



Information and Privacy  
Commissioner/Ontario

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

# ORDER P-1389

Appeal P\_9700061

Ministry of Health



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## NATURE OF THE APPEAL:

The Ministry of Health (the Ministry) received a request under the Freedom of Information and Protection of Privacy Act (the Act) for a list of the names and incomes of the ten highest billing general practitioners in Metropolitan Toronto. In response to the request, the Ministry created a record by extracting the relevant information from one of its Provider Services Branch databases. The record consisted of four columns of figures listing the dollar amounts of the ten highest billings, the corresponding practitioner's identification number, a code for each practitioner's specialization and a code for the location of each practitioner. As all of the information related to general practitioners in Metropolitan Toronto, the last two columns contained identical information for each of these individuals. The Ministry denied access to the record based on the following exemption under the Act:

- invasion of privacy - section 21(1)

The requester (now the appellant) appealed the Ministry's decision. The appellant also maintains that there is a compelling public interest in the disclosure of the information at issue (section 23 of the Act).

During the mediation of the appeal, the appellant narrowed the scope of her request to the information contained in the column listing the dollar amounts of each of the ten doctors' total billings for the year preceding October 2, 1996. Accordingly, the practitioners' names, their numbers and other information about them are no longer at issue.

This office sent a Notice of Inquiry to the appellant, the Ministry and the ten practitioners whose information is contained in the record (the affected persons). Representations were received from the appellant, the Ministry and six affected persons. None of the affected persons consented to the disclosure of their billing information.

## DISCUSSION:

### PERSONAL INFORMATION

Under section 2(1) of the Act, "personal information" is defined, in part, as:

... recorded information about an **identifiable** individual, including ... (emphasis added)

As stated above, the information remaining at issue consists solely of the ten total billing figures. There is no other information, such as the corresponding identifiers, at issue.

The first issue to be determined is whether the information remaining at issue qualifies as "personal information" within the meaning of section 2(1). In other words, is this information about an identifiable individual?

The appellant submits that disclosure of the billing figures could not result in the identification of any identifiable individual. She also points out that because of the large number of general practitioners in Metropolitan Toronto, it would be impossible to link the dollar values to any one doctor.

The appellant provided excerpts from the British Columbia Medical Services Commission financial statement for the fiscal year ended March 31, 1996, published in compliance with the British Columbia Financial Information Act. The statement contains a schedule of gross payments made to individual accounts, including gross payments made to individual practitioners. The appellant also provided a copy of portions of Saskatchewan Health's Annual Statistical Report for 1994-95, which included average payments made to practitioners in that province. She concedes that although privacy legislation in those provinces may differ from that in Ontario, she submits that there have never been any allegations suggesting that the publishing of those billings is somehow "privileged" or "confidential".

The affected persons' representations focus primarily on their concerns that the information, if disclosed, would be misleading and would not accurately reflect the make-up of their individual billings or the costs of operating a practice. There was also concern expressed regarding the personal safety of the doctors and their families if the information were to be disclosed.

In its representations, the Ministry refers to the Commissioner's recent report on his investigation into the possible disclosure of personal information at the Ministry. It quotes the report as saying,

[w]hether [a named individual] said that [a named practitioner] was "the" top biller or "one of the" top billers to OHIP, it would, in either case, be information related to [the practitioner's] OHIP billing records. Consequently, either piece of information would meet the requirements of paragraph (b) of the definition of "personal information" in the Act.

Paragraph (b) of the definition of "personal information" reads:

"personal information" means recorded information about an identifiable individual, including,

information relating to the education or the medical, psychiatric, psychological, criminal or employment history of the individual or information relating to financial transactions in which the individual has been involved,

In my opinion, the fact situation addressed in the Commissioner's report can be distinguished from that in the present appeal. In the former matter, the doctor's name was actually disclosed. Accordingly, the information which was made public was about an identifiable individual. In the present appeal, this is not the case. The information which remains at issue in this appeal contains no reference to any specific individual. For this reason, I find that this information cannot be characterized as "personal information" within the meaning of section 2(1)(b).

The Ministry further submits that there is a strong possibility that there exists some external information in the public domain or in the general practitioner community which could be linked to the information at issue to make a connection between a particular billing amount in the record and the practitioner associated with that billing.

The Ministry states:

For example, the GP [general practitioner] community in Metropolitan Toronto may have some belief or knowledge that a certain individual is, or is likely to be, one of the top GP billers, or that a select number of individuals comprises, or is likely to comprise, the top billers. Were this the case, and were the ministry to grant full disclosure of the total billings as requested by the appellant, there would arguably be some reasonable connection to be made between the listed billing amounts and one or more GPs.

It is notable that this connection need not link a specific GP to a specific billing amount in order to result in a disclosure of personal information. The ministry is persuaded that it would still constitute an unjustified invasion of personal privacy to disclose billing information that, in conjunction with outside knowledge, pointed to the conclusion that a particular GP must have billed one of the amounts within the range of the 10 amounts contained in the record, or, worse, within the range of, say, the top half or third of those ranked amounts.

Further on, the Ministry submits:

It is not unreasonable to suppose that information exists outside the ministry (within the GP community in Metropolitan Toronto, or elsewhere) that identifies certain GPs as probably amongst the top billers in Metropolitan Toronto. In this context, although it may not be possible to link the amounts on the record with any one GP, the fact that his/her billings are within these amounts on the record means the amounts should be considered personal information.

In my view, the Ministry's arguments rely on the unproven possibility that there **may** exist a belief or knowledge of the type described. I have not been provided with any substantive evidence that information exists outside the Ministry which could be used to connect the dollar amounts to specific doctors. The scenario described by the Ministry is, in my view, too hypothetical and remote to persuade me that individual practitioners could actually be identified from the dollar amounts contained in the record. I find, therefore, that the information at issue is not about an **identifiable** individual and does not, therefore, meet the definition of "personal information" contained in section 2(1) of the Act.

I have determined that the information at issue does not fall within the definition of personal information" as found in section 2(1) of the Act. Accordingly, I find that section 21 of the Act, which can only apply to personal information, cannot be relied upon to exempt the information from disclosure. The Ministry has not claimed any discretionary exemptions and in my view, no other mandatory exemptions apply. It is not, therefore, necessary for me to determine whether section 23 of the Act applies. Since I have found that the information at issue is not exempt, I will order the Ministry to disclose it.

**ORDER:**

1. I order the Ministry to disclose the information remaining at issue in the record to the appellant by **June 11, 1997**, but not before **June 6, 1997**.
2. In order to verify compliance with the terms of this order, I reserve the right to require the Ministry to provide me with a copy of the record which is disclosed to the appellant pursuant to Provision 1.

Original signed by: \_\_\_\_\_ May 8, 1997  
Donald Hale  
Inquiry Officer