four straightforward pieces of information and a fifth that requires historic information, specifically: (1) the number of consultants remunerated by eHealth in 2011 and (2) the total remuneration they received; (3) the number of these consultants that were employed full-time and (4) the total remuneration they received; and (5) the number of years in succession that each full-time consultant has been continuously employed by eHealth and its predecessor. According to eHealth's representations, its search time estimate is based on searching for the requested information in two separate departments on the basis of each department using a single consolidated contract management computer system, and reviewing and tallying the 180 purchase orders and 1,200 invoices that contain information that is responsive to the request.

[34] While I accept that eHealth must conduct a search in both its Human Resources and SSVM departments to respond to the request, and I recognize that providing the historical information on continuously employed full-time consultants takes additional time, I note that eHealth is able to search for the responsive records and information electronically.

[35] I find it difficult to accept that an institution whose purpose includes the creation of electronic record management systems, is not capable of locating, within a reasonable amount of time, responsive records relating to expenditures made in a single calendar year. In this regard, I note that less than nine years ago, this office considered a similar fee estimate appeal involving the Ministry of Health and Long-Term Care, and eHealth's predecessor, Smart Systems for Health Agency.

[36] In that appeal, the appellant had requested information somewhat similar to that requested in the present appeal; specifically, a list of all consultants hired for the E-Physician Project, a description of what each consultant was hired to do, and the amount each consultant was paid or was being paid. Former Assistant Commissioner Tom Mitchinson adjudicated that appeal and, on June 30, 2004, issued Order PO-2299. In his order, the former Assistant Commissioner considered the original fee estimate of \$8,820, which was reduced to \$1,785, for the search and preparation of 105 contracts held by the ministry and eHealth's predecessor. In drastically reducing the search fee, the former Assistant Commissioner wrote the following:

It is also reasonable to assume that the contracts themselves, which are the only records required in order to identify the description of

responsibilities the appellant seeks, would be readily accessible without the time consuming search activities identified by the Ministry.

In the circumstances, I do not uphold the \$687.50 search fees identified by the Ministry. I find that the records containing the listing of consultants and their total fees can be located electronically, at no cost. I also find that manual searches for the various contract documents themselves, copies of which would presumably be readily available from the Ministry accounting departments if not from the two program areas, could not reasonably take longer than one hour to locate. Therefore, I will allow a search fee in the amount of \$30.

[37] While this appeal involves slightly different information than that requested in Order PO-2099, and the responsive information in this appeal is not contained solely in the consultants' contracts themselves, the principle that electronic records should be readily accessible without the need for numerous hours of searching is equally applicable.

[38] I also note that the responsive records are of very recent origin as the appellant requested information for 2011 in February 2012. In Order PO-3035, Assistant Commissioner Brian Beamish stated that when dealing with records of recent origin, it is reasonable to expect that the records "should be kept in a consistent and easily searchable manner." In Order PO-3035, Assistant Commissioner Beamish considered a fee estimate related to records from January 5, 2005, to December 31, 2010, and found that 32 hours of actual search time to produce the responsive records demonstrated that the university's "records management process [was] unwieldy and not conducive to easily focused searches for a well defined class of records." Assistant Commissioner Beamish further noted that an "appellant should not bear the financial burden of the university's failure to implement proper records management practices."

[39] Applying Assistant Commissioner Beamish's reasoning to this appeal, records from 2011 should be maintained consistently and in a manner conducive to easily performed defined and narrow searches. While I recognize that some additional time is required in this appeal to isolate and search for records relating to "full-time consultants", the time-consuming process that eHealth, according to its representations, has to follow to locate the responsive records demonstrates that the records are not maintained in a consistent and easily searchable manner, and the appellant should not bear the financial burden of this failure.

[40] I adopt the approach and reasoning of both Assistant Commissioner Beamish and former Assistant Commissioner Mitchinson in this appeal, and I find that that 43.58 hours of search time is not reasonable. Taking into account the defined and straightforward nature of the request; the time required to isolate specific information; the fact that the requested records are of recent origin and relate to a single year; the

fact that eHealth is able to search for the records electronically; and the principle that the appellant should not bear the financial burden of eHealth's failure to implement proper records management practices that ensure its records are maintained in a consistent manner that is conducive to easily focused searches, I find that four hours is a reasonable amount of time for eHealth to search for the four pieces of information requested and the historic information on "full-time consultants." I therefore reduce the search time in this appeal to four hours, for a total cost of \$120.

