

Information and Privacy Commissioner,
Ontario, Canada



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

PHIPA DECISION 301

Complaint HA25-00167

Village Green - Omni Quality Living

September 11, 2025

Summary: On April 7, 2025, an individual, acting as their parent's power of attorney, requested access to their parent's personal health information from Village Green – Omni Quality Living. The custodian stated they would only provide the records if the individual first met with them in person. The individual filed a complaint because the custodian refused to respond to the request within the prescribed time limit without conditions. The decision-maker finds that the custodian is deemed to have refused the request under section 54(7) of the *Act*. The custodian is ordered to respond to the individual's access request without conditions.

Statutes Considered: *Personal Health Information Protection Act, 2004*, as amended, sections 54(2) and 54(7).

BACKGROUND:

[1] On April 7, 2025, an individual (the complainant), acting as their parent's power of attorney, requested access to their parent's personal health information from Village Green – Omni Quality Living (the custodian) under the *Personal Health Information Protection Act, 2004* (the *Act*), as follows:

My [parent's] ...personal health information as [their] POA. I am requesting these records to understand [their] care at Village Green [Omni Quality Living], following incidents on [two specific dates], and [the custodian's] April 3 response to my complaint...

[2] On May 7, 2025, the complainant filed a complaint with the Information and Privacy Commissioner of Ontario (IPC) because the custodian did not respond to the access request within 30 days without conditions. File HA25-00167 was opened.

[3] On July 28, 2025, the IPC asked the custodian if a final decision had been issued.

[4] On July 31, 2025, the custodian responded saying it would release the requested personal health information records only after an in-person meeting with its medical director and director of care in accordance with its internal policy.

[5] On August 1, 2025, the IPC contacted the complainant, who confirmed that they wanted to receive the records before meeting with the custodian. The complainant said that she had a right to the records under section 54(1)(a) of the *Act*. The IPC informed the custodian and asked it to release the records by August 8, 2025.

[6] On August 5, 2025, the custodian advised that it would not release the records until an in-person meeting was held as per its internal policy.

[7] On August 13, 2025, I decided to conduct an expedited review and issued a Notice of Expedited Review, encouraging the custodian to respond to the request by releasing the records without conditions.

[8] On August 15, 2025, the custodian issued a decision agreeing to release the records but only with conditions, stating "our policy requires that a meeting be arranged to review the materials in person. This approach ensures that we can provide necessary context, clarify any elements of the documentation, and address any questions or concerns you may have."

[9] On August 18, 2025, I explained to the custodian that its policy does not comply with the *Act*. I again asked the custodian to respond to the request by releasing the records without conditions. I explained that I would proceed to a public decision should the custodian not comply with the *Act* by August 28, 2025.

[10] On August 28, 2025, the custodian contacted me repeating its policy that records would only be released after an in-person meeting. I informed the custodian that I would be moving forward with a decision.

[11] Considering the above and to avoid further delays in processing this request, I will order the custodian to respond to the complainant's access request without conditions, as required by the *Act*.

DISCUSSION:

Preliminary Issues:

[12] Based on the information before me in this complaint, I am satisfied that:

- the requested records contain “personal health information”, as defined in sections 2 and 4 of the *Act*¹; and
- the custodian is a health information custodian as defined in paragraph 4 of section 3(1) of the *Act*.²

Issue: Is the custodian in a deemed refusal situation pursuant to section 54(7) of the *Act*?

[13] Under section 54(8) of the *Act*, if a health information custodian refuses or is deemed to have refused an access request, the burden of proof in respect of the refusal lies on the health information custodian.

[14] Section 54(2) of the *Act* outlines the time parameters for a custodian to respond to an access request:

(2) Subject to subsection (3), the health information custodian shall give the response required by clause (1) (a), (b), (c) or (d) as soon as possible in the circumstances but no later than 30 days after receiving the request.

[15] Section 54(7) of the *Act* outlines the circumstances that give rise to a deemed refusal:

(7) If the health information custodian does not respond to the request within the time limit or before the extension, if any, expires, the custodian shall be deemed to have refused the individual’s request for access.

[16] The complainant has requested access to their parent’s personal health information as their parent’s power of attorney. While the custodian has provided a response, its response is not in accordance with section 54(1) of the *Act*. The custodian has responded that it will only provide the complainant with a copy of the requested personal health information after an in-person meeting with the custodian. I note that there is no provision under the *Act* that would permit the custodian to withhold records

¹ Personal health information is defined as identifying information about an individual if the information relates to physical or mental health of the individual or to the providing of health care to the individual under sections 4(1)(a) and (b) of the *Act*.

² *Health information custodian* is defined as a person who operates a long-term care home within the meaning of the *Fixing Long-Term Care Act, 2021*, a placement co-ordinator described in subsection 47(1) of that Act, or a care home within the meaning of the *Residential Tenancies Act, 2006*.

from the complainant until the complainant meets with the custodian in-person.³ While the custodian has an internal policy requiring an in-person meeting, it is important to ensure that any policy related to the release of personal health information is in accordance with the *Act*.

[17] As of today, the custodian has not responded to the complainant's access request despite filing a complaint with the IPC, and my decision to conduct an expedited review and issue a Notice of Expedited Review encouraging it to do so by August 28, 2025.

[18] Therefore, I find the custodian to be in a deemed refusal situation under section 57(4) of the *Act*.

[19] To ensure that there are no further delays, I will order the custodian to respond to the complainant's access request in accordance with the *Act*, without the requirement of an in-person meeting, by releasing the requested personal health information records to the complainant.

ORDER:

Pursuant to section 61(1) of the *Act*:

[20] I order the custodian to respond to the complainant's access request without conditions by releasing the requested personal health information records to the complainant in accordance with the *Act* and without recourse to a time extension, by **September 25, 2025**.

1. To verify compliance, the custodian shall provide me by email with a copy of the response referred to in provision 1 by **September 25, 2025**.

Original Signed by: _____

Kelley Sherwood

Case Lead, Expedited Appeals

September 11, 2025

³ A health information custodian may withhold access to an individual's personal health information, for example, if it is applying an exemption under section 54(3) the *Act* or challenging the complainant's authority to obtain personal health information records. In the current circumstances, the custodian has not indicated that it is applying an exemption or challenging the complainant's authority under the *Act*.