

# NOTICES

## DEPARTMENT OF HEALTH

### Amendments to Charges for Medical Records

[39 Pa.B. 6911]

[Saturday, December 5, 2009]

Under 42 Pa.C.S. §§ 6152 and 6155 (relating to subpoena of records; and rights of patients), the Secretary of Health (Secretary) is directed to adjust annually the amounts which may be charged by a health care facility or health care provider upon receipt of a request or subpoena for production of medical charts or records. These charges apply to any request for a copy of a medical chart or record except as follows:

(1) Flat fees (as listed in this notice) apply to amounts that may be charged by a health care facility or health care provider when copying medical charges or records either: (a) for the purpose of supporting any claim or appeal under the Social Security Act or any Federal or State financial needs based program; or (b) for a district attorney.

(2) An insurer shall not be required to pay for copies of medical records required to validate medical services for which reimbursement is sought under an insurance contract, except as provided in: (a) the Worker's Compensation Act (77 P. S. §§ 1—1041.4 and 2501—2506) and the regulations promulgated thereunder; (b) 75 Pa.C.S. Chapter 17 (relating to financial responsibility) and the regulations promulgated thereunder; or (c) a contract between an insurer and any other party.

The charges listed in this notice do not apply to an X-ray film or any other portion of a medical record which is not susceptible to photostatic reproduction.

Under 42 Pa.C.S. § 6152.1 (relating to limit on charges), the Secretary is directed to make a similar adjustment to the flat fee which may be charged by a health care facility or health care provider for the expense of reproducing medical charts or records where the request is: (1) for the purpose of supporting a claim or appeal under the Social Security Act or any Federal or State financial needs based benefit program; or (2) made by a district attorney.

The Secretary is directed to base these adjustments on the most recent changes in the consumer price index reported annually by the Bureau of Labor Statistics of the United States Department of Labor. For the annual period of October 31, 2008, through October 31, 2009, the consumer price index was -0.6%.

Accordingly, the Secretary provides notice that, effective January 1, 2010, the following fees may be charged by a health care facility or health care provider for production of records in response to subpoena or request:

	<b>Not to Exceed</b>
Amount charged per page for pages 1—20	\$ 1.32
Amount charged per page for pages 21—60	\$ .98
Amount charged per page for pages 61—end	\$ .33
Amount charged per page for microfilm copies	\$ 1.95
Flat fee for production of records to support any claim under Social Security	\$24.94
Flat fee for supplying records requested by a district attorney	\$19.68
* Search and retrieval of records	\$19.68

*\*Note:* Federal regulations enacted under the Health Insurance Portability and Accountability Act (HIPAA) at 45 CFR Parts 160—164 state that covered entities may charge a reasonable cost based fee that includes only the cost of copying, postage and summarizing the information (if the individual has agreed to receive a summary) when providing individuals access to their medical records. The Department of Health (Department) and Human Services has stated that the fees may not include costs associated with searching for and retrieving the requested information. For further clarification on this issue, inquiries should be directed to the Office of Civil Rights, United States Department of Health and Human Services, 200 Independence Avenue, S.W., Room 509F, HHH Building, Washington, D.C. 20201, (866) 627-7748, [www.hhs.gov/ocr/hipaa](http://www.hhs.gov/ocr/hipaa).

In addition to the amounts listed previously, charges may also be assessed for the actual cost of postage, shipping and delivery of the requested records.

The Department is not authorized to enforce these charges.

Questions or inquiries concerning this notice should be sent to James T. Steele, Jr., Deputy Chief Counsel, Room 825, Health and Welfare Building, Harrisburg, PA 17120, or for speech and or hearing impaired persons the Pennsylvania AT&T Relay Service at (800) 654-5984 (TT) or V/TT (717) 783-6514.

EVERETTE JAMES,  
Secretary

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