

AN ACT

RELATING TO MEDICAL RECORDS; PROVIDING A PROCEDURE FOR APPLICANTS FOR DISABILITY BENEFITS TO OBTAIN COPIES OF RECORDS WITHIN THIRTY DAYS AFTER A REQUEST; PROVIDING THAT A FEE SCHEDULE SHALL BE ESTABLISHED FOR PROVIDING THE COPIES OF MEDICAL RECORDS; PROVIDING CIVIL PENALTIES FOR VIOLATIONS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. ACCESS TO MEDICAL RECORDS BY APPLICANTS FOR DISABILITY BENEFITS--VIOLATIONS.--

A. Within thirty days of receiving a request from a patient or former patient who is applying for benefits based on social security disability or who is appealing a denial of such benefits or from an authorized representative of such a patient or former patient, a health care provider shall furnish the requestor with a copy of that patient's medical records. A fee as established by the department of health, may be charged by the health care provider to the requestor for the copies or for the service in obtaining the records.

B. A request made pursuant to Subsection A of this section shall include a statement or document from the agency that administers the benefits that confirms the application or appeal.

C. As used in this section:

(1) "health care provider" means a person who is licensed, certified or otherwise authorized by law to provide or render health care in the ordinary course of business or practice of a profession and includes a facility employing, or contracting with, such a person; and

(2) "medical records" means information in a medical or mental health patient file, including drug or alcohol treatment records, medical reports, clinical notes, nurses' notes, history of injury, subjective and objective complaints, test contents and results, interpretations of tests, reports and summaries of interpretations of tests and other reports, diagnoses and prognoses, bills, invoices, referral requests, consultative reports and reports of services requested by the health care provider.

D. Nothing in this section shall be interpreted to grant access for a patient or patient's representative to medical records that are otherwise protected by law.

E. The department of health shall enforce the provisions of this section and may impose a civil penalty in an amount not to exceed one hundred dollars (\$100) for a violation of this section. The department may promulgate rules necessary for the implementation and enforcement of the provisions of this section, including a fee schedule by obtaining records as provided in Subsection A of this section for a patient who has a financial ability to pay. \_\_\_\_\_

