

Information and Privacy Commissioner,
Ontario, Canada



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

PHIPA DECISION 313

Appeal HA25-00204

Family Medicine and Drop-In Clinic

November 27, 2025

Summary: The complainant asked Family Medicine and Drop-In Clinic for their personal health records. The custodian issued a \$120 fee invoice for 15 pages of records. The complainant paid the fee to obtain the records and then requested a review of the fee. In this decision, the decision-maker does not uphold the fee and finds that it should be \$30. They order the custodian to provide the complainant with a refund of \$90.

Statutes Considered: *Personal Health Information Protection Act, 2004*, as amended, sections 54(10) and 54(11).

Orders/Decisions Considered: Orders HO-009, HO-014; PHIPA Decisions 17 and 111.

OVERVIEW:

[1] The complainant (through their representative) asked Family Medicine and Drop-In Clinic (the custodian)¹ for access under *the Personal Health Information Protection Act, 2004* (the *Act* or PHIPA) to their personal health records.

[2] The custodian issued a fee invoice for \$120.

[3] The complainant paid the fee to obtain the records and subsequently received 15 pages of records.

¹ The clinic is no longer operational, and all correspondence was directly with the physician.

[4] The complainant asked the Information and Privacy Commissioner of Ontario (IPC) to review the fee.

[5] I provided the custodian with guidance on fees under the *Act*. The custodian was asked to confirm the total number of pages for this request, provide a breakdown of the fee, and whether it would revise its fee based on the guidance.

[6] The custodian responded without addressing the specific questions. Attempts to resolve this matter informally were unsuccessful.

[7] I decided to conduct a review and issued a Notice of Expedited Review, requesting representations from the custodian.

[8] The custodian responded but did not directly address the questions set out in the notice. I determined that I did not need representations from the complainant.

[9] In this decision, I do not uphold the custodian's fee and find that it should be \$30. I order the custodian to provide the complainant with a refund of \$90.

DISCUSSION:

Preliminary issues

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

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

Issue: Should the custodian's fee for the records be upheld?

[11] The *Act* contains provisions about the payment of fees by a requester. Sections 54(10) and (11) of the *Act* allow a health information custodian to charge a fee for access, after giving an estimate. These sections state:

54(10) A health information custodian that makes a record of personal health information or a part of it available to an individual under this Part or provides a copy of it to an individual under clause (1) (a) may charge the

² *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*.

³ *Health information custodian* is defined as a health care practitioner or a person who operates a group practice of health care practitioners.

individual a fee for that purpose if the custodian first gives the individual an estimate of the fee.

54(11) The amount of the fee shall not exceed the prescribed amount or the amount of reasonable cost recovery, if no amount is prescribed.⁴

[12] The issue of the validity of a fee charged under the *Act* is reviewed in PHIPA Decision 17. That decision held that the fee provisions at sections 54(10) and (11) of the *Act* are discretionary and they “confer a discretion on the [custodian] to charge an individual who requests access to records of [their] own personal health information a fee for access that cannot exceed the ‘prescribed amount,’ if one exists, or the ‘amount of reasonable cost recovery.’”

[13] As there are currently no prescribed fee amounts under the *Act*, in this review, I must determine whether the fee charged by the custodian exceeds the “amount of reasonable cost recovery” as contemplated by section 54(11) of the *Act*. The “amount of reasonable cost recovery” is not defined in the *Act*. However, the IPC has previously considered the meaning of this phrase for the purposes of the fee provisions in the *Act*.⁵ Applying the purposive approach to statutory interpretation, the IPC has concluded that the phrase “reasonable cost recovery” in the *Act* does not mean “actual cost recovery”, or full recovery of all the costs borne by a custodian in fulfilling a request for access to an individual’s own personal health information. The IPC has also concluded that the use of the word “reasonably” to describe cost recovery suggests that costs should not be excessive, and that, as a whole, section 54(11) must be interpreted in a manner that avoids creating a financial barrier to the important purpose of the *Act* - to grant a right of access to one’s own personal health information.

