



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

# ORDER P-983

Appeal P-9500153

Ministry of Community and Social Services



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 Ministry of Community and Social Services (the Ministry) received a request for access to information relating to the requester in the Ministry's Overpayment Recovery and Follow-Up System (ORFUS). The Ministry responded that such information did not exist as ORFUS files are only maintained for individuals no longer receiving financial assistance under income maintenance programs. There is no specific system set up to track overpayments to individuals such as the requester who are currently receiving assistance under the Family Benefits Act. The Ministry also indicated that, in response to three previous requests under the Act, it had provided the requester with all records relating to him. The requester appealed the Ministry's decision.

During mediation, the appellant clarified that he was interested in obtaining access to any records relating to a particular overpayment that had been recorded against him.

A Notice of Inquiry was sent to the Ministry and the appellant. Representations were received from both parties. The sole issue in this appeal is whether the Ministry's search for records responsive to the appellant's request was reasonable in the circumstances of the appeal.

## **DISCUSSION:**

### **PRELIMINARY MATTER**

On May 18, 1995 the appellant filed three additional requests under the Act. The Ministry responded on June 5, 1995. The appellant has included submissions on this matter in his representations in this appeal. However, as he has not appealed the June 5 decision, these matters are not properly before me and I will not consider them in the discussion which follows.

### **REASONABLENESS OF SEARCH**

Where a requester provides sufficient details about the records to which he or she is seeking access and the Ministry indicates that additional records do not exist, it is my responsibility to ensure that the Ministry has made a reasonable search to identify responsive records. In my view, the Act does not require that the Ministry prove to the degree of 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.

The appellant submits that the Ministry should have in its possession further records relating to an overpayment that was recorded against him. More particularly, the appellant is seeking access to records regarding changes in the Ministry's assessment of the overpayment and its final disposition. The appellant explains that he has received letters stating that the overpayment was converted to an "administrative

overpayment". However, he has not received any explanation or documentation concerning the meaning of an "administrative overpayment".

The Ministry has provided an affidavit sworn by the Area Manager outlining the steps which were taken to locate records responsive to the appellant's request. The affidavit indicates that a search was conducted by the Income Maintenance Supervisor in conjunction with the Freedom of Information and Privacy Coordinator. The search consisted of reviewing the appellant's Family Benefits Master File and Vocational Rehabilitation documents.

The affidavit indicates that the search confirmed that there was no ORFUS file relating to the appellant and that the appellant was provided with a copy of the Ministry's policies and procedures regarding the overpayment and recovery process. The affidavit goes on to affirm that the appellant has received a copy of all documents in the Ministry's custody and control that relate to him.

Having carefully reviewed the affidavit and the representations of both parties, I am satisfied that the Ministry has taken all reasonable steps to locate records responsive to the appellant's request. Accordingly, I find that the search was reasonable in the circumstances of this appeal.

**ORDER:**

I uphold the decision of the Ministry.

Original signed by: \_\_\_\_\_  
Anita Fineberg  
Inquiry Officer

\_\_\_\_\_ August 28, 1995