

Information and Privacy Commissioner,  
Ontario, Canada



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

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## PHIPA DECISION 278

Complaint HA21-00136

Ministry of Health

April 30, 2025

**Summary:** Under the *Personal Health Information Protection Act*, the complainant made a request to the Ministry of Health for access to certain types of records of his personal health information. The ministry told the complainant that it could not find any records. The complainant alleged that the ministry had not properly interpreted the scope of his access request and also claimed that records must exist.

In this decision, the adjudicator finds that the ministry properly interpreted the scope of the complainant's access request and conducted a reasonable search for records of his personal health information. The adjudicator dismisses the complaint.

**Statutes Considered:** *Personal Health Information Protection Act, 2004*, S.O. 2004, c. 3; sections 53 and 54.

### BACKGROUND

[1] This decision considers the response of the Ministry of Health (the ministry) to an individual's request for access to records of his own personal health information under the *Personal Health Information Protection Act (PHIPA)*. The two issues to be resolved are: (1) whether the ministry properly interpreted the scope of the complainant's request for access; and (2) whether the ministry conducted a reasonable search for such records.

## **Access request**

[2] The complainant filed a request to the ministry under *PHIPA* for access to the following records of his personal health information:

[TRANSLATION]

Acute and Community Clinical Data Repository (acCCR): clinical reports, hospitalization summaries, and emergency services consultations and visits

Personal health information contained in the acCCR for the period indicated below: lifetime

Diagnostic Imaging Common Service (DICS): diagnostic imaging reports

Personal health information contained in the DICS for the period indicated below: lifetime

[3] The ministry confirmed receipt of the request in a letter, which stated that it needed information about the complainant's health card to search for records. The letter also stated that the ministry did not have access to electronic health records. In addition, if the complainant was seeking personal health information held by a doctor or hospital, he would have to submit a separate request to each office or facility, as each maintained its own records.

[4] The letter also stated that the ministry maintains the following information:

[TRANSLATION]

1. If an ambulance has been called for you, you can obtain a copy of the detailed call report (DCR) and the original sound recording (OSR) of that call.

2. Whether a complaint has been filed against a long-term care home where a person lives.

3. A call may have been made to Telehealth Ontario to obtain medical advice from a nurse about a health problem you may have had.

4. Test results in the Ontario Laboratories Information System (OLIS).

5. A list of prescription drugs if you receive government benefits or the Ontario Drug Benefit Program.

[5] The complainant then wrote the following email to the ministry:

[TRANSLATION]

I want you to get all the information you can get. I believe that you will be able to get information for items 4 and 5 (laboratory tests and list of medications from the Ministry of Social Services under the Ontario Disability Support Program [ODSP]).

[6] After further discussions with the complainant, the ministry clarified the access request as follows in a letter:

[TRANSLATION]

Electronic health record for the last 5 years . . .

Clarified . . .

I want you to get all the information you can get. I believe that you will be able to get information for items 4 and 5 (laboratory tests and list of medications from the Ministry of Social Services under the ODSP).

Corrected health insurance number provided . . .

[health insurance number]

### **Complaints/Review**

[7] The complainant filed a complaint with the Information and Privacy Commissioner of Ontario (IPC) in which he alleged that the ministry had requested a 30-day extension to respond to his request, but he had not received a response after this extension.

[8] The IPC opened a complaint file, but it was closed shortly afterwards because the ministry issued a decision. In its decision, the ministry informed the complainant that no responsive records had been found.

[9] The complainant then filed a new complaint with the IPC stating that responsive records should exist. Consequently, the issue that arose from the complaint was whether the ministry had conducted a reasonable search for records of the complainant's personal health information. The IPC assigned this complaint to a mediator, who attempted to resolve this issue with the parties.

[10] During mediation, the complainant alleged that the ministry had not responded to all parts of his request for access to his records of personal health information. Consequently, in addition to the issue of reasonable search, a second related issue that arose during mediation was whether the ministry had properly interpreted the scope of the complainant's access request.

[11] As there was no mediated settlement between the parties, the complaint was moved to the adjudication stage of the complaint process, where an adjudicator may

decide to conduct a review.