[14] These past IPC orders/decisions concluded that a fee scheme set out in a proposed regulation to the *Act*, published by the Minister of Health and Long-Term Care in 2006 (the 2006 framework),⁶ though never adopted, provides the best framework for determining the amount of “reasonable cost recovery” under the *Act*. The 2006 framework adopted in those orders/decisions and in this review reads as follows:

25.1(1) For the purposes of subsection 54(11) of the *Act*, the amount of the fee that may be charged to an individual shall not exceed \$30 for any or all of the following:

1. Receipt and clarification, if necessary, of a request for a record.
2. Providing an estimate of the fee that will be payable under subsection 54(1) of *PHIPA* in connection with the request.

⁴ As of the date of this decision, there is no PHIPA regulation that prescribes fees for access.

⁵ Orders HO-009, HO-014 and PHIPA Decision 17.

⁶ [Notice of Proposed Regulation under PHIPA](#), published in *Ontario Gazette* Vol 139-10 (11 March 2006).

3. Locating and retrieving the record.
4. Review of the contents of the record for not more than 15 minutes by the health information custodian or an agent of the custodian to determine if the record contains personal health information to which access may be refused.
5. Preparation of a response letter to the individual.
6. Preparation of the record for photocopying, printing or electronic transfer.
7. Photocopying the record to a maximum of the first 20 pages or printing the record, if it is stored in electronic form, to a maximum of the first 20 pages, excluding the printing of photographs from photographs stored in electronic form.
8. Packaging of the photocopied or printed copy of the record for shipping or faxing.
9. If the record is stored in electronic form, electronically transmitting a copy of the electronic record instead of printing a copy of the record and shipping or faxing the printed copy.
10. The cost of faxing a copy of the record to a fax number in Ontario or mailing a copy of the record by ordinary mail to an address in Canada.
11. Supervising the individual's examination of the original record for not more than 15 minutes.

(2) In addition to the fee charged under subsection (1), fees for the services set out in Column 1 of Table 1⁷ shall not, for the purposes of subsection 54(11) of *PHIPA*, exceed the amounts set out opposite the service in Column 2 of the Table.

Application of the 2006 framework and the \$30 set fee

[15] In applying the 2006 framework, a custodian must first consider the set fee of \$30 set out in section 25.1(1) of the 2006 framework. Included in the \$30 charge are fees for several listed administrative tasks involved in processing the request, such as the first 15 minutes of review by a custodian to determine if the record contains personal health information to which access may be refused, and photocopying or printing of the first 20 pages of the responsive records. It also includes costs incurred for packaging the

⁷ See appendix.

photocopied or printed copy of the record for shipping and for mailing a copy of the record by ordinary mail to an address in Canada.

[16] Section 25.1(2) of the 2006 framework references Table 1 which, as previously indicated, sets out fees that a custodian is permitted to charge, over and above the set \$30 fee, for several defined tasks. These include fees for making the records available to the requester on various mediums and fees for review.

Reasonable cost recovery for photocopying the records

[17] As set out in the 2006 framework, the fee for photocopying the first 20 pages of the complainant's records of personal health information is accounted for in the \$30 set fee. Under Item 1 of Table 1 of the 2006 framework, a custodian is permitted to charge \$0.25 per page for photocopying beyond those first 20 pages.

Reasonable cost recovery for reviewing the records

[18] Under Item 12 of Table 1 of the 2006 framework, a custodian is entitled to charge \$45 for every 15 minutes of review after the first 15 minutes, which is accounted for in the set fee of \$30.

[19] Not every type of record containing personal health information subject to *PHIPA* requires the same amount of time for review. For records with standard, predictable content requiring only a straightforward review, a review time of five seconds per page has been determined to be appropriate.⁸ For other records, which by their nature may contain information to which access may be refused and require a more detailed and lengthy review, a review time of two minutes per page has been determined to be appropriate.⁹

Custodian's representations

[20] During initial discussions, the custodian submitted that the \$120 fee is reasonable. The custodian stated that it costs \$200 per month to store the records, they drove a total of approximately two hours to retrieve the records, as well as spent two hours scanning and sending the records, which all incurred costs.

[21] In response to the Notice of Expedited Review,¹⁰ the custodian reiterated that it must retrieve records from storage, review the records, and scan the records to the complainant, which took several hours. The custodian stated that the fee is reasonable because it helps support the costs for holding, scanning, and sending records. They indicated that they would not be cooperating further.

