

# HOUSE BILL REPORT

## ESHB 1239

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### As Amended by the Senate

**Title:** An act relating to requests for medical records to support an application for social security benefits.

**Brief Description:** Concerning requests for medical records to support an application for social security benefits.

**Sponsors:** House Committee on Health Care & Wellness (originally sponsored by Representative Sullivan).

**Brief History:**

**Committee Activity:**

Health Care & Wellness: 1/18/17, 1/31/17 [DPS].

**Floor Activity:**

Passed House: 2/27/17, 90-6.

**Brief Summary of Engrossed Substitute Bill**

- Requires health care facilities, providers, and insurance issuers to provide, upon request, one free copy of a person's health care information if the person is appealing the denial of federal Supplemental Security Income or Social Security disability benefits.

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### HOUSE COMMITTEE ON HEALTH CARE & WELLNESS

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 16 members: Representatives Cody, Chair; Macri, Vice Chair; Schmick, Ranking Minority Member; Graves, Assistant Ranking Minority Member; Caldier, Clibborn, DeBolt, Harris, Jinkins, MacEwen, Riccelli, Robinson, Rodne, Slatter, Stonier and Tharinger.

**Staff:** Chris Blake (786-7392).

**Background:**

Under the federal Social Security Act, individuals with disabilities may be eligible for social security disability benefits. Applicants have the right to an administrative appeal and judicial

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review of the denial of these benefits. The Social Security Administration suggests an appealing applicant provide certain medical information, such as any medical report, form, or written statement related to the person's disability.

The Uniform Health Care Information Act governs the disclosure of health care information by health care providers and their agents or employees in Washington. Health care providers may charge a reasonable fee for providing copies of health care records.

A "reasonable fee" is established in statute as 65 cents per page for the first 30 pages and 50 cents per page for any additional pages. A clerical fee of \$15 may also be charged for searching and handling. The amounts must be adjusted every two years according to changes in the Consumer Price Index, as determined by the Secretary of Health. The current adjusted rates, as adopted in rule by the Secretary of Health, are \$1.12 per page for the first 30 pages, 84 cents per page for all other pages, and a clerical fee of up to \$25.

### **Summary of Engrossed Substitute Bill:**

Health facilities, health care providers, and health insurance issuers are required to provide, upon request by a patient, a person covered by a health plan, or his or her personal representative, one free copy of the person's health care information if the person is appealing the denial of federal Supplemental Security Income or Social Security disability benefits. A patient making this request must complete and provide a disclosure authorization to the health care facility or provider. The health care facility, provider, or insurance issuer may decide whether to provide the records in paper or electronic format and they are not required to provide the free copy of the records if the information was previously provided, free of charge, in the preceding two years.

### **EFFECT OF SENATE AMENDMENT(S):**

The Senate amendment changes, from mandatory to permissive, the requirement that the patient or the patient's representative complete a disclosure authorization in order to receive a free copy of his or her health care information from a health care facility or health care provider. The Senate amendment adds the requirement that a disclosure authorization specify the health care information that the patient or representative is requesting.

**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date:** The bill takes effect 90 days after adjournment of the session in which the bill is passed.

### **Staff Summary of Public Testimony:**

(In support) This bill would provide financial support to individuals applying for Social Security disability benefits which require medical records to support an appeal of the denial of these benefits. While these records used to be relatively easy and cheap for patients to get, costs have substantially increased, in part due to electronic records which are voluminous and

can be filled with irrelevant information or pages of form templates. This, coupled with the per page fee, means these records typically cost \$200 or \$300, but can cost \$1,300 in some cases. Medical records are now a profitable industry where third-party companies, rather than providers, may manage the information requests, charge the maximum amount allowed under law, and also require prepayment. Washington's maximum allowed fees are the highest in the country.

Certain groups of people with disabilities are typically denied the first time they apply for these benefits. Many individuals do not have the funds to pay the medical records fees, lack the assistance of legal representation, and, even if they do, are required to reimburse their attorney for these fees. These records cannot be acquired anywhere else or at a lower price. Thus, the current fees prevent many individuals from getting federal disability benefits.

This bill will assist many people and there is no cost to Washington. By assisting these individuals in accessing federal benefits, there could even be a net positive financial impact to Washington. Some have estimated that during the last fiscal year there were approximately 17,000 of these types of appeals that went to the hearing level in Washington.

(Opposed) None.

**Persons Testifying:** Diana Stadden, The Arc of Washington; and Jeanette Lafoon.

**Persons Signed In To Testify But Not Testifying:** None.