[12] The adjudicator initially assigned to this matter decided to conduct a review under *PHIPA* and sought and received representations from the ministry on the two issues to be resolved. She then sought representations from the complainant but did not receive a response.<sup>1</sup>

[13] This complaint was transferred to me to complete the review. After reviewing the file, I determined that I did not need to seek additional representations before issuing a decision.

[14] In this decision, I find that the ministry properly interpreted the scope of the complainant's request for access to records of his personal information under *PHIPA*. In addition, I find that the ministry conducted a reasonable search for such records.

## ISSUES

- A. Did the ministry properly interpret the scope of the complainant's request for access to records of his personal health information?
- B. Did the ministry conduct a reasonable search for records?

## DISCUSSION

### **Issue A: Did the ministry properly interpret the scope of the complainant's request for access to records of his personal health information?**

[15] In the Notice of Review that was sent to the parties, they were asked to respond to the following questions:

- What is the scope of the request?
- What records are responsive to the request?

[16] The answers to these questions lead to the initial issue that must be determined here, which is whether the ministry properly interpreted the scope of the complainant's request for access to records of his personal health information.

[17] Section 53 of *PHIPA* imposes certain obligations on requesters and health information custodians with regard to requests for access to records. It reads as follows:

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<sup>1</sup> An adjudication review officer then followed up with the complainant by email. The complainant responded to this email but did not submit representations.

1. An individual may exercise a right of access to a record of personal health information by making a written request for access to the health information custodian that has custody or control of the information.
2. The request must contain sufficient detail to enable the health information custodian to identify and locate the record with reasonable efforts.
3. If the request does not contain sufficient detail to enable the health information custodian to identify and locate the record with reasonable efforts, the custodian shall offer assistance to the person requesting access in reformulating the request to comply with subsection (2).

[18] Health information custodians should adopt a liberal interpretation of a request, in order to best serve the purpose and spirit of *PHIPA*. Generally, ambiguity in the request should be resolved in the requester's favour.<sup>2</sup>

### ***Analysis and findings***

[19] For the reasons that follow, I find that the ministry complied with its obligations under section 53(3) of *PHIPA* and properly interpreted the scope of the complainant's request for access to records of his personal health information held by the ministry.

[20] The complainant did not submit representations in this review. However, during mediation, he alleged that the ministry had not responded to all parts of his access request. In particular, he claimed that the ministry was failing to respond to his:

- initial request for records;
- request for a history of his reimbursement claims; and
- request for records from Telehealth.

[21] With respect to the complainant's allegation that the ministry was failing to respond to his initial access request, the ministry submits that the complainant did not dispute the substance of the letter that he received from the ministry that clarified the scope of his access request. The parties then relied upon the parameters set out in this letter in the discussions that took place before the IPC mediator.

[22] The ministry apologizes for failing to advise the complainant that he could request a copy of his electronic health record from Ontario Health, not the ministry. However, it submits that this error does not change the fact that the complainant did not dispute the information provided in the letter that he received from the ministry that clarified the scope of this access request, which the parties then relied upon when discussing the

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<sup>2</sup> Orders P-134 and P-880.

possible resolution of his complaint.

[23] With respect to the complainant's allegation that the ministry failed to respond to his request for a history of his reimbursement claims, the ministry provides an account of the efforts it made to help him obtain such information from its Claims Services Branch. However, these efforts failed because the address on his health care card did not match the address in the files of the Claims Services Branch, and the complainant did not change his address, despite the ministry's efforts to help him do that with Service Ontario.

[24] Finally, with respect to the complainant's allegation that the ministry failed to respond to his request for records of his personal health information from Telehealth, the ministry states that it informed him in writing that to locate such records, he needed to provide the ministry with the telephone number and address of the location from which each call was made, the date and time, and a brief description of the purpose of the call. However, the complainant did not provide the ministry with this information.

[25] It is evident from the evidence provided by the ministry that it made substantial efforts to clarify the scope of the complainant's access request and to assist him in obtaining access to those particular records of his personal health information held by the ministry. I do not have any evidence before me to rebut the ministry's evidence because the complainant did not submit representations in this review.

