

ALBERTA

**OFFICE OF THE INFORMATION AND PRIVACY
COMMISSIONER**

ORDER H2016-04

April 21, 2016

DR. ADELEYE ADEBAYO

Case File Number 000546

Office URL: www.oipc.ab.ca

Summary: An individual made an access request to Dr. Adeleye Adebayo (the Custodian) under the *Health Information Act* (HIA) for his health information, specifically his medical file. The Custodian did not respond to the Applicant within the time limits set out in section 12 of the Act. The Adjudicator ordered the Custodian to respond to the Applicant.

Statutes Cited: **AB:** *Health Information Act*, R.S.A. 2000, c. H-5, ss. 12, 80.

I. BACKGROUND

[para 1] An individual made an access request dated November 6, 2014 under the *Health Information Act* (HIA) for his medical file, including all notes, test results, scans and images. The Applicant states that he was told by the Custodian on November 17, 2014, via voicemail that a copy of the requested information would be sent to him. However, the Applicant states that he has not yet received a copy of his medical file. He therefore requested a review by the Commissioner of the Custodian's lack of response. In order to ensure a timely response to the access request, the Applicant's request for review proceeded directly to inquiry.

II. RECORDS AT ISSUE

[para 2] As the issue in this inquiry relates to the timeliness of the Custodian's response, there are no records at issue.

III. ISSUE

[para 3] The issue in this inquiry, as set out in the Notice of Inquiry dated March 23, 2016, is:

Did the Custodian comply with section 12 of the Act (time limit for responding)?

IV. DISCUSSION OF ISSUE

[para 4] Section 12 of HIA states in part:

12(1) A custodian must make every reasonable effort to respond to a request under section 8(1) within 30 days after receiving the request or within any extended period under section 15.

...

(3) The failure of the custodian to respond to a request under section 8(1) within the 30-day period or any extended period referred to in subsection (1) is to be treated as a decision to refuse access to the record.

[para 5] In the Notice of Inquiry, the Custodian was given until April 15, 2016, to provide a submission regarding the issue in the Notice. I did not receive a submission from the Custodian; therefore, the only information I have is from the Applicant.

[para 6] The Applicant states that he had several communications with the Custodian's office staff regarding obtaining a copy of his medical file, beginning in August 2014. He made a formal request under HIA in November 2014. He called the Custodian's office several times between November and December 2014, leaving messages. The Applicant states that on February 20, 2015 he spoke with a member of the Custodian's staff, who acknowledged receipt of his request but refused to send him the requested records. The Applicant states that this staff member called him again that day to inform him that another staff member said that the Applicant had been given his records via email and that he had confirmed receipt of that email. The Applicant disputes that claim.

[para 7] As I have not received any information from the Custodian, I have only the Applicant's version of events, which indicate that the Custodian received the Applicant's request for his health information but failed to provide him with a response as required by that Act.

[para 8] The time limit for responding to an access request set out in section 12 of the Act is mandatory; in this case, all evidence before me indicates that the Custodian failed to meet this time limit.

V. ORDER

[para 9] I make this Order under section 80 of the Act.

[para 10] I find that the Custodian did not respond to the Applicant within the time limit set out in section 12 of the Act. While it is too late for the Custodian to now comply with that section of the Act, I order the Custodian to respond to the Applicant in accordance with the Custodian's remaining duties under the Act.

[para 11] I order the Custodian to notify me in writing, within 50 days of being given a copy of this Order, that it has complied with it.

Amanda Swanek
Adjudicator