

Health Records and Medical/Clinical Reports - Charging Policy

Summary Fees policy in relation to the preparation of medical/clinical reports and provision of medical records to individuals, solicitors and insurers.

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Audience Administration;Health Information Managers

HEALTH RECORDS AND MEDICAL/CLINICAL REPORTS CHARGING POLICY

The contents of this policy directive are to be effective from the date of issue and replaces PD2005_235 (circular 2002/22 dated 14 February 2002).

The following relates to charges for health records and medical/clinical reports that are to apply unless specific legislation specifies a lesser rate or exemption from fees. Health Services should develop local policies, which detail the content of records and reports as they relate to these charges. These policies should take into account the function of the health facility, the type of report produced and the amount of information to be provided.

Rates are advised separately via Information Bulletin.

The decision to charge for requests for health records and medical/clinical reports from researchers is a matter for local determination depending upon the type of request and possible future benefit to the health system. Such charges should be determined on a cost recovery basis.

For the purposes of this policy directive a health record is defined as a documented account, whether in hard or electronic form, of a client/patient's health, illness and treatment during each visit or stay at a health service (and includes a medical record).

Charges relating to categories A, B and C (below) are taxable supplies (ie subject to GST) unless deemed GST – free under the provisions of the 'A New Tax System (Goods and Services tax) Act 1999' (GST Act). The criteria to be followed by the Area Health Services/Hospitals in assessing the GST status are advised in the GST section of this circular. Please note that where the service is determined as being 'GST-free' the rates as advised by Information Bulletin apply. Where the GST free test is not satisfied the service is therefore a taxable supply (subject to GST) and the rates as advised by Information Bulletin are to be grossed-up by 10%.

A CHARGES FOR MEDICAL/CLINICAL REPORTS apply based on the following categories:-

1. Preparation of a medical report by a medical practitioner appointed to or employed by the health institution/hospital **requiring no further examination of the patient**. This applies to the treating medical practitioner or a medical practitioner who has not previously treated the patient.
2. A report made by a **treating** medical practitioner appointed to or employed by the health institution/hospital **where a re-examination of the patient is required**.

3. A report made by a medical practitioner appointed to or employed by the health institution/hospital **who has not previously treated the patient where an examination is required.**
4. Preparation of a report by an **allied health professional, other than a medical practitioner**, appointed to or employed by the health institution/hospital.

B OTHER CHARGES apply based on the following criteria:-

- 1 (a) **Charges for access to clinical notes requested by a patient/client, or by a person acting on behalf of the patient.**

A patient/client can apply for access to their own personal health information held by a public health organisation, by contacting the medical records department for that organisation. In addition, the Freedom Of Information Act 1988 and the Health Records and Information Privacy Act 2002 provide a statutory right for individuals to apply for access to information held about them.

These laws also allow for other persons to apply for access to a client/patient's personal health information. A person can apply for access on behalf of the patient/client with their consent, such as a solicitor, interpreter or employer. Alternatively, where the patient lacks the capacity to consent, or is deceased, a person who is the authorised representative for the patient/client can apply for access to the patient/client's personal health information.

NB. Further details are contained in NSW Health Privacy Manual Version 2, Sections 5.6 and 11.2.2.

Copies of clinical notes supplied in response to the above requests may typically include, as a minimum: patient registration/front sheet, consent to treatment, discharge summary, referral/transfer letters, ambulance report, continuation notes, operation reports (including anaesthetists and nursing reports), radiology and pathology reports, and nursing care plan. Where additional information is held by a hospital but not routinely released, the person making the request should be made aware that such additional information exists but has not been supplied. A further request for such additional information should be considered as forming part of the original request and no additional charge (other than photocopying, where appropriate) should be raised.

(b) Charges for information requested by an insurer.

Health facilities should not provide clinical notes or photocopies of notes to the insurer, but may supply a "Medical Report" or "Summary of Injuries" (Section A or C) if provided with a Statutory Declaration signed by the claimant on the insurer's claim form in respect of Compulsory Third Party

(CTP) insurance or a declaration signed by the claimant on the insurer's claim form in respect of Workers Compensation Insurance. Such reports should only provide information **relevant to the claim**. This will necessitate the insurer detailing the nature of the claim. Health facilities will be required to exercise their judgement in determining what is relevant information. A photocopy of the CTP Statutory Declaration is acceptable irrespective of the date of signing.

If clinical notes, or part of the clinical notes, are requested by an insurer, the insurer should be requested to provide written consent from the patient stating that the patient:

- agrees to allow the insurer to have a copy of all or part of the clinical notes and
- the patient is aware that clinical notes, or part of the clinical notes, will inevitably include confidential medical information, which is irrelevant to the claim.