[26] In these circumstances, I find that the ministry complied with its obligations under section 53(3) of *PHIPA* and properly interpreted the scope of the complainant's access request.

### **Issue B: Did the ministry conduct a reasonable search for records?**

[27] In his complaint letter and during the review process, the complainant claimed that the ministry had not located all records of his personal health information that are responsive to his access request.

[28] Where a requester claims that additional records exist beyond those identified by a custodian, the issue to be decided is whether the custodian has conducted a reasonable search for records as required by sections 53 and 54 of *PHIPA*. If I am satisfied that the search carried out was reasonable in the circumstances, the custodian's decision will be upheld. If I am not satisfied, I may order further searches.

[29] *PHIPA* does not require the custodian to prove with absolute certainty that further records do not exist. However, the custodian must provide sufficient evidence to show that it has made a reasonable effort to identify and locate responsive records.<sup>3</sup> To be responsive, a record must be "reasonably related" to the request.<sup>4</sup>

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<sup>3</sup> Orders P-624; PO-2559.

<sup>4</sup> Order PO-2554.

[30] A reasonable search is one in which an experienced employee knowledgeable in the subject matter of the request expends a reasonable effort to locate records which are reasonably related to the request.<sup>5</sup>

[31] A further search will be ordered if the custodian does not provide sufficient evidence to demonstrate that it has made a reasonable effort to identify and locate all of the responsive records within its custody or control.<sup>6</sup>

### ***Analysis and findings***

[32] For the reasons that follow, I find that the ministry conducted a reasonable search for records of the complainant's personal health information.

[33] The ministry submits that it made substantial efforts to locate records of the complainant's personal health information and provided sworn affidavits from the following two employees that describe the searches that they conducted for such records:

- Data coordinator in the Health Programs and Delivery Division of the Drug Programs Policy and Strategy Branch; and
- Information management policy analyst in the Digital and Analytics Strategy Division of the Information Management Strategy and Policy Branch.

[34] The coordinator describes the three searches that he conducted for records of the complainant's personal health information in the ministry's Health Network System (HNS). The HNS contains electronic records of drug claims submitted by pharmacies. Individuals who have prescription drug coverage through one of Ontario's drug programs have their claims recorded in the HNS.

[35] The coordinator states that the initial two searches were hampered because the complainant provided an inaccurate health card number. The complainant eventually provided an accurate health card number, but the third search conducted by the coordinator did not locate any of his claims for reimbursements.

[36] The analyst describes the three searches that she conducted for records of the complainant's personal health information in the ministry's Ontario Laboratories Information System (OLIS). OLIS is the database containing laboratory orders and results from hospitals, community laboratories and public health laboratories.

[37] As with the coordinator, the analyst's searches were hampered by an inaccurate health card number, but once an accurate one and other data were provided by the complainant, she located records of his personal health information in OLIS that were

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<sup>5</sup> Orders M-909; PO-2469; PO-2592.

<sup>6</sup> Order MO-2185.

disclosed to him. She states that no further records were located.

[38] Based on this evidence, I am satisfied that the ministry made reasonable efforts to locate records of the complainant's personal health information. The coordinator and analyst are both experienced ministry employees who are knowledgeable about the types of records of personal health information sought by the complainant, and they both searched relevant databases for such records.

[39] Although a requester will rarely be in a position to indicate precisely which records the custodian has not identified, the requester still must provide a reasonable basis for concluding that such records exist.<sup>7</sup> The complainant did not submit any representations in this review, which means that I have no evidence before me to substantiate his belief that further records of his personal health information must exist in the ministry's record holdings.

[40] In these circumstances, I find that the ministry conducted a reasonable search for records of the complainant's personal health information.

## **NO ORDER:**

For the foregoing reasons, no order is issued. The complaint is dismissed.

Original Signed by: \_\_\_\_\_  
Colin Bhattacharjee  
Adjudicator

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April 30, 2025

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<sup>7</sup> Order MO-2246.