

## **COMMITTEE BILL ANALYSIS**

**Bill:** Senate Bill 1535

**Printer's No.:** 2221

**Sponsor:** Senator Greenleaf

**Prepared by:** Gregg Warner

**Synopsis:** This bill amends section 6152 of the Judicial Code, Title 42 of the Pennsylvania Consolidated Statutes, providing for the rates charged for copying medical records when a subpoena is served upon a health care provider or a health care facility.

### **Summary:**

#### **Estimated actual and reasonable expenses**

Sections 6151 through 6160 of the Judicial Code are known collectively as the Medical Records Act (MRA). Section 6152 provides for the rates charged for copying medical records when a subpoena is served upon a health care provider or a health care facility. Currently the health care provider or facility must respond within three days with notice that the provider or facility is proceeding under the MRA and with “the estimated actual and reasonable expenses of reproducing the charts and records.” This bill removes the requirement to provide “the estimated actual and reasonable expenses” because an estimate of the actual expenses cannot be determined until the correct records are identified and a page count is performed. This process generally takes longer than three days. Records responsive to a single request may reside in several different systems.

#### **Schedule of rates**

Section 6152 also provides a specific schedule of rates for copying medical records. The legislation updates the schedule of rates to reflect the rates actually in effect for 2012.

#### **HIPPA**

Section 6152 is also amended to reference the federal Health Insurance Portability and Accountability Act (HIPPA) to make it clear that the schedule of rates applies to requests by subpoena or authorized through HIPAA. The MRA was enacted prior to HIPPA and this legislation specifies that the rates in section 6152 apply to both types of requests. In addition, a clause is added recognizing the fact that since the MRA was written new electronic systems have been put in place for storing records and for delivering copies of records and the schedule of rates applies regardless of the medium.

**Effective date**

This act takes effect in 60 days.

**Background:**

**Case law**

In addition to requiring the health care provider or facility to provide an estimate, section 6152 also provides a very specific schedule of rates for copying medical records. The estimated expenses for copying the records may easily conflict with the amount eventually charged using the schedule of rates. Is the health care provider or facility tied to the estimate if it turns out the schedule of rates results in a higher amount? The Superior Court discussed this ambiguity in Wayne M. Chiurazzi Law Inc. v. MRO Corporation, 27 A.3d 1272 (Pa. Super., 2011) and strongly suggested that the legislature address the issue. By removing the requirement to provide an estimate of the actual and reasonable expenses and using the schedule of rates exclusively, there should not be any question about the applicable fees.

**Schedule of rates**

Beginning on January 1, 2000, the Secretary of Health of the Commonwealth adjusted the schedule of rates annually based 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. The legislation updates the schedule of rates to reflect the rates actually in effect for 2012. The amounts in the bill are based on the original rates set by statute as adjusted each year by the Secretary of Health. Beginning in 2013 the Secretary of Health will continue to adjust the rates annually.