

Department of Legislative Services
Maryland General Assembly
2014 Session

FISCAL AND POLICY NOTE
Revised

House Bill 399 (Delegate Murphy, *et al.*)
Health and Government Operations

Finance

Public Health - Medical Records Charges - Medicaid Enrollees

This bill prohibits a health care provider from charging a person in interest, except for an attorney appointed in writing by a person in interest, a fee of more than \$20 (adjusted annually for inflation) for a copy of each 100 pages or a portion of 100 pages of a medical record of an individual enrolled in the Maryland Medicaid program.

Fiscal Summary

State Effect: The bill does not substantively change State activities or operations.

Local Effect: None.

Small Business Effect: Minimal. Potential increase in the cost to provide copies of the medical records of Medicaid enrollees for small business health care providers.

Analysis

Current Law: A “person in interest” includes an adult on whom a health care provider maintains a medical record, a person authorized to consent to health care for an adult, a duly appointed personal representative of a deceased person, a minor, a parent or guardian of a minor, a person authorized to consent to health care for a minor, or *an attorney appointed in writing*.

A health care provider must comply within a reasonable time after a person in interest requests in writing to either receive a copy of a medical record or to see and copy the medical record. 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 the cost of copying, generally the reasonable cost of providing the information requested.

Section 4-304 of the Health-General Article specifies that a health care provider may charge a fee for copying and mailing – of no more than 50 cents for each page of the medical record. In addition, a hospital or a health care provider may charge a preparation fee of no more than \$15 for medical record retrieval and preparation and the actual cost for postage and handling. These fees may be adjusted annually for inflation in accordance with the Consumer Price Index. As of December 2013, the maximum fees are 76 cents per page and a preparation fee of \$22.88. Although State law allows a preparation fee, the federal Health Insurance Portability and Accountability Act of 1996 prohibits such a charge for records provided directly to a patient. A preparation fee can be charged for records provided to another provider.

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. However, a provider may not refuse to provide the records because of unpaid fees for medical services.

Under Code of Maryland Regulations 10.09.36.03, to participate in Medicaid, a provider must provide a recipient's medical records at no charge when the records are requested by another physician or licensed provider on behalf of the recipient.

Under federal regulations, 45 CFR 164.52(c)(4), if an individual requests a copy of protected health information or agrees to a summary or explanation of such information, a covered entity may impose a reasonable, cost-based fee, as long as the fee includes only the cost of (1) copying (including supplies and labor); (2) postage, when the individual has requested the information be mailed; and (3) preparing an explanation or summary of the protected health information, if agreed to by the individual.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Maryland Association of County Health Officers, Department of Health and Mental Hygiene, Department of Legislative Services

Fiscal Note History: First Reader - February 4, 2014
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