

**REPORT WITH RESPECT TO THE APPLICATION
FOR REVIEW OF [REDACTED] IN RELATION TO INFORMATION
REQUESTED FROM SASKATCHEWAN GOVERNMENT INSURANCE**

[1] By letter dated August 9, 2002 [REDACTED] (the “Applicant”) filed an Access to Information Request Form with Saskatchewan Government Insurance (the “Respondent”). The said letter stated in part as follows:

“Further to my letter dated July 17, 2002 complete with my application for review, I am writing this letter requesting you assistance to obtain copies of all information regarding myself from my file or files from SGI, under the freedom of information act, (completed form attached) as I require this for my appeal.

This should include the total file or files of any and all forms of communications, (such as, handwritten notes, memos, hand or type written correspondence, computer files, audio and/or videotapes including phone calls and office visits, x-rays, photographs, etc.)

These would be between, SGI (several adjusters) & Wascana Rehabilitation Centre, Wascana Rehabilitation Centre and SGI, Wascana/SGI & others including practitioners, consultants, SGI staff or anyone addressing, commenting or contributing to my case and file of files in any manor [sic].

In addition, I am specifically asking for copies of [REDACTED] request or requests to [REDACTED] & [REDACTED] for their review and input. [REDACTED] denied my written requests dated March 31, 1999 and April 25, 1999 in her letter to me dated May 5, 1999 (see attached copies).

Also, I am requesting certified assurance that nothing has been removed or excluded, and all or any relevant information be included.”

[2] Prior to receiving a response from the Respondent to his Access to Information request, the Applicant forwarded to me a Request for Review which I received on October 2, 2002. On the same date I wrote the following letter to the Respondent:

"I have received a Request for Review from [REDACTED] and enclose herewith a copy of same.

Also enclosed is a copy of the Applicant's Access to Information Request Form which was forwarded to SGI on August 9th.

I am also enclosing a copy of his covering letter of August 9th to the South Injury Claims Department together with a copy of his letter to me dated September 25, 2002 which the Request for Review form was attached.

As you are aware the request form for access to information should have been responded to within 30 days of the date of receipt of same. I would accordingly ask that you forward a response to the Applicant with a copy to myself indicating whether or not you are prepared to release the requested information and if not, your reasons for so doing.

I will then determine whether or not a review is warranted.

In view of the delay occasioned herein I would appreciate your response being expedited.

This request is made pursuant to the provisions of *The Freedom of Information and Protection of Privacy Act*."

[3] The Respondent replied to the Applicant's request by letter dated October 4, 2002 which states:

"October 4, 2002

[REDACTED]

Dear Sir:

Re: Application No. [REDACTED]

Your application under *The Freedom of Information and Protection of Privacy Act* ("FOI Act") asks for copies of all documents from your Injury File No. [REDACTED]

In accordance with section 8 of the FOI Act, some of the information has been withheld (including information that has been severed in some of the documents enclosed) because it would disclose consultations or deliberations involving employees of SGI. Information that would disclose consultations or deliberations involving employees of a government institution is exempt from disclosure. This exemption is provided for in section 17(1)(b)(i) of the FOI Act.

Copies of documents cleared for disclosure are enclosed.

If you wish to have this decision reviewed, you may do so within one year of this notice. To request a review you must complete a "Request for Review" form which is available at the same location where you applied for access. Your Request for Review should be directed to:

Richard P. Rendek, Q.C.
Acting Information and Privacy Commissioner
208 – 2208 Scarth Street
Regina, Saskatchewan
S4P 2J6.

Further correspondence on this application should be directed to me at SGI, Legal Department, 14th Floor, 2260 – 11th Avenue, Regina, Saskatchewan, S4P 0J9, Telephone: (306) 751-1221.

