

**THE NOVA SCOTIA FREEDOM OF INFORMATION AND
PROTECTION OF PRIVACY ACT**

A REQUEST FOR REVIEW of a decision of the **DEPARTMENT OF HEALTH** with respect to an application for access to personal health records.

REVIEW OFFICER: Darce Fardy

DATE: August 12, 2002

ISSUE: Whether the requested documents are in the custody or under the control of the Department of Health.

In a Request for Review dated July 9, 2002, the Applicant asked that I review a decision of the Department of Health (the Department) to deny access to her medical records because they are not in its custody or under its control.

The Applicant had asked the Department to provide her with medical records which she says she was refused by her family doctor, the QEII Hospital and the Dartmouth General Hospital. The Application is a result of her concern that the Medical Services Insurance (MSI) is being billed for treatments she has not received.

The Department replied that it does not have individuals' medical records in its files. The Applicant was told the Department does not have custody or control of her documents.

Conclusions:

Section 5(1) gives an individual the right of access to any record "in the custody or under the control of a public body." If a public body believes the documents sought are in the

custody and under the control of another public body it may transfer the application. In this case the Department did not transfer the Application but directed the Applicant to seek her records at two other “public bodies”, the QEII and Dartmouth General hospitals. (The Applicant also believes that complaints she made led to an investigation at the QEII. She said she was refused a copy of it. The Department suggested she might also contact the College of Physicians and Surgeons.)

MSI provided the Applicant with a copy of her billing records which include the name of the physician, the date of the visit to the physician and the diagnosis of the patient’s condition. MSI is not provided with a patient’s medical records. It does not have custody or control of individuals’ medical records.

I have concluded that the Department of Health met its obligations under the **Act** when it directed the patient to her doctor and the two hospitals. I am satisfied that the records she wants are not in the files of the Department or MSI.

Recommendation:

That the Applicant follow the suggestion of the Department. If she feels it necessary she may make an Application for Access, under this **Act**, to the two hospitals which are subject to it.

DATED this 12th day of August, 2002, in Halifax, Nova Scotia

Darce Fardy, Review Officer

