

JAN 15 2025

A BILL FOR AN ACT

RELATING TO MEDICAL RECORDS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The legislature finds that over thirty thousand
2 disabled adults and children currently receive social security
3 benefits in Hawai'i with hundreds more applying each year,
4 ranging from children with congenital birth defects to people
5 who are suddenly afflicted by a disabling back condition,
6 Parkinson's disease, cancer, severe mental illness, or another
7 career-ending condition.

8 Many applicants for social security benefits are unable to
9 work and earn an income because of their disability.
10 Consequently, many applicants are indigent, homeless, or near
11 homeless and may receive general assistance benefits from the
12 State.

13 To apply for and receive social security benefits, an
14 applicant is required to provide medical records to the Social
15 Security Administration, not only at the outset of the
16 application, but also for each continuing disability review that
17 is conducted every few years. These medical records for



1 disabled applicants can often amount to hundreds of pages, if
2 not more.

3 For requests of medical records made by an individual
4 patient on their own behalf, while some medical providers in the
5 State are willing to accept either a flat fee of \$15.60 or offer
6 copies for free, many more medical providers will charge fees
7 for processing, retrieving, or reviewing the medical records or
8 a per-page charge for copying the medical records under rules
9 promulgated pursuant to The Health Insurance Portability and
10 Accountability Act of 1996 (HIPAA). However, according to the
11 federal General Accountability Office, if the medical records
12 are requested by a representative at the request of the patient,
13 the medical providers are not limited by HIPAA's reasonable,
14 cost-based standard for access requests and are instead governed
15 by state laws, regulations, and other requirements.

16 As these charges to obtain medical records can be
17 exorbitant for a disabled, indigent applicant, the applicant is
18 either without representation or cannot afford to send the
19 medical records to the Social Security Administration for a
20 determination of disability benefits. Without the medical
21 records to support the claim for disability benefits under title



1 20 Code of Federal Regulations sections 404.1516 and 416.916,
2 the Social Security Administration will make a decision based on
3 the information available. Therefore, many applicants for
4 disability benefits have their claims dismissed because of the
5 cost associated with obtaining and sending medical records.

6 If the claim for disability benefits is dismissed, not only
7 may applicants struggle to obtain a livable income or affordable
8 health insurance, but the State is also unable to recoup its
9 general assistance outlay.

10 Other states, including Arizona, Connecticut, Illinois,
11 Massachusetts, Nevada, New Jersey, New York, Ohio, Oregon, Rhode
12 Island, Texas, Utah, Vermont, and Washington, have addressed the
13 issue of exorbitant fees associated with obtaining medical
14 records by allowing applicants and those undergoing disability
15 reviews, or their representatives, a free copy of their medical
16 records to ensure that benefits are provided or continued where
17 warranted.

18 Therefore, to ensure those with disabilities can obtain
19 their medical records for the purposes of claiming social
20 security benefits, and to ensure that the State is able to be
21 reimbursed for the aid Hawai'i gives these residents, the purpose



1 of this Act is to establish fees that medical providers may
2 charge for medical records and impose penalties.

3 SECTION 2. Chapter 323B, Hawaii Revised Statutes, is
4 amended by adding a new section to be appropriately designated
5 and to read as follows:

6 "§323B- Fees; requests; medical records. (a) When a
7 patient's family member, caregiver, or representative requests
8 medical records, a medical provider may assess fees for
9 obtaining medical records as follows:

10 (1) For medical records that are maintained
11 electronically, the medical provider may assess a flat
12 fee of not more than \$2.00 per request to prepare and
13 send the records electronically. If the records are
14 to be provided by means other than email, the actual
15 cost for the labor and supplies used to provide the
16 electronic medical records may be assessed;

17 (2) For medical records that are maintained on paper, the
18 medical provider may assess a flat fee of not more
19 than two cents per ten pages per request in addition
20 to the cost of postage to mail the records;



1 (3) A patient or a family member, caregiver, or
2 representative of a patient who is picking up paper
3 copies of medical records in person shall not be
4 charged a postage fee; and

5 (4) Fees including per page fees, fees for reviewing,
6 assessing, or searching for records, or other fees not
7 listed in this subsection are prohibited.

8 (b) Medical providers shall complete all requests for
9 medical records from a patient or a family member, caregiver, or
10 representative of a patient in a timely manner pursuant to
11 title 45 Code of Federal Regulations section 164.524(b).

12 (c) Any medical provider found to have violated subsection
13 (a) shall be fined not more than:

14 (1) \$500 for a first violation; and

15 (2) \$1000 for a second violation.

16 (d) For the purposes of this section:

17 "Family member" has the same meaning as defined in title 45
18 Code of Federal Regulations section 160.103, as may be amended.

19 "Representative" means any person or entity appointed by an
20 individual to represent the individual's interest in obtaining
21 medical records."



1 SECTION 3. New statutory material is underscored.

2 SECTION 4. This Act shall take effect upon its approval.

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INTRODUCED BY:

Karl Rhoad



S.B. NO. 305

Report Title:

Medical Providers; Social Security Disability Benefits; Medical Records; Requests; Reasonable Fees; Timely Response; Penalties

Description:

Establishes fees that medical providers may charge for requests for a patient's medical records from the patient's family member, caregiver, or representative. Requires medical providers to respond to requests in a timely manner. Establishes penalties.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