[41] In respect of the preparation costs of \$90 calculated under section 57(4)(b), eHealth submits that three hours are required to put the responsive information into a newly created record for the appellant. I do not entirely agree with eHealth's position that a responsive record does not exist, and therefore, a newly created record is needed to respond to the request. While I accept that there is no existing single record that contains all of the requested information, undoubtedly, the 180 purchase orders, the consultants' contracts, and the 1,200 invoices identified by eHealth contain responsive information regarding amounts paid by eHealth to consultants in 2011. Nonetheless, I find that eHealth's election to create a new record in response to this appeal in order to provide the requested information to the appellant in a single document, is a reasonable approach, particularly in light of the relatively few hours required.

[42] I therefore, uphold eHealth's preparation fees of \$90.

**Issue B: Should the fee be waived?**

[43] Section 57(4)(b) of the *Act* requires an institution to waive fees in circumstances where payment of the fee would cause financial hardship. It states:

57. (4) A head shall waive the payment of all or any part of an amount required to be paid under subsection (1) if, in the head's opinion, it is fair and equitable to do so after considering,

...

(b) whether the payment will cause a financial hardship for the person requesting the record;

...

[44] The fee provisions in the *Act* establish a user-pay principle which is founded on the premise that requesters should be expected to carry at least a portion of the cost of processing a request unless it is fair and equitable that they not do so. The fees referred to in section 57(1) and outlined in section 6 of Regulation 460 are mandatory unless the requester can present a persuasive argument that a fee waiver is justified on

the basis that it is fair and equitable to grant it or the *Act* requires the institution to waive the fees.<sup>7</sup>

[45] A requester must first ask the institution for a fee waiver, and provide detailed information to support the request, before this office will consider whether a fee waiver should be granted. This office may review the institution's decision to deny a request for a fee waiver, in whole or in part, and may uphold or modify the institution's decision.<sup>8</sup>

[46] The institution or this office may decide that only a portion of the fee should be waived.<sup>9</sup>

[47] In its representations on this issue, eHealth argues that the appellant has not provided sufficient information to establish the basis for his fee waiver request. eHealth states that while the appellant provided a financial statement setting out his salary range for the previous years, and a statement about the anticipated fee he may receive for a proposed article he will write with the requested information, he has provided no proof of his income, expenses, assets and liabilities to make a case of financial hardship. eHealth also submits that while it has reduced its fee by almost half, the appellant failed to work co-operatively with it to narrow the scope of the request and did not offer a compromise solution which would reduce the costs. Finally, eHealth states that given the significant time required to respond to the request, waiving the fee would shift an unreasonable burden of the cost from the appellant to the institution, and would not be fair and equitable.

[48] In his representations, the appellant states that he provided a financial statement of his income in good faith, even though he found the requirement and the experience humiliating. He adds that in response to his financial statement of income, eHealth did not specify what would meet its needs as "proof" and instead, simply rejected his submission. The appellant also states that eHealth's submission that he did not work cooperatively with it to narrow the scope of the request or offer a compromise solution to reduce costs, is unfair. He states that he did not limit the scope of the request because he could not see a way to do so that would meet his information needs. He also notes that he has abandoned three of his requests, which represents a dramatic narrowing both of scope and costs. Finally, the appellant asserts that eHealth has not acted in good faith throughout his request and appeal.

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<sup>7</sup> Order PO-2726.

<sup>8</sup> Orders M-914, P-474, P-1393 and PO-1953-F.

<sup>9</sup> Order MO-1243.

***Analysis and Findings***

[49] Under section 57(4)(b), the appellant has the onus of establishing financial hardship. To discharge this onus, the appellant provides some information about his income for the past five years, along with the amount of income he projects he will earn from the sale of an article on the requested information. The appellant's income information on its own, without additional information on his financial circumstances, including his expenses, assets and liabilities, is not adequate to establish financial hardship under section 57(4)(b). I also note that the appellant's projected income from writing an article about the requested information, is not a relevant factor in my consideration of whether section 57(4)(b) applies in this appeal.

[50] Accordingly, I find that the appellant has not established financial hardship under section 57(4)(b), and I uphold eHealth's denial of a fee waiver in this appeal.

**ORDER:**

1. I reduce the search time claimed by eHealth to four hours, for a total fee of \$120.
2. I uphold the preparation costs in eHealth's fee estimate of \$90.
3. I uphold eHealth's decision to deny the request for a fee waiver.

Original signed by: \_\_\_\_\_  
Stella Ball  
Adjudicator

\_\_\_\_\_ April 25, 2013