

# Manitoba Ombudsman

## REPORT UNDER

### *THE PERSONAL HEALTH INFORMATION ACT*

CASE 2014-0153

ST. BONIFACE GENERAL HOSPITAL

ACCESS COMPLAINT: FEES

PROVISION CONSIDERED: SECTION 10

REPORT ISSUED ON JULY 4, 2014

**SUMMARY:** The complainant requested access to her personal health information maintained by St. Boniface General Hospital. The complainant was charged a fee, which she alleged was unreasonable, for accessing her information. The ombudsman found that the fee that had been charged was reasonable in the circumstances.

## THE COMPLAINT

Under *The Personal Health Information Act* (PHIA) the complainant requested access to her personal health information maintained in the electronic patient record at St. Boniface General Hospital (the trustee). The trustee assessed a fee of \$25.00 to the complainant to process her request for access. The fee was paid on March 11, 2014 and a complaint about the fee was received by the ombudsman on March 28, 2014. The complainant alleged the fee charged to access her electronic patient record and obtain a copy of a one page record was unreasonable.

## POSITION OF ST. BONIFACE GENERAL HOSPITAL

The trustee advised that it had followed paragraph 3.6 of the Winnipeg Regional Health Authority (WRHA) policy entitled *Access to Personal Health Information* and the WRHA *Acute, Long Term & Community Care Sites Fee Schedule for Patient Information* (first established in April of 2001 and revised on December 29, 2011) in assessing a fee for processing the complainant's request for access to her personal health information. The trustee indicated that the base fee for processing the complainant's request for access under PHIA was \$25.00 as per part 6 (a) of the WRHA fee schedule and that copy fees of \$0.50 per page could have also been charged in addition to this amount.

During the investigation of this complaint, the trustee further advised that it does not assign fees on a case specific basis and that it is required to follow the WRHA fee schedule which was

developed to “promote the consistent application of patient information fees”. The trustee indicated that its only other option was to waive the fee. The trustee indicated that it had offered to waive the fee in this case, but the complainant refused the offer. The trustee further advised that it had nevertheless cancelled the fee charged and indicated that, as a result, the complainant did not actually incur a fee for access.

## **ANALYSIS OF ISSUES AND FINDINGS**

Pursuant to PHIA a trustee may charge fees for providing access to personal health information. Section 10 of PHIA provides as follows:

### ***Fees***

**10** *A trustee may charge a reasonable fee for permitting examination of personal health information and providing a copy, but the fee must not exceed the amount provided for in the regulations.*

Although provisions concerning access fees could be included in the regulation under PHIA, the *Personal Health Information Regulation* currently in effect does not contain any provisions with respect to fees for access. As a result, our office must consider whether a fee charged by a trustee is reasonable in the circumstances of the particular access request.

When considering the reasonableness of a trustee’s decision with respect to fees for access, our office takes into consideration the guidelines and/or policies used by the trustee in determining the fee. In this case, the trustee advised that it followed the WRHA policy and fee schedule for providing a patient with access under PHIA. The trustee assessed the base fee which is applicable to all requests for access to information by a patient. Although provided for in the fee schedule, the trustee did not assess copying charges in this case.

The trustee further advised that the base administrative fee is utilized to offset the costs of administration and staff time associated with processing access requests. The policy ensures that the fees assessed are consistent and predictable regardless of where an individual receives care in the Winnipeg health region.

Based upon our investigation and in the absence of any regulation, our office is of the view that it was reasonable for the trustee to employ the policy and fee schedule developed by the WRHA to assess fees for access to information under PHIA. Having considered all of the relevant factors involved in processing the within request for access, the ombudsman found that the \$25.00 fee that had been charged by the trustee was reasonable in the circumstances.

## **CONCLUSION**

In view of the ombudsman’s finding, the within complaint is not supported.

July 4, 2014  
Manitoba Ombudsman