In the absence of clearly documented written consent, as detailed above, hospitals are not required to provide clinical notes to insurers.

The charge applicable in respect of 1(a) and 1(b) (above), which includes search fee, photocopying charges, labour costs, administrative charges and postage, is based on the following criteria:-

- A set fee for the provision of a copy of the medical record, or part thereof, eg continuation notes, pathology reports, charts. (Maximum eighty pages.)
- An additional per page rate in excess of eighty
- An additional charge at cost recovery for the provision of other material (eg reproduction of X-rays, audiovisual tapes, copies of photographs & operation footage contained on DVD's).

Where a patient wishes to access her/his records under the Freedom of Information Act, the requirements of that Act (including charges) apply.

2 Search Fees - Other than requests made by a party concerned with a patient's continued treatment or future management.

The search fee should be charged:

- for searching for the health record, irrespective of whether the health record is found. If however, the Patient Master Index (PMI) or other indexes showed that the patient was treated in that health institution but the record cannot be found because it has been destroyed, misplaced or lost, the fees should be refunded in full;
- where the applicant subsequently advises that a report/record is no longer required, or where a thorough search has ascertained that the

patient has never attended that health institution for that particular episode of illness;

- for information on date or time of birth, including requests from the Registry of Births Deaths and Marriages in relation to enquiries on hospitals to verify birth details;
- for Motor Accident and Work Cover medical certificates completed at other than time of consultation;
- **NOTE** - The search fee is a component of the fees charged for the preparation of reports, summaries or the production of health records required by subpoena, ie additional fees should **not** be charged on top of those for the preparation of reports, summaries and the production of health records required by subpoena.

The fee covers processing time, which includes time for locating the information, decision-making and consultation where necessary.

C SUMMARY OF INJURIES charges apply based on the following:-

“Summary of Injuries” - this is generally requested by Compulsory Third Party Insurers for patients whose fees are covered by the Bulk Billing Agreement.

The “Summary of Injuries” should include:

- Identifying information (name, date of birth, medical record number)
- Date of first attendance,
- Whether patient was admitted. If so, specify dates,
- Positive findings on examination,
- Level of consciousness, if documented,
- Diagnosis, if known.

A standard form letter may be appropriate.

If a discharge summary, or appropriate correspondence that provides this minimum information, is available at the time of the request, a copy of this may be sufficient. Should further information be required, the appropriate report charge as applicable to Section A or B should be raised. There is no requirement to provide the full clinical notes to third party insurers.

The purpose of the “Summary of Injuries” in relation to the bulk-billing agreement is to establish that the admission occurred as a result of a motor vehicle accident.

If the information contained in the “Summary of Injuries” is insufficient or unavailable and a medical practitioner (or other treating health

professional, where appropriate) is required to prepare a report, charges for a medical report (or report by a treating health professional) should be raised.

Health Information Managers should consult with the requesting solicitor/insurer/other party to determine which is required before a fee is raised or report is prepared.

Goods and Services Tax (GST) in relation to categories A, B & C (above).

In relation to categories A, B & C above the fees/charges set by NSW Health that are taxable supplies or that Health Services are to consider for GST implications are as follows:

- Where revenue derived from the preparation of Clinical Reports is in the context of the Medical Officers Rights of Private Practice the service is to be regarded as a taxable supply.
- Where the income derived is treated as public hospital revenue, consideration is to be given as to whether it satisfies GST-free status under section 38-250 of the 'A New Tax System (Goods and Services Tax) Act 1999' (GST Act).

ie. Supplies are GST-free if:-

- the charge is less than 50% of the GST inclusive market value of the supply; or
 - the charge is less than 75% of the cost to the supplier of providing the supply.
- NB. Further details are contained in section 3.3 (pages 22 to 24) of the "NSW Health – Finance and Commercial Services – Tax Reform – GST Manual" which is available on the NSW Health Intranet.
 - All Area Health Services need to ensure that documentation/systems exist to compare the costs (including overheads) of providing health records and medical reports, and being able to assess the GST status as detailed above.
 - Where the service is determined as being 'GST-free' the rates advised by Information Bulletin apply,

or
 - Where the GST free test is not satisfied the service is therefore a taxable supply (subject to GST) and the rates advised by Information Bulletin are to be grossed-up by 10%.

D HEALTH RECORDS REQUIRED TO BE PRODUCED BY SUBPOENA

This refers to the retrieval of all the information required by the schedule noted on the subpoena and forwarding it to Court.

Charges apply based on the following:-

- 1 where at least 5 working days notice is given for the production of the record to Court
- 2 where less than 5 working days notice is given

plus a photocopying charge per page as advised by Information bulletin.

