

Law Offices Of Bryan K. Marshall, LLC

(240) 547-5504
Bowie/Washington

Writer's E-mail:
bkm@lawmd.biz

Attorney At Law
14300 Gallant Fox Lane
Suite 103
Bowie, MD 20715

(443) 679-5376
Annapolis/Baltimore

(443) 679-5377
Facsimile

www.lawmd.biz

Medical Records Guidelines

The obtaining and processing of medical records has become increasingly difficult over the years. Part of this stems from the Health Insurance Portability and Accountability Act (HIPAA) which got the federal government into concerning itself with the privacy of medical records. A further issues comes with Maryland Health-General Code Ann. § 4-304 which allows medical care providers to charge for medical records. This statute is keyed to COLA, and thus the amount collected increases yearly. However, the amount it costs a medical care provider to fulfill its obligations has drastically decreased in recent years. This has set up a situation where supplying a patient's medical has become a significant profit center for medical care providers.

We strive to reduce the number of times we request your medical records. Further, we attempt to get the records from alternate sources. If the records are regarding direct treatment that is to be paid, then the medical care provider must provide the medical record to the insurance company in order to have its bill paid.

If you are involved in a Workers' Compensation claim, the problem will come in that the medical care provider will not provide the records, will not get paid, and will look to you for either payment or to cut you off from treatment due to the failure on the medical care providers part. When we contact your adjuster and find out the problem with payment, we will then contact the provider and explain that it needs to send the records along with its bill.

Many providers will refuse to provide the records, even at this time, and thus will put us in a bad spot. While this is actually illegal, as the adjuster will have sent an appropriate authorization, it still happens often. The only way to fix this is to request the medical records, subject to the fees attached to this guideline. **Those fees are yours to pay.** We end up in a situation where you are paying an absurd amount of money to you medical care provider for records that it should have sent already to the adjuster, just so the medical care provider's bills will get paid.

This situation also occurs when the adjuster refuses to pay your lost time. We have less leverage to get the records to the adjuster. Similarly, you end up having to pay for medical records so that you can get your lost wages.

While we are disgusted with this practice by some medical care providers, there is little to nothing we can do. You, as the patient, actually have more power over the medical care provider's office than we do. Further, if you directly request your records, the doctor's office may not charge you the administrative fee. Again, as it is a profit center, you will often be told that the medical care provider cannot give you your own medical records and that the attorney **must** request them. This is untrue, and illegal under both HIPAA and Maryland Health-General Code Ann. § 4-303. If you choose the route of obtaining the records yourself (to save a lot of money) please do not let them fool you. If you wish us to obtain the records on your behalf, please note that the medical care provider's office will generally

expect full payment of the copying prior to releasing the records to us. This will significantly delay us getting the records. Again, please don't hold us responsible for this system as it is put on us by the legislature and the medical care providers.

We strive to provide great service. We do not charge extra for this service, but the service may cost you extra. Please direct your frustrations at those responsible.



Medical Records Copying Fee as of January 2014

On October 1, 1994 the law allowing physicians to charge specific sums for preparation and production of medical records went into effect. This law is codified in Maryland law at Health-General Article § 4-304(c)(3). According to the law, the fees may be adjusted annually for inflation using the Consumer Price Index on July 1 of each year. The statute does not designate an entity to compute the increases. However, the Maryland Board of Physicians (MBP) has provided MedChi with its calculation of what the adjusted rates should be.

The adjusted rates for medical record copying as announced by the MBP are as follows:

- A preparation fee of \$22.88 (**This fee may not be charged to patients**), plus
- A copying charge of \$.76 per page; plus
- The actual cost of shipping and handling

More information on the Consumer Price Index can be found at:

<http://www.bls.gov/bls/proghome.htm>.

The following rules continue to apply:

- No fee may be charged to transfer the records of a Medicaid recipient to another provider.
- A practitioner may not withhold medical records because of unpaid fees for medical services.
- The records may not be withheld under an emergency request from a state or local governmental unit concerning a child protective services or adult protective services case pending payment.
- A physician should not withhold records that have been subpoenaed pending payment of copying and preparation charges but may bill any non-governmental entities subpoenaing records.

However, physicians using electronic medical records systems should take note of an important change in HIPAA medical records privacy rules. As of February 17, 2010, if a medical practice is using an electronic medical records system, they must provide a patient requesting their medical record with a copy in electronic format, if the patient so requests. **The charge for the copy provided can be no more than the actual labor costs incurred by the practice in responding to that request.**

In the opinion of MedChi's Committee on Ethics and Judicial Affairs, records should not be withheld from another health practitioner pending payment of the copying fees if to do so would hinder an ill patient from receiving needed medical attention.

Consistent with the above exceptions, physicians may demand payment of the allowed charges before turning the records over to a patient or other authorized person. The Board of Physicians is empowered to discipline a physician who fails to comply with the requirements of the Medical Records Act and HIPAA.