

Health Records Regulations 2002

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S.R. No. 42/2002

TABLE OF PROVISIONS

Regulation Page

iiiiiiiiiiiiiiii

STATUTORY RULES 2002

S.R. No. 42/2002

Health Records Act 2001

Health Records Regulations 2002

The Governor in Council makes the following Regulations:

Dated: 12 June 2002

Responsible Minister:

JOHN THWAITES

Minister for Health

HELEN DOYE

Clerk of the Executive Council

1. Objectives

The objectives of these Regulations are--

(a) to prescribe the maximum fees that may be charged by an organisation when providing individuals with access to health information under Part 5 of the **Health Records Act 2001** and HPP 6 and HPP 11 of that Act and by a nominated health service provider when performing functions set out in section 42 of that Act, in a manner that--

- (i) ensures that any fee charged does not unfairly preclude an individual from requesting access to health information; and
- (ii) allows reasonable cost recovery for organisations; and
- (iii) recognises current practice regarding the transfer of health information between health service providers at the request of an individual for the purposes of continuity of care; and

(b) to prescribe the circumstances in which an organisation may collect health information about an individual under HPP 1.1(i) of the **Health Records Act 2001**.

2. Authorising provision

These Regulations are made under section 100 of the **Health Records Act 2001**.

3. Commencement

These Regulations come into operation on 1 July 2002.

4. Definition

In these Regulations--

"the Act" means the **Health Records Act 2001**.

5. Maximum fee for granting an individual access to health information

For the purposes of section 32 of the Act, the prescribed maximum fee for providing access to health information is the relevant fee set out in Schedule 1.

6. Maximum fee for nominated health service provider performing functions

For the purposes of section 42(3) of the Act, the prescribed maximum fee is the reasonable cost incurred by the nominated health service provider in performing the functions set out in section 42(1) of the Act, not exceeding--

(a) \$40 per quarter hour or part of a quarter hour spent performing those functions; or

(b) \$200--

whichever is the lesser.

7. Maximum fee for making health information available to another health service provider

For the purposes of HPP 11.1, the prescribed maximum fee for providing a copy or a written summary of requested health information is the relevant fee set out in Schedule 2.

8. Prescribed circumstances for collection of health information

(1) For the purposes of HPP 1.1(i), the prescribed circumstances are the collection of health information by an organisation that is a health service provider from a person or, if the person is incapable of providing the information, from an authorised representative, immediate family member or primary carer of the person, being information that--

(a) is about an individual (whether living or deceased); and

(b) does not contain any more identifying information about the individual referred to in paragraph (a) than is reasonably necessary to ensure that health services are provided safely and effectively to the person.

(2) For the purposes of sub-section (1), a person is incapable of providing the information if he or she is incapable by reason of age, injury, disease, senility, illness, disability, physical impairment or mental disorder.

(3) Information collected in accordance with sub-regulation (1) is exempt health information for the purposes of HPP 1.5.

(4) In this regulation--

"authorised representative" has the same meaning as in section 85(6) of the Act;

"primary carer" means any person who is primarily responsible for providing support or care to a person.

9. GST payable

(1) A maximum fee prescribed by these Regulations may be increased by an amount not exceeding the amount of GST payable on the supply to which the fee relates.

(2) In this regulation--

"GST" has the same meaning as it has in the A New Tax System (Goods and Services Tax) Act 1999 of the Commonwealth except that it includes notional GST of the kind for which payment may be made under Part 3 of the **National Taxation Reform (Consequential Provisions) Act 2000** by a person that is a State entity within the meaning of that Act.

