

Department of Legislative Services
Maryland General Assembly
2006 Session

FISCAL AND POLICY NOTE

House Bill 749
Economic Matters

(Delegate Wood)

Medical Records - Permitted Disclosures - Work-Related Injury or Occupational Disease

This bill requires a health care provider to disclose a medical record without the authorization of the person in interest to an employer or insurer, an uninsured employer's fund, or a subsequent injury fund, for investigating the compensability or nature and extent of an alleged work-related injury or occupational disease.

Fiscal Summary

State Effect: None. The change would not directly affect governmental finances.

Local Effect: None.

Small Business Effect: None.

Analysis

Current Law: A health care provider must disclose a medical record without the authorization of the person in interest under specified conditions. For example, a medical record must be disclosed without prior authorization to a unit of State or local government, or to a member of a multidisciplinary team assisting the unit, for investigation or treatment of a case of suspected abuse or neglect of a child or adult. Disclosures also must be made to a State or local child fatality review team.

The definition of a person in interest includes an adult on whom a health care provider maintains a medical record and a parent of a minor, except if the parent's authority to

consent to health care for the minor is limited by a court order or valid separation agreement entered into by the minor's parents.

A medical record must be disclosed by a health care provider in accordance with compulsory process without authorization if the provider receives:

- a written assurance from the party or the attorney representing the party seeking the medical records that a person in interest has not objected to the disclosure and 30 days have passed since the notice was sent, or a person in interest's objections were resolved and the disclosure request is in accordance with the resolution; (2) proof that service of the subpoena, summons, warrant, or court order was waived by the court for good cause; or (3) a copy of an order entered by a court expressly authorizing disclosure of the designated medical records; and
- for the disclosures mentioned above, copies of the following items that were mailed by certified mail to the person in interest by the person requesting the disclosure at least 30 days before the records are to be disclosed: (1) the subpoena, summons, warrant, or court order seeking the disclosure or production of the records; (2) this section of statute; and (3) a notice in a form set in statute under the bill or a substantially similar form.

The federal Health Insurance Portability and Accountability Act (HIPAA) requires the Department of Health and Human Services to establish national standards for electronic health care transactions and addresses health information security and privacy issues. A federal regulation implementing the HIPAA privacy and security requirements established the "Privacy Rule" which guarantees patients access to their medical records, gives them more control over how their protected health information is used and disclosed, and provides an avenue of recourse if their medical privacy is compromised. Protected health information is any health information that identifies an individual and is maintained or exchanged electronically or in hard copy.

Health care organizations covered by the Privacy Rule are all health care providers who electronically transmit certain administrative and financial health information, all health plans, and all health care clearinghouses.

Background: The Injured Workers' Insurance Fund (IWIF) advises that the current requirement for a signed authorization before medical records may be released, at times, results in delays in adjusting claims and the postponement of hearings. IWIF further advises that this bill would streamline the handling of cases and result in a more prompt resolution of claims.

The Subsequent Injury Fund also advises that the bill would streamline the ability to obtain medical records. The Uninsured Employers' Fund advises that this bill would improve its ability to conduct a more thorough investigation into claims.

Additional Information

Prior Introductions: None.

Cross File: SB 802 (Senator Kittleman) – Finance.

Information Source(s): Maryland Insurance Administration, Department of Health and Mental Hygiene, Uninsured Employers' Fund, Subsequent Injury Fund, Injured Workers' Insurance Fund, Department of Legislative Services

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