



Information and Privacy
Commissioner/Ontario

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

ORDER P-1460

Appeal P_9700233

Ministry of Community and Social Services



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NATURE OF THE APPEAL:

The appellant submitted a request to the Ministry of Community and Social Services (the Ministry) under the Freedom of Information and Protection of Privacy Act (the Act). The request was for a copy of the appellant's complete master file with the Ministry, with particular regard to disability benefits.

The Ministry granted access in full to all records it had in the appellant's file. The appellant appealed the Ministry's decision claiming that further records exist; specifically, medical reports from doctors dating back to 1978.

This office sent a Notice of Inquiry to the appellant and the Ministry. Representations were received from both parties.

DISCUSSION:

REASONABLENESS OF SEARCH

In cases where a requester provides sufficient details about the records which he is seeking and the Ministry indicates that records do not exist, it is my responsibility to ensure that the Ministry has made a reasonable search to identify any records that are responsive to the request. The Act does not require the Ministry to prove with absolute certainty that 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 responsive records.

In its representations, the Ministry outlined the history of its processing of the appellant's requests. In this regard, the Ministry indicates that the appellant has been receiving disability benefits authorized under the Family Benefits Act from the Ministry since 1988. The Ministry states that only one file is maintained in the area offices for each client. This client file contains all information concerning eligibility and entitlement for the disability benefit program, including profiles, narratives, and medical information current at the time of the application.

The Ministry indicates that the appellant initially requested records under the Act in May 1997. In this request, the appellant requested his disability file as he was "appealing with Canada Pension disability Plan for year 1978...". The Ministry notes that although Ministry staff believed the request to be sufficiently clear, they sought clarification from the requester as to whether he wanted his complete file, or only those parts dealing with his medical records and Canada Pension Plan letters. The appellant responded with a second request in June 1997, in which he requested access to "a complete copy of my disability file".

At the same time the appellant filed an appeal with respect to his original request, and Appeal P_9700160 was opened.

The Ministry states that the appellant was given access to his complete disability file, consisting of 160 pages, in June 1997. The following month, the Ministry program supervisor had a discussion with the appellant about the file. At that time, the supervisor confirmed that the entire Family Benefits file had been copied and sent to him, and no other files or documents concerning him existed in the Ministry. As a result, the appellant closed his appeal.

However, in August 1997, the appellant requested that the appeal be reopened (which is the appeal currently under review). The Ministry indicates that its program supervisor subsequently met with the appellant and re-iterated his earlier assurances concerning the file. During this meeting, the appellant described the documents (doctors' letters) which he believed the Ministry had in its custody.

The Ministry states that the documents in question pre-date the appellant's 1988 application for disability benefits with the Ministry and would, therefore, not have been required or requested by the Ministry and are, in fact, not in the Ministry file. Based on the dates and content of these documents, the supervisor advised the appellant that he believed the records would more likely be with the Federal Government in the appellant's Canada Pension Plan files. He also assured the appellant again that he had received copies of every record that the Ministry had concerning him.

Following consideration of the Ministry's representations regarding the circumstances of this appeal, I am satisfied that the Ministry's search for responsive records was reasonable.

ORDER:

The Ministry's search for responsive records was reasonable and this appeal is dismissed.

Original signed by: _____
Laurel Cropley
Inquiry Officer

_____ October 2, 1997