

Chapter 724

(House Bill 724)

AN ACT concerning

Public Health – Copies of Medical Records – Fees

FOR the purpose of altering a certain provision of law to authorize health care providers to require certain persons to pay a cost-based fee for providing certain information, rather than the reasonable cost; altering the fees health care providers and hospitals may charge for copying and mailing certain medical records and for retrieving and preparing certain medical records; authorizing certain hospitals and other health care providers to charge a certain fee fees and a certain costs cost for electronic copies of medical records that are in an electronic format requested by certain persons, subject to certain limitations; repealing a certain provision of law that allowed for fees charged for copies of medical records to be adjusted annually for inflation in accordance with the Consumer Price Index; providing that certain fees may not be adjusted annually for inflation in accordance with the Consumer Price Index; making conforming changes; and generally relating to fees for copies of medical records.

BY repealing and reenacting, with amendments,

Article – Health – General

Section 4–304(c)

Annotated Code of Maryland

(2015 Replacement Volume)

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

Article – Health – General

4–304.

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

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

(2) 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 ***FOR*** the cost of copying:

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

(ii) For all other health care providers, ~~the~~ A reasonable ~~cost of~~ *COST-BASED FEE FOR* providing the information requested.

(3) (i) [Subject to the provisions of paragraph (4) of this subsection] **EXCEPT AS PROVIDED IN SUBPARAGRAPH (III) OF THIS SUBSECTION**, for a copy of a medical record requested by a person in interest or any other authorized person under paragraph (2)(ii) of this subsection, a health care provider may charge a fee for copying and mailing not exceeding ~~50~~ 76 cents for each page of the medical record.

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

1. ~~A~~ *SUBJECT TO THE FEE LIMITATIONS THAT APPLY TO PERSONS IN INTEREST UNDER 45 C.F.R. 164.524 AND ANY GUIDANCE ON THOSE LIMITATIONS ISSUED BY THE U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES, A* preparation fee not to exceed ~~\$15~~ \$22.88 for medical record retrieval and preparation; and

2. The actual cost for postage and handling of the medical record.

(iii) ~~IF~~ *SUBJECT TO THE FEE LIMITATIONS THAT APPLY TO PERSONS IN INTEREST UNDER 45 C.F.R. 164.524 AND ANY GUIDANCE ON THOSE LIMITATIONS ISSUED BY THE U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES, A HOSPITAL OR A HEALTH CARE PROVIDER THAT USES OR MAINTAINS THE REQUESTED MEDICAL RECORDS IN AN ELECTRONIC FORMAT, MAY CHARGE* FOR AN ELECTRONIC COPY OF A MEDICAL RECORD IN AN ELECTRONIC FORMAT REQUESTED BY A PERSON IN INTEREST OR ANY OTHER AUTHORIZED PERSON, ~~THE HOSPITAL OR HEALTH CARE PROVIDER MAY CHARGE:~~

1. *A PREPARATION FEE NOT TO EXCEED \$15 \$22.88 FOR ELECTRONIC FORMAT MEDICAL RECORDS RETRIEVAL AND PREPARATION;*

2. ~~THE ACTUAL COST OF THE MEDIUM ON WHICH THE ELECTRONIC FORMAT MEDICAL RECORDS ARE REPRODUCED~~ *A PER-PAGE FEE OF 75% OF THE PER-PAGE FEE CHARGED BY A HEALTH CARE PROVIDER UNDER PARAGRAPH (3)(I) OF THIS SECTION THAT MAY NOT EXCEED \$80; AND*

3. *THE ACTUAL COST FOR POSTAGE AND HANDLING OF THE ELECTRONIC FORMAT MEDICAL RECORDS.*

~~†~~(4) ~~On or after July 1, 1995,~~ (I) EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH, the fees charged under paragraph (3) of this

subsection may be adjusted annually for inflation in accordance with the Consumer Price Index.†

(II) THE PREPARATION FEE CHARGED FOR MEDICAL RECORD RETRIEVAL AND PREPARATION UNDER PARAGRAPH (3)(II)1 OF THIS SUBSECTION AND FOR RETRIEVAL AND PREPARATION OF A MEDICAL RECORD IN AN ELECTRONIC FORMAT UNDER PARAGRAPH (3)(III)1 OF THIS SUBSECTION MAY NOT BE ADJUSTED ANNUALLY FOR INFLATION IN ACCORDANCE WITH THE CONSUMER PRICE INDEX.

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

(ii) If a government unit or agency makes a request for the disclosure of a medical record under § 4–306 of this subtitle, a health care provider may not charge the government unit or agency a fee for the retrieval, copying, preparation, mailing, and actual cost of postage and handling of the medical record.

~~†(6)†~~ ~~(5)~~ Notwithstanding any other provision of law, a health care provider may not charge a person in interest, except for an attorney appointed in writing by a person in interest, who requests a copy of a medical record of an individual enrolled in the Maryland Medical Assistance Program a fee that exceeds \$20, adjusted annually for inflation in accordance with the Consumer Price Index, for each 100 pages or portion of 100 pages copied.

~~†(7)†~~ ~~(6)~~ Notwithstanding any other provision of law, any person or entity who is not subject to the provisions of this subsection and who obtains a medical record from a health care provider or the provider's agent may not charge a fee for any subsequent copies of that medical record that exceeds the fee authorized under paragraph (3)(i) of this subsection.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2016.

Enacted under Article II, § 17(c) of the Maryland Constitution, May 28, 2016.