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How HITECH Affects the Cost of Patient Records Releases

When your facility receives a medical records request, it can be a challenge responding in time as well as deciphering what you can charge for each request. Regulations governing medical records fulfillment can be confusing. Here's some summary information of these regulations that may be helpful.

Washington State's medical records copying regulations (WAC 246-08-400) are very generous in terms of their fee schedule. But the federal government's HITECH rule supersedes the Washington fee schedule when applicable. The trick is understanding when you're limited by HITECH and when you can charge the State fees.

Here's a quick summary of what you can charge for records under WAC 246-08-400:

\$1.17 for pages 1-30

\$.88 for all other pages

You can also charge a flat \$26.00 "clerical fee" for searching and handling records, and if the provider personally edits confidential information from any record, you can separately charge a fee for a basic office visit.

Here's where things get tricky

HIPAA covered entities, as defined in 45 C.F.R. Sec. 103, may not charge fees or costs that are not authorized by, or are prohibited by, Federal HIPAA regulation 45 C.F.R. Sec. 164.

Chances are, you've been receiving a lot of "HITECH" requests for medical records. What falls under HITECH can also be confusing. Here are some simple guidelines you can follow:

- If a patient requests a copy of their record, it's covered under HITECH. It doesn't matter if the record is paper or digital: it falls under HITECH. If a patient delegates someone else to receive a copy of their record (like an attorney), it's also HITECH, so long as the patient signs a written document.
- If an attorney or other third party requests a copy with a proper HIPAA release, it is not HITECH, so the Washington State copying fees apply.

But here's another issue: a patient or third party may tell you that you can only charge \$6.50. That's not entirely accurate. You can charge a "reasonable, cost-based fee". Costs can include labor for creating the copies, supplies (paper, toner, CD, or USB drive for example), postage, and preparation of a summary.

It may be easier to just charge the \$6.50 flat rate, but there's an opportunity to examine

your costs and see if you can charge more. Either way, you're going to be losing money because there are a number of things for which you can't charge. Non-chargeable items include the time to find the patient's record, the time to review the record to make sure you're not providing excluded items - like STD's, substance abuse, and mental health notes, logging requests, administrative costs for invoicing and collecting fees, etc.

In addition to the cost to your organization of providing copies, you should also consider how fees may affect your relationship with the patient as a customer. Today's patients want to understand their out-of-pocket expenses. Will your policies influence their choice of providers? The other side of the coin is that with increasing costs and decreasing reimbursements, many practices need to take advantage of every revenue opportunity possible to stay profitable.

The information in this article is not intended to be legal advice and only addresses some of the more common issues that arise. The HHS website - [hhs.gov/hipaa/for-professionals/privacy/guidance/access/index.html](https://www.hhs.gov/hipaa/for-professionals/privacy/guidance/access/index.html) contains additional information. You can also ask for opinions from your legal department or your malpractice carrier.

Conclusion

As you can see, this is a complex space to navigate, and it's important to know what you can charge and what you cannot. SIS NW is an experienced provider of medical record copying services, fulfilling requests quickly while increasing revenues and lowering operational costs. If you are interested in learning how SIS NW may help with your release of information questions and needs, please give us a call at (206) 686-2810 or gmennegar@sisnwinc.com.

What solutions we offer:

Our solutions include; Lockbox, Accounts Payable, Medical Records, Student Records, ROI, Corporate Records, Expenses, HR solutions and Claims. We serve healthcare, corporations, non-profits, schools and government.