

Department of Legislative Services
Maryland General Assembly
2008 Session

FISCAL AND POLICY NOTE
Revised

House Bill 910
Judiciary

(Delegate Reznik, *et al.*)

Judicial Proceedings

Health Care Providers - Disclosure of Medical Records - Children in Need of Assistance Proceedings

This bill authorizes the expedited disclosure of medical records in Child in Need of Assistance proceedings. It reduces the timeframe from 30 to 15 days that a person in interest has to object to disclosure of a medical record that is requested for these proceedings. A medical record must be disclosed without authorization if 15 days have elapsed since the notice was sent to the person in interest. For disclosures made under these circumstances, the health care provider must receive copies of required documentation and the required notice that was sent by certified mail to the person in interest at least 15 days before the records are to be disclosed.

Fiscal Summary

State Effect: None. The bill would not materially affect State finances or operations.

Local Effect: None.

Small Business Effect: None.

Analysis

Current Law: “Compulsory process” includes a subpoena, summons, warrant, or court order that appears on its face to have been issued on lawful authority. A health care provider must disclose a medical record without the authorization of the person in interest under specified conditions, particularly as those relate to civil, criminal, or professional licensing investigations. Requests for disclosure of medical records must be made in

writing and inserted in an individual's medical record. Additional provisions further restrict disclosure of mental health records.

An individual may authorize the disclosure of the individual's medical record or the record of a dependent for a period of up to one year in a written, dated, and signed statement that identifies the health care provider and the person to whom the record is disclosed. Without the express authorization of the person in interest, the provider can disclose a record in accordance with compulsory process only: (1) with written assurance from the party or counsel that 30 days have passed since notice was sent and the party has not objected to the disclosure; (2) with proof that service of the subpoena, summons, warrant, or court order was waived by the court; or (3) if a copy of the order ordered by a court expressly authorized disclosure of the medical record.

The federal Health Insurance Portability and Accountability Act (HIPAA) established additional guidelines on the disclosure and electronic transmission of medical records. Federal regulations implementing the Act include the "Privacy Rule," which requires health care providers, health plans, and health care clearinghouses to implement certain standards to protect against misuse of individually identifiable health information.

Background: Chapter 503 of 2005 prohibits health care providers from providing medical information without a person's authorization unless the person has been given notice of the request and has 30 days to object. These disclosure requirements can result in the postponement of hearings.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Department of Human Resources, Judiciary (Administrative Office of the Courts), Department of Health and Mental Hygiene, Maryland Insurance Administration, Department of Legislative Services

Fiscal Note History: First Reader - March 4, 2008
ncs/hlb Revised - Enrolled Bill - May 5, 2008

Analysis by: Karen D. Morgan

Direct Inquiries to:
(410) 946-5510
(301) 970-5510

