

# HOUSE BILL 849

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By: **Delegate Rosenberg**

Introduced and read first time: January 29, 2021

Assigned to: Health and Government Operations

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Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 5, 2021

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## CHAPTER \_\_\_\_\_

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; repealing the authority of certain entities to charge to certain~~  
12 persons a certain cost for the handling of medical records in addition to a certain  
13 other fee; prohibiting a health care provider or a representative of the health care  
14 provider from charging a fee for providing copies of a medical record to support  
15 certain claims or appeals; repealing a certain provision of law prohibiting a health  
16 care provider from charging a certain person in interest who requests copies of  
17 medical records of individuals enrolled in the Maryland Medical Assistance Program  
18 a fee that exceeds a certain amount requested by a certain person and that will be  
19 used for a certain purpose; altering the maximum amount of a fee that a certain  
20 person or entity may charge for subsequent copies of a certain medical record; and  
21 generally relating to fees for medical records.

22 BY repealing and reenacting, with amendments,

23 Article – Health – General

24 Section 4–304(c)

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 Annotated Code of Maryland  
2 (2019 Replacement Volume and 2020 Supplement)

3 BY repealing and reenacting, without amendments,  
4 Article – Health – General  
5 Section 4–304(d)  
6 Annotated Code of Maryland  
7 (2019 Replacement Volume and 2020 Supplement)

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

10 **Article – Health – General**

11 4–304.

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

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

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

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

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

21 (3) (i) ~~Except as provided in subparagraph (iii) of this paragraph, for a~~  
22 copy of a medical record requested by a person in interest or any other authorized person  
23 under paragraph (2)(ii) of this subsection, ~~a~~ A health care provider may charge a fee for  
24 copying ~~and~~, mailing, ~~PREPARING, AND HANDLING A MEDICAL RECORD~~ not exceeding  
25 ~~[(76)] 50~~ 50 cents for each page of the medical record ~~OR A FLAT FEE OF \$5, WHICHEVER IS~~  
26 ~~GREATER.~~

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

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

33 2. The ~~THE~~ actual cost for postage [and handling] of the

1 medical record.

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

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

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

13 3. The actual cost for postage and handling of the electronic  
14 format medical records. ~~¶~~

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

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

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

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

31 (1) REQUESTED BY:

32 1. THE PATIENT;

33 2. THE PATIENT'S PERSONAL REPRESENTATIVE; OR

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

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

8                                   **[(5)] ~~(7)~~ **(6)**** (i) Except as provided in subparagraph (ii) of this paragraph,  
 9 a health care provider may charge a fee, as authorized under ~~paragraphs~~ **PARAGRAPH**  
 10 ~~(3) and (4)]~~ of this subsection, for the retrieval, copying, preparation, mailing, and actual  
 11 cost of postage and handling of a medical record disclosed under § 4–306 of this subtitle.

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

18                                   ~~[(6)]~~ **(7)** Notwithstanding any other provision of law, a health care provider  
 19 may not charge a person in interest, except for an attorney appointed in writing by a person  
 20 in interest, who requests a copy of a medical record of an individual enrolled in the  
 21 Maryland Medical Assistance Program a fee that exceeds \$20, adjusted annually for  
 22 inflation in accordance with the Consumer Price Index, for each 100 pages or portion of 100  
 23 pages copied.†

24                                   **[(7)] (8)** Notwithstanding any other provision of law, any person or entity  
 25 who is not subject to the provisions of this subsection and who obtains a medical record  
 26 from a health care provider or the provider’s agent may not charge a fee for any subsequent  
 27 copies of that medical record that exceeds the fee authorized under paragraph ~~[(3)(i)]~~ **(3)**  
 28 of this subsection.

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

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