- Multiple requests on a subpoena should be charged on a fee-per-patient basis.
- In a situation where no record is found, it is appropriate to raise a Search Fee for each record, particularly in situations where incorrect details are given or “blanket” subpoenas are issued and considerable time is spent in locating the record. However, if the PMI or other indexes shows that the patient was treated in that health institution but the record cannot be found because it has been destroyed, misplaced or lost, the search fee should not be charged.
- Charges under this category are not subject to GST as they are ‘**out of scope**’ under a Division 81 Determination.
- Reference should also be made to PD2005_405 headed ‘Subpoenas’, which outlines legislative provisions and procedures to be followed when public health organisations are required to produce documents on subpoena.

E ADMINISTRATIVE PROCEDURES

- 1 Policies and procedures regarding access to health records and disclosure of personal information should be made in accordance with the NSW Health Privacy Manual Version 2.
- 2 Applicants should be asked to put all requests in writing and to provide as much information as possible. A patient's solicitor should include consent by the patient for access to personal records as detailed in the Information Privacy Code of Practice.
- 3 Where the original of a health institution's health record leaves the institution (eg health records being tendered to a Court under subpoena), a copy of those records should generally be made beforehand and kept in the institution. Charges for photocopying should be charged at the appropriate per page rate as advised by Information Bulletin. This charge does not apply to Coroner's or Complaints Unit cases.

- 4 Charges should be collected in advance, where appropriate. For government departments, reimbursement may be sought subsequently from the relevant department or authority. Even where health records are required to be produced by subpoena, payment should still be sought in advance. It is emphasised that a hospital or organisation is expected to comply in due time with the requirements of a subpoena. Non-compliance may result in contempt of Court, which is punishable by fine or in certain cases imprisonment.
- 5 It may be decided that an examination of the patient (by either the treating medical practitioner or a medical practitioner who has not previously treated the patient) is required. Under such circumstances, the applicant should be asked to pay the balance of the money for the higher fee before proceeding with the request.
- 6 Fees collected are to be recorded as revenue in the General Fund.
- 7 Where there are disputes regarding fees or the amount of information, attempts should be made to resolve the matter between the parties involved. This would normally involve the Chief Health Information Manager and/or the General/Medical administration of the health facility.

F CIRCUMSTANCES UNDER WHICH A CHARGE SHOULD NOT BE RAISED

- 1 When the request has been made by a party concerned only with the patient's continued treatment and/or future management, no charge should be raised (eg where a medical practitioner requests information from a health institution to assist him/her with that patient's treatment);
- 2 The GIO or EML as Managers, Treasury Managed Fund or solicitors acting for the GIO or EML in such matters, in respect of claims for workers compensation for employees of Public Hospitals, Public Psychiatric Hospitals (former 5th schedule hospitals), the NSW Ambulance Service and the NSW Department of Health. Health facilities should ensure that solicitors acting for the GIO or EML specify in writing that this is the case;
- 3 Medical Services Committees of Inquiry established by the Commonwealth Government for purposes of detecting fraud and controlling over servicing;
- 4 The Department of Community Services or the Police in respect of children suspected of being abused, or of a parent of a child so suspected;
- 5 The completion of medical certificates at the time of consultation - no charge should be made as the forms for motor accident and WorkCover certificates are in the nature of a certificate and not a report. If not completed at the time of consultation, a search fee may be raised.

G CIRCUMSTANCES UNDER WHICH CHARGES SHOULD BE RAISED

In all cases where the conditions in Section F have not been met including:

- 1 When medical reports/records are requested by individuals, solicitors, insurance companies, health professionals and government departments (with the exception of those indicated in Section F) for purposes other than the patient's continued treatment or future management.
- 2 The Department of Veterans' Affairs and Centrelink for the purpose of pension/benefits assessment;
- 3 Interstate Health Authorities in respect of the eligibility of candidates for appointment to the relevant Public Service.
- 4 NSW Compulsory Third Party Insurers, in respect of a "Summary of Injuries". (Refer to Section C).
- 5 Release of information under the NSW Adoption Information Act, 1990. Charges should be raised in accordance with Guideline GL2005_055 or any guideline subsequently amending its provisions.

ENQUIRIES

- pertaining to the **level of charges and GST implications** refer to the latest Information Bulletin on 'Charges for Health Records and Medical/Clinical Reports and the "NSW Health – Finance and Commercial Services – Tax Reform – GST Manual" (available on the NSW Health Intranet site) respectively or contact Trevor Smith, Finance and Business Management on (02) 9391 9158.
- pertaining to **access of information** refer to NSW Health Privacy Manual, PD2005_593 (or any Policy Directive subsequently amending its provisions) or contact Legal Branch on 93919606.
- pertaining to **records management policy** should be referred to the Informatics Senior Project Officer on (02) 9391 9155.

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