Yours truly,
K.A. Lerner
Access Officer
Freedom of Information
SGI"

[4] The Respondent further wrote to the Applicant on October 9, 2002 and forwarded a copy of this letter to me, which letter reads in part as follows:

"I received your injury file material on September 30. Following my review of the file documents, I mailed the documents to you under letter dated October 4. Some of the information on your injury file has been withheld in accordance with section 17(1)(b)(i) of the Act. Please note that if you disagree with my decision to withhold the information, you have until October 4, 2003 to request a review of my decision by Mr. Rendek."

[5] I then wrote the Applicant on October 15, 2002 the following letter:

"Further to our previous correspondence I have now received a copy of a letter from Mr. Lerner of SGI to yourself dated October 9, 2002.

This letter indicates that in a letter dated October 4, 2002 Mr. Lerner mailed to you the documentation which you requested other than documentation that was withheld in accordance with Section 17(1)(b)(i) of *The Freedom of Information and Protection of Privacy Act*. This Section provides that information that would disclose consultations or deliberations involving officers or employees of SGI are exempt from production. If the documents that were withheld do in fact constitute such consultations or deliberations then they are exempt.

In light of the above I would appreciate your advising whether or not you wish me to proceed with my review to examine the documents in question and determine whether or not they are subject to disclosure.

I shall await to hear from you in this connection."

[6] The Applicant responded to my letter on October 26, 2002 as follows:

"Thank you for your prompt reply, dated October 15, 2002.

In my letter dated September 25, 2002 to you, I requested your review and examination of the documents in question denied as per [REDACTED] letter to me dated May 5, 1999. These were only two that I picked up on, but now in view of Mr. Lerner's letter dated October 4, it is clear there are other documents also withheld.

In response to your question, and in view of the above, I believe and request that all forms for communication of any kind on my file that have been withheld should be made available for disclosure to you. It is clear from Mr. Lerner's October 4, 2002, letter that there is more than to [sic] the two letters I picked up on. I would therefore wish that you would proceed and request all documents not disclosed to me be made available to you for review to examination.

I look forward to your assistance and your earliest reply."

[7] On November 6, 2002 I forwarded a copy of the Applicant's letter of October 26, 2002 to the Respondent requesting his comments with respect to same as a result of which I received a letter from the Respondent dated November 14, 2002 which states:

"Thank you for your letter of November 6, 2002 with a copy of [REDACTED] letter to you of October 6, 2002 attached.

I am not sure what documents [REDACTED] enclosed with and what documents she withheld from her letter of May 5, 1999 to [REDACTED]. I however enclosed copies of all file documents to [REDACTED] with my letter to him of October 4, 2002 with the exception of the copies of the documents I am disclosing herewith.

I have enclosed the withheld documents on the assumption that you are prepared to accept [REDACTED] October 26th letter as his request that you review the withheld documents without first having him complete a Request for Review form. If my assumption is wrong please accept my apologies.

I have also enclosed a copy of my October 4th letter setting out the exemption I relied upon to refuse [REDACTED] access to the withheld documents.

I look forward to receiving your recommendation. As in all cases where a review of my decision is requested by an application, I would invite you to contact me with any questions on my denial of access to the withheld documents."

[8] In the above letter the Respondent has enclosed copies of the documents to which access by the Applicant has been denied. The denial is made pursuant to Section 17(1)(b)(i) of The Freedom of Information and Protection of Privacy Act which states:

“17(1) Subject to subsection (2), a head may refuse to give access to a record that
could reasonably be expected to disclose:

- ...
(b) consultations or deliberations involving:
(i) officers or employees of a government institution”

[9] My review of the records to which access has been denied indicates that they consist of the following 22 items:

1. Injury Claim Summary Sheet from which has been severed the portion entitled “File Review” Updated 26-Feb-2002.
2. Injury Claim Summary Sheet from which has been severed the portion entitled “Injury Note” and “Conversation with [REDACTED] Nov 29/00.
3. Injury Claim Summary Sheet from which has been severed portions of two paragraphs under the heading “Letter from Insured” April 21, 1999 and April 5, 1999.
4. File memo dated June 19, 1997 from which the last 13 words of the second paragraph have been severed.
5. Fax from [REDACTED] to [REDACTED] dated 04/03/99.
6. 3 page document entitled “Summary for Appeal/Review” dated September 26, 1995.
7. Additional copy of document No. 6 to which is attached a 4 page File Memorandum (hand written).
8. A facsimile cover sheet dated September 13, 1999 to which is attached a medical report from [REDACTED] to the Respondent dated September 10, 1999.
9. An SGI Memorandum dated Oct. 21/99 from [REDACTED] to [REDACTED] (hand written).
10. File Memorandum dated 07/07/97 signed by K.B. (hand written).
11. Undated File Memorandum – unsigned (hand written).
12. File Memorandum dated 16/8/98 addressed to [REDACTED] – not signed (hand written).

13. Memorandum dated April 13, 1999 from [REDACTED] to [REDACTED] with copy of Respondent's letter of March 23, 1999 attached.
14. Facsimile cover sheet dated Sept. 17/98 from [REDACTED] to [REDACTED] with instruction sheet attached and copy of Respondent's letter of Sept. 8, 1998 attached.
15. Additional copy of document No. 9 with receipt form included.
16. 5 page hand written File Memorandum dated 9/8/00.
17. Facsimile Transmitted sheet dated Sept. 20/00 from [REDACTED] to [REDACTED] with a copy of Respondent's letter of Sept. 9, 2000 attached.
18. Summary for Appeal/Review dated July 19, 2002.
19. Hand written Memorandum dated Sept. 17, 2002 from [REDACTED] to [REDACTED].
20. Memorandum from [REDACTED] to [REDACTED] dated 9/17/02.
21. Document entitled "Summary for Appeal/Review" updated July 19, 2002 created by [REDACTED] to [REDACTED].
22. Memorandum dated July 25, 2002 from [REDACTED] to [REDACTED].

[10] The first 3 documents are Injury Claim Summaries that have severed there from the content of telephone discussions between employees of the Respondent and clearly fall within the ambit of Section 17(1)(b)(i).

[11] The deletion in document No. 4 does not disclose the content of the telephone conversation and accordingly I do not believe it is governed by this Section.

[12] Documents numbered 5, 9 to 17 inclusive, 19, 20 and 22 are internal faxes or memorandum between employees of the Respondent respecting the status of the Applicant's claim and as such are covered by the Section 17 exemption. It should be noted that some of these documents have attached thereto copies of letters by the Applicant to the Respondent. These letters of course are not exempt from disclosure but the Respondent has already had access to them as he was their author.

[13] The first page of document No. 6 is a Summary and does not of itself contain or could be expected to disclose discussions or deliberations and is therefore, in my view, not exempt. The

remaining two pages, however, would be exempt as they are a record of discussions and deliberations by employees of the Respondent respecting the Applicant's claim. The same may be said for the 4 page hand written memorandum attached to document No. 7.

[14] Document No. 8 is a medical report which is not governed by Section 17(1)(b)(i) and which the Respondent acknowledges should have been disclosed to the Applicant.

[15] Documents No. 18 and 21 are summaries that contain particulars of discussions by employees of the Respondent regarding the Applicant's claim status and treatment and, again, are therefore exempt from production.

[16] In summary, therefore, I would recommend that the Respondent continue to deny access to the Applicant to the records to which access has been requested with the exception of documents No. 4, the first page of document No. 6 and document No. 8.

My reasons for recommending non-disclosure is that each of the documents referred to are records that could reasonably be expected to disclose consultations or deliberations involving employees of the Respondent pertaining to the Applicant's claim and as such fall directly within the purview of Section 17(1)(b)(i).

[17] Dated at Regina, in the Province of Saskatchewan, this 12th day of December, 2002.

RICHARD P. RENDEK, Q.C.
Acting Commissioner of Information
and Privacy for Saskatchewan