⁸ PHIPA Decision 111.

⁹ PHIPA Decision 111.

¹⁰ While I have reviewed the representations in full, only the relevant portions are summarized here.

Analysis and findings

[22] I do not uphold the custodian's fee of \$120. I find that the total fee should be \$30.

[23] As noted above, previous IPC orders/decisions have held that the 2006 framework provides the best method for determining the amount of "reasonable cost recovery" under the *Act*. The 2006 framework allows custodians to charge a set fee of \$30 for various administrative tasks involved in processing requests. This includes locating and retrieving the records and preparing a response and/or the records. As a result, any administrative tasks that are set out in the 2006 framework are to be included in the set fee of \$30 and not added as additional costs.

[24] The custodian is charging the complainant \$120 for 15 pages of records. These 15 pages fall within the first 20 pages set out in the \$30 set fee and no additional fees regarding making and/or providing copies of the records should apply.

[25] Despite the custodian's claim that it may charge for certain administrative tasks, locating, retrieving, preparing, and/or photocopying 15 pages of records falls within the \$30 set fee. As a result, no additional fees should be accrued for these activities. In addition, it would be inappropriate for the complainant to be expected to support the cost to hold the custodian's records in storage.¹¹

[26] The custodian has not provided me with any details about the nature of the 15 pages of records or the nature of its review of the records. Accordingly, I have no evidence before me that the requested records require anything more than a straightforward review beyond the initial 15 minutes.

[27] Based on the above and the 2006 framework, I find that the custodian's fee exceeds the amount of reasonable cost recovery under the *Act* and that the total fee should be \$30. I will order the custodian to provide the complainant with a refund of \$90.

ORDER:

For the foregoing reasons, pursuant to section 61(1) of the *Act*:

1. I do not uphold the custodian's fee of \$120 and find that it should be \$30.
2. I order the custodian to provide the complainant (through their representative) with a refund for \$90 by **December 11, 2025**.
3. To verify compliance, the custodian shall provide me with documentation by email to confirm that the refund has been issued by **December 11, 2025**.

¹¹ As per the [Notice of Proposed Regulation under PHIPA](#), locating and retrieving a record are not grounds to exceed the \$30 set fee.

Original Signed by: _____
Michael Cusato
Case Lead

November 27, 2025

APPENDIX

TABLE 1

ITEM	COLUMN 1	COLUMN 2
1.	For making and providing photocopies or computer printouts of a record	25 cents for each page after the first 20 pages
2.	For making and providing a paper copy of a record from microfilm or microfiche	50 cents per page
3.	For making and providing a floppy disk or a compact disk containing a copy of a record stored in electronic form	\$10
4.	For making and providing a microfiche copy of a record stored on microfiche	50 cents per sheet
5.	For making an providing a copy of a microfilm of a record stored on microfilm that is,	
	i. 16mm	\$25 per reel
	ii. 35mm	\$32 per reel
6.	For printing a photograph from a negative or from a photograph stored in electronic form, per print,	
	i. measuring 4" x 5"	\$10
	ii. measuring 5" x 7"	\$13
	iii. measuring 8" x 10"	\$19
	iv. measuring 11" x 20"	\$26
7.	For making and providing a copy of a 35mm slide	\$2
8.	For making and providing a copy of an audio cassette	\$5
9.	For making ad providing a copy of a 1/4", 1/2", or 8mm video cassette,	
	i. that is one hour or less in length	\$20

	ii. that is more than one hour but not more than two hours in length	\$25
10.	For making and providing a copy of a 3/4" video cassette,	
	i. that is not more than 30 minutes in length	\$18
	ii. that is more than 30 minutes in length	\$23
11.	For producing a record stored on medical film, including x-ray, CT and MRI films	\$5 per film
12.	For the review by a health information custodian or an agent of the custodian of the contents of a record to determine if the record contains personal health information to which access or disclosure may or shall be refused	\$45 for every 15 minutes after the first 15 minutes
13.	For supervising examination of original records	\$6.75 for every 15 minutes