

Chapter 157

(House Bill 849)

AN ACT concerning

Public Health – Medical Records – Fees

FOR the purpose of ~~repealing the exemption for X-rays from the application of certain provisions of law governing medical records fees; altering the fees that State facilities regulated by the Maryland Department of Health may require a person in interest or any other person who requests a copy of a medical record to pay; altering the cap on the fee that certain health care providers are authorized to charge for certain medical records; repealing a certain provision of law prohibiting certain fees from being adjusted annually for inflation in a certain manner; requiring a health care provider to provide certain persons with an itemized bill of certain charges under certain circumstances; repealing the authority of certain entities to charge to certain persons a certain cost for the handling of medical records in addition to a certain other fee; prohibiting a health care provider or a representative of the health care provider from charging a fee for providing copies of a medical record to support certain claims or appeals; repealing a certain provision of law prohibiting a health care provider from charging a certain person in interest who requests copies of medical records of individuals enrolled in the Maryland Medical Assistance Program a fee that exceeds a certain amount requested by a certain person and that will be used for a certain purpose; altering the maximum amount of a fee that a certain person or entity may charge for subsequent copies of a certain medical record;~~ and generally relating to fees for medical records.

BY repealing and reenacting, with amendments,
 Article – Health – General
 Section 4–304(c)
 Annotated Code of Maryland
 (2019 Replacement Volume and 2020 Supplement)

BY repealing and reenacting, without amendments,
 Article – Health – General
 Section 4–304(d)
 Annotated Code of Maryland
 (2019 Replacement Volume and 2020 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
 That the Laws of Maryland read as follows:

Article – Health – General

4–304.

(c) (1) ~~[(i)]~~ In this subsection, “medical record” includes a copy of a medical bill that has been requested by an individual.

~~[(ii)]~~ The provisions of this subsection do not apply to x-rays.

(2) A health care provider may require a person in interest or any other authorized person who requests a copy of a medical record to pay ~~for~~ the cost of copying:

(i) For State facilities regulated by the Maryland Department of Health, as provided in § 4–206 of the General Provisions Article; or

(ii) For all other health care providers, a reasonable cost-based fee for providing the information requested; ~~A FEE AS PROVIDED IN THIS SUBSECTION.~~

(3) (i) ~~Except as provided in subparagraph (iii) of this paragraph, for a copy of a medical record requested by a person in interest or any other authorized person under paragraph (2)(ii) of this subsection, a~~ A health care provider may charge a fee for copying ~~and~~, mailing, ~~PREPARING, AND HANDLING A MEDICAL RECORD~~ not exceeding ~~76~~ 50 cents for each page of the medical record ~~OR A FLAT FEE OF \$5, WHICHEVER IS GREATER.~~

(ii) In addition to the fee charged under subparagraph (i) of this paragraph, a hospital or a health care provider may charge:

1. Subject to the fee limitations that apply to persons in interest under 45 C.F.R. 164.524 and any guidance on those limitations issued by the U.S. Department of Health and Human Services, a preparation fee not to exceed \$22.88 for medical record retrieval and preparation; and

2. The ~~THE~~ actual cost for postage ~~and handling~~ of the medical record.

~~[(iii)]~~ Subject to the fee limitations that apply to persons in interest under 45 C.F.R. 164.524 and any guidance on those limitations issued by the U.S. Department of Health and Human Services, a hospital or a health care provider that uses or maintains the requested medical records in an electronic format may charge for an electronic copy of a medical record in an electronic format requested by a person in interest or any other authorized person:

1. A preparation fee not to exceed \$22.88 for electronic format medical records retrieval and preparation;

2. A per-page fee of 75% of the per-page fee charged by a health care provider under subparagraph (i) of this paragraph that may not exceed \$80; and

3. The actual cost for postage and handling of the electronic format medical records.†

(4) †(i) Except as provided in subparagraph (ii) of this paragraph, the† ~~THE~~ fees charged under paragraph (3) of this subsection may be adjusted annually for inflation in accordance with the Consumer Price Index.

†(ii) The preparation fee charged for medical record retrieval and preparation under paragraph (3)(ii)1 of this subsection and for retrieval and preparation of a medical record in an electronic format under paragraph (3)(iii)1 of this subsection may not be adjusted annually for inflation in accordance with the Consumer Price Index.†

~~(5) IF A FEE IS CHARGED UNDER THIS SUBSECTION, THE HEALTH CARE PROVIDER SHALL PROVIDE THE PERSON IN INTEREST OR THE AUTHORIZED PERSON WITH AN ITEMIZED BILL OF THE CHARGES ASSESSED FOR THE COPIED MEDICAL RECORDS.~~

~~(6) A HEALTH CARE PROVIDER OR A REPRESENTATIVE OF THE HEALTH CARE PROVIDER MAY NOT CHARGE A FEE FOR PROVIDING COPIES OF A MEDICAL RECORD TO SUPPORT A CLAIM OR APPEAL UNDER ANY PROVISION OF THE SOCIAL SECURITY ACT OR UNDER ANY STATE NEEDS-BASED BENEFIT OR PROGRAM;~~

(I) REQUESTED BY:

1. THE PATIENT;

2. THE PATIENT’S PERSONAL REPRESENTATIVE; OR

3. AN EMPLOYEE OR OTHER REPRESENTATIVE OF A NONPROFIT LEGAL SERVICES ENTITY OR OTHER VOLUNTEER OR NONPROFIT PROGRAM REPRESENTING THE PATIENT; AND

(II) THAT WILL BE USED FOR THE PURPOSE OF FILING A CLAIM REGARDING OR APPEALING A DENIAL OF SOCIAL SECURITY DISABILITY INCOME OR SOCIAL SECURITY BENEFITS UNDER TITLE II OR TITLE XVI OF THE SOCIAL SECURITY ACT.

[5] ~~(7)~~ (6) (i) Except as provided in subparagraph (ii) of this paragraph, a health care provider may charge a fee, as authorized under ~~[paragraphs]~~ ~~PARAGRAPH~~ (3) ~~and (4)]~~ of this subsection, for the retrieval, copying, preparation, mailing, and actual cost of postage and handling of a medical record disclosed under § 4–306 of this subtitle.

(ii) If a government unit or agency or court–appointed guardian ad litem in a criminal or juvenile delinquency court proceeding makes a request for the disclosure of a medical record under § 4–306 of this subtitle, a health care provider may not charge the government unit or agency or court–appointed guardian ad litem a fee for the retrieval, copying, preparation, mailing, and actual cost of postage and handling of the medical record.

~~[(6)]~~ **(7)** Notwithstanding any other provision of law, a health care provider may not charge a person in interest, except for an attorney appointed in writing by a person in interest, who requests a copy of a medical record of an individual enrolled in the Maryland Medical Assistance Program a fee that exceeds \$20, adjusted annually for inflation in accordance with the Consumer Price Index, for each 100 pages or portion of 100 pages copied.†

~~[(7)]~~ **(8)** Notwithstanding any other provision of law, any person or entity who is not subject to the provisions of this subsection and who obtains a medical record from a health care provider or the provider’s agent may not charge a fee for any subsequent copies of that medical record that exceeds the fee authorized under paragraph ~~[(3)(i)]~~ ~~(3)~~ of this subsection.

(d) Except for an emergency request from a unit of State or local government concerning a child protective services case or adult protective services case, a health care provider may withhold copying until the fee for copying is paid.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2021.

Approved by the Governor, May 18, 2021.