

Polk County Wisconsin

CHARGING FOR COPIES AND SUMMARIES OF PROTECTED HEALTH INFORMATION

Policy 601.L

Effective Date: August 19, 2003

Current Revision Date:

Background:

The Health Insurance Portability & Accountability Act (HIPAA) of 1996 privacy regulations permits Polk County to impose reasonable, cost-based fees for responding to requests made by an individual (client or legal representative) for copies of protected health information (PHI). The regulations limit the types of costs that may be imposed for providing access to PHI. Additionally, the inclusion of a copying fee is not intended to impede the ability of individuals to obtain copies of their PHI. If the client has agreed to receive a summary or explanation of his or her PHI, Polk County may also charge a fee for preparation of the summary or explanation. The fee may not include cost associated with searching for and retrieving the requested information.

State statutes may provide regulation of charges for different types of PHI requests made by an individual (client or legal representatives) or other third parties. State statutes may conflict with HIPAA regulations and so it is necessary to be aware of both the HIPAA regulations and the state statutes when responding to a request to determine where state statute may preempt HIPAA regulations.

General Statements Covering Individual/Client Requests:

- If an individual requests a copy of PHI, Polk County may charge a reasonable, cost-based fee for the copying, including the labor and supply costs of copying.
 - If hard copies were made, this would include the cost of paper.
 - If electronic copies were made to a computer disk, this would include the cost of the computer disk.
- Polk County may not charge any fees for retrieving or handling the information or for processing the request.
- If an individual requests that the information be mailed, the fee may include the cost of postage.
- If an individual requests an explanation or summary of the information provided, and agrees in advance to any associated fees, Polk County may charge for preparing the explanation or summary.

- If an individual requests an “accounting of disclosures” to identify what PHI has been disclosed to others, the organization must provide the first accounting free in any 12-month period. Subsequent requests in the 12-month period can be charged a reasonable fee based on Polk County’s costs of providing an accounting. Before charging the fee, Polk County must inform the client and allow them the opportunity to withdraw or modify the request to avoid or reduce the fee.

General Statements Covering Provider Requests:

- As a courtesy, health care providers rarely assess copy charges for the disclosure of PHI between providers. This longstanding customary practice promotes the continuity of quality client care as well as potentially eliminating redundancy in requiring additional diagnostic studies.

State Specific Release of Information Laws & Regulations Regarding PHI Requests & Copying Fees

In many instances, state laws provide guidance on copying fees in response to requests for disclosure from specific requestor types. The table below identifies

Requestor Type	Regulated Search/Retrieval Fee	Per Page Fee	Legal Reference
State Disability	\$15.00	None	State Set Fee
Subpoena/Certified Copies – Attorney – Commenced Court Action	\$8.40 (1-18 pp)	\$.45 19-50; \$.25 51+	908.03(6m)(d) HSS 117
Workers’ Compensation	\$7.50 (1-16 pp)	\$.45 17+	WC Act §436-102.13(2)(b) – 4/95
X-ray – Subpoena/Certified Copies – Attorney	None	\$4.00 (actual postage)	DHSS Chapter HHS 117
*Under HIPAA, a client cannot be charged a retrieval fee **Fees adjusted annually			

Factors That May Impact the Cost of Responding to Release of Information Requests: Costs of providing copies of PHI can be impacted by a variety of factors. Charges may differ depending upon the party making the request. HIPAA does allow an organization to charge a reasonable, cost-based fee for copying PHI for the client/legal guardian, including labor and supply costs; however, Polk County may not charge clients/legal guardians any fees for retrieving or handling the information or

for processing the request. The following factors may impact the charges an organization may assess for copies of PHI: ¹

- Labor costs involved with ensuring authorization appropriateness
- Labor costs and software associated with logging of requests to a database
- Labor costs involved in physically retrieving the health information
- Labor costs associated with refiling retrieved health information
- Labor costs associated with the physical copying of health information
- Expense costs for paper, toner, and equipment maintenance involved in copying
- Capital costs associated with acquiring copying equipment
- Handling expense involved in preparing a document for mailing
- Postal expense for mailing
- Expense associated with invoicing for copies
- Bad debt "write-off" expense
- "Non-billable" request expense
- Real estate costs of storage space and copier work space

References:

- "Frequently Asked Questions About the HIPAA Privacy Rule," Office of Civil Rights, October 2, 2002
- 45 C.F.R. §164.524
- "Copying Records: The Saga Continues," For the Record 9, no. 7 (1997): 18-25
- "Practice Brief: Release of Information Laws and Regulations," Journal of AHIMA, January, 1999
- "Reining in the Cost of Medical Record Copies," Wisconsin Lawyer, Volume 72, No. 6, June, 1999
- WHIMA Legal Resource Manual

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State Preemption Issues: Wisconsin Statutes may impact charges for copies and summaries of PHI. See reference grid embedded in this policy for further (but limited) information.

¹ Dunn, Rose. "Copying Records: The Saga Continues." For the Record, 9, no. 7 (1997): 18-25