

HOUSE BILL 849

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By: **Delegate Rosenberg**

Introduced and read first time: January 29, 2021

Assigned to: Health and Government Operations

A BILL ENTITLED

1 AN ACT concerning

2 **Public Health – Medical Records – Fees**

3 FOR the purpose of repealing the exemption for X-rays from the application of certain
4 provisions of law governing medical records fees; altering the fees that State facilities
5 regulated by the Maryland Department of Health may require a person in interest
6 or any other person who requests a copy of a medical record to pay; altering the cap
7 on the fee that certain health care providers are authorized to charge for certain
8 medical records; repealing a certain provision of law prohibiting certain fees from
9 being adjusted annually for inflation in a certain manner; requiring a health care
10 provider to provide certain persons with an itemized bill of certain charges under
11 certain circumstances; prohibiting a health care provider from charging a fee for
12 providing copies of a medical record to support certain claims or appeals; repealing
13 a certain provision of law prohibiting a health care provider from charging a certain
14 person in interest who requests copies of medical records of individuals enrolled in
15 the Maryland Medical Assistance Program a fee that exceeds a certain amount; and
16 generally relating to fees for medical records.

17 BY repealing and reenacting, with amendments,
18 Article – Health – General
19 Section 4–304(c)
20 Annotated Code of Maryland
21 (2019 Replacement Volume and 2020 Supplement)

22 BY repealing and reenacting, without amendments,
23 Article – Health – General
24 Section 4–304(d)
25 Annotated Code of Maryland
26 (2019 Replacement Volume and 2020 Supplement)

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

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



Article – Health – General

1
2 4–304.

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

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

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

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

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

12 (3) (i) [Except as provided in subparagraph (iii) of this paragraph, for a
13 copy of a medical record requested by a person in interest or any other authorized person
14 under paragraph (2)(ii) of this subsection, a] **A health care provider may charge a fee for**
15 **copying [and], mailing, PREPARING, AND HANDLING A MEDICAL RECORD** not exceeding
16 **[76] 50 cents** for each page of the medical record **OR A FLAT FEE OF \$5, WHICHEVER IS**
17 **GREATER.**

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

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

24 2. The] **THE** actual cost for postage [and handling] of the
25 medical record.

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

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

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

4 3. The actual cost for postage and handling of the electronic
5 format medical records.]

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

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

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

17 **(6) A HEALTH CARE PROVIDER MAY NOT CHARGE A FEE FOR**
18 **PROVIDING COPIES OF A MEDICAL RECORD TO SUPPORT A CLAIM OR APPEAL UNDER**
19 **ANY PROVISION OF THE SOCIAL SECURITY ACT OR UNDER ANY STATE**
20 **NEEDS–BASED BENEFIT OR PROGRAM.**

21 **[(5)] (7) (i) Except as provided in subparagraph (ii) of this paragraph,**
22 **a health care provider may charge a fee, as authorized under [paragraphs] PARAGRAPH**
23 **(3) [and (4)] of this subsection, for the retrieval, copying, preparation, mailing, and actual**
24 **cost of postage and handling of a medical record disclosed under § 4–306 of this subtitle.**

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

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

1 **[(7)] (8)** Notwithstanding any other provision of law, any person or entity
2 who is not subject to the provisions of this subsection and who obtains a medical record
3 from a health care provider or the provider's agent may not charge a fee for any subsequent
4 copies of that medical record that exceeds the fee authorized under paragraph **[(3)(i)] (3)**
5 of this subsection.

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

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