



## Service Rights in Attendant Services: Refusal to provide personal records

### What can I do if my service provider refuses to give me my personal records?

#### What does the law say?

- Ontario's Personal Health Information Protection Act, 2004 (PHIPA) creates rules about your personal health information. Personal health information includes any information about your physical or mental health. It also includes an attendant service plan.
- Service providers must follow the rules set out in PHIPA to protect your personal health information from improper collection, use, disclosure, or loss.
- The Home Care and Community Services Act, 1994 states that a person receiving community services, such as attendant services, has the right to have his or her records kept private.
- You have the right to have a copy of your personal health records, but this right has some exceptions.
- If you want a copy of your records that are not about your personal health information, your right is limited to receiving the part of the information that is about you and that can be separated from the rest of the record.
- Your service provider cannot refuse to give you a copy of your service plan.

#### When Can my Service Provider Refuse Access to my Records?

- A service provider may refuse access to your personal health information if:
  - the information is legally protected, or was collected as part of an ongoing legal proceeding, or the law says you cannot have the information ;
  - the information is part of an ongoing investigation about receiving services or benefits;
  - granting access could result in a risk of serious harm to someone; or
  - granting access could lead to identifying someone who provided information in the record when their identity should be kept private.

- When access to your personal health record is limited by law, a service provider must still give you the part of the record that is about you if it can be separated from the rest of the information.

### **In practice – How do I make a request to access my files?**

- Your service provider's policies may describe what you need to do to get a copy of your personal information. Usually, you must make a request in writing.
- Make sure your request has enough detail so that your service provider can easily find what you are asking for. You can also ask your service provider to give you the information in an accessible format.
- Your service provider must reply no later than 30 days after receiving your request.
- Your service provider may ask for more information to help them find the record you want. They can also ask for additional time depending on the amount of information you want.
- The service provider may charge you a fee but first they must provide you with an estimate of any cost.

### **What can I do if my my Service Provider refuses to give me my records?**

- If your service provider does not answer your request for records in time or refuses access altogether, you can complain to the Information and Privacy Commissioner of Ontario.
- For more information about complaining to the Privacy Commissioner, go to: [www.ipc.on.ca](http://www.ipc.on.ca)

### **For more information**

Persons with disabilities who live in Ontario can call ARCH for free, confidential summary legal information and advice. To find out about the kind of legal advice ARCH provides and how to book an appointment, go to: [www.archdisabilitylaw.ca/services](http://www.archdisabilitylaw.ca/services)

For more information about attendant services, go to:

[www.archdisabilitylaw.ca/resource/guide-attendant-services-in-ontario](http://www.archdisabilitylaw.ca/resource/guide-attendant-services-in-ontario)