WEST VIRGINIA CODE: §16-29-2

§16-29-2. Reasonable expenses to be reimbursed.

(a) A provider may charge a patient or the patient's personal representative no more than a fee consistent with HIPAA, as amended, and any rules promulgated pursuant to HIPAA, plus any applicable taxes.

(b) (1) A person other than a patient or patient's personal representative requesting records from a health care provider shall submit the request and HIPAA compliant authorization in writing and pay a fee at the time of delivery. Notwithstanding any other section of the code or rule, the fees shall not exceed: (A) A search and handling fee of $20; (B) a per page fee of 40 cents for paper copies; and (C) postage, if the person requested that the records be mailed, plus any applicable taxes.

(2) If the requested record is stored by the health care provider in an electronic form, unless the person requesting the record specifically requests a paper copy, the records will be delivered in electronic or digital form and the per page fee for providing an electronic copy shall not exceed 20 cents per page but shall in no event exceed $150 inclusive of all fees, including a search and handling fee, except for applicable taxes.

(c) Any person requesting a record be certified by affidavit pursuant to section four-e, article five, chapter fifty-seven of this code shall pay a fee of $10 for such certification.

(d) If a person requests or agrees to an explanation or summary of the records, the provider may charge a reasonable cost-based fee for the labor cost if preparing the explanation or the summary; for the supplies for creating the explanation or summary; and for the cost of postage, if the person requested that the records be mailed, plus any applicable taxes. If the records are stored with a third party or a third party responds to the request for records in paper or electronic media, the provider may charge additionally for the actual charges incurred from the third party.

(e) The per page fee for copying under subsection (b) shall be adjusted to reflect the consumer price index for medical care services such that the base amount shall be increased or decreased by the proportional consumer price index as published every October 1 starting October 1, 2017.

(f) Notwithstanding the provisions of subsection (a) of this section, a provider shall not impose a charge on an indigent person or his or her authorized representative if the medical records are necessary for the purpose of supporting a claim or appeal under any provisions of the Social Security Act, 42 U. S. C. §301, *et seq*.

For purposes of this section, a person is considered indigent if he or she:

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(1) Is represented by an organization or affiliated pro bono program that provides legal assistance to indigents; or

(2) Verifies on a medical records request and release form that the records are requested for purposes of supporting a Social Security claim or appeal and submits with the release form reasonable proof that the person is financially unable to pay full copying charges by reason of unemployment, disability, income below the federal poverty level or receipt of state or federal income assistance.

(g) Any person requesting free copies of written medical records pursuant to the provisions of subsection (f) of this section is limited to one set of copies per provider. Any additional requests for the same records from the same provider shall be subject to the fee provisions of subsections (a) and (b).

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