SCHEDULES

SCHEDULE 1

Regulation 5

MAXIMUM FEE FOR GRANTING AN INDIVIDUAL ACCESS TO HEALTH INFORMATION

Item No.	Manner of access under Part 5 of the Act	Maximum fee
1.	Inspecting health information or print out of health information stored in electronic form, with opportunity to take notes of contents	The total of the following amounts-- (a) \$5 per quarter hour (or part of a quarter hour) in respect of supervision time of inspection; and (b) the organisation's reasonable costs incurred in assessing and collating the health information, not exceeding \$20; and (c) if it is necessary to use equipment that is not in the organisation's possession to inspect the health information, the organisation's reasonable costs incurred in obtaining the equipment; and (d) if the health information is contained in a document not stored at the organisation's usual place of business, \$10.

Item No.	Manner of access under Part 5 of the Act	Maximum fee
2.	Viewing health information, with no explanation of contents	<p>The total of the following amounts--</p> <p>(a) \$5 per quarter hour (or part of a quarter hour) in respect of supervision time of inspection; and</p> <p>(b) the organisation's reasonable costs incurred in assessing and collating the health information, not exceeding \$20; and</p> <p>(c) if it is necessary to use equipment that is not in the organisation's possession to inspect the health information, the organisation's reasonable costs incurred in obtaining the equipment; and</p> <p>(d) if the health information is contained in a document not stored at the organisation's usual place of business, \$10.</p>
<p>Note: Section 32(4) of the Act provides that a person who gives an explanation of health information under section 29(1)(d) of the Act may charge a fee for the service that does not exceed the amount of the person's usual fee for a consultation of a comparable duration.</p>		

Item No.	Manner of access under Part 5 of the Act	Maximum fee
3.	Receiving a copy of health information	<p>The total of the following amounts--</p> <p>(a) if a copy is in the form of black and white A4 pages, 20 cents per page; and</p> <p>(b) if a copy is in a form other than a black and white A4 page, the organisation's reasonable costs incurred in providing the copy; and</p> <p>(c) the organisation's reasonable costs incurred in assessing and collating the health information, not exceeding \$20; and</p> <p>(d) if the health information is contained in a document not stored at the organisation's usual place of business, \$10.</p>

Item No.	Manner of access under Part 5 of the Act	Maximum fee
4.	Receiving an accurate summary of health information	<p>The total of the following amounts--</p> <p>(a) if the organisation is a health service provider and an accurate summary does not exist before the request is made, an amount (not exceeding \$80) that is calculated by reference to the time taken to prepare the accurate summary--</p> <p>(i) based on the usual fee of the health service provider for a consultation of a comparable duration; or</p> <p>(ii) at the rate of \$25 per quarter hour (or part of a quarter hour)--</p> <p>whichever is the greater; and</p> <p>(b) if the organisation is not a health service provider and an accurate summary does not exist before the request is made, the organisation's reasonable costs incurred calculated by reference to the time taken to prepare the accurate summary, not exceeding--</p> <p>(i) \$25 per quarter hour (or part of a quarter hour); or</p> <p>(ii) \$80--</p> <p>whichever is the lesser; and</p> <p>(c) if the health information is contained in a document not stored at the organisation's usual place of business, \$10.</p>

SCHEDULE 2

**MAXIMUM FEE FOR MAKING HEALTH INFORMATION AVAILABLE
TO ANOTHER HEALTH SERVICE PROVIDER**

Item No.	Manner of access under HPP 11.1	Maximum fee
1.	Provision by a health service provider of a copy of health information to another health service provider	(a) If the copy consists of at least 20 black and white A4 pages, 20 cents per page. (b) If the copy is in a form other than a black and white A4 page, the health service provider's reasonable costs incurred in providing the copy.
2.	Provision by a health service provider of an accurate summary of health information to another health service provider	If-- (a) an accurate summary does not exist before the request is made; and (b) it takes the health service provider at least 30 minutes to prepare an accurate summary-- an amount (not exceeding \$80) that is calculated by reference to the time taken to prepare the accurate summary at the rate of \$25 per quarter hour (or part of a quarter hour) or based on the usual fee of the health service provider for a consultation of a comparable duration, whichever is the greater.

