

Dermatology Coding Alert

Reader Question: Beware Medical Records Rules

Question: We discharged a patient due to non-payment, and one week later a new surgeon requested the patient's records from our office. My surgeon wants to me to bill the patient for the records transfer. Is this something we can do?

Codify Subscriber

Answer: No, you cannot bill the patient, the other provider, or anyone else for a records transfer from one doctor to another. The patient has the right to have her entire record transferred to another provider regardless of the reason your surgeon is no longer seeing the patient.

Here's why: The HIPAA final rule released in January 2013 included some specifics about medical record transfers. You need to ensure you are working under the following requirements:

The patient must be able to easily request transfer of records to another provider or a copy for herself. Upon request, you must give the patient a copy of the full record in the HIPAA Designated Record Set, "which is any records used to make decisions about the patient's care or payment for services, including records received from other providers," says **Jim Sheldon Dean**, director of compliance services for Lewis Creek Systems LLC in Charlotte, Vt. "There are very limited exceptions to this, such as psychotherapy notes, information given in confidence, and information that if released could cause harm."

If your practice uses an electronic medical records (EMR) system, you must provide a copy of the medical record in at least one readable electronic format, such as on a CD or via secure email. "Any records in the Designated Record Set that are held electronically must be made available in an electronic format," Dean says.

You can reject the electronic format the patient requests if you cannot readily produce the information in that format, or if there are security concerns. If the patient insists, you can use their flash drive or unsecure email after having the patient sign a potential risk acknowledgement.

You can charge the patient reasonable fees to cover your labor and supplies costs for making paper or electronic copies if you are providing the records to the patient. "Reasonable fees do not include the capital costs of any systems or equipment needed, only the costs for labor and supplies," Dean adds.

You have only 30 days to respond to and complete the request. You can ask for a one-time extension of 30 days if your practice provides a written explanation to the patient explaining the reason for the delay and the expected date of completion.

Remember: You also need to check your state laws, as some states have specific laws governing fees and timing for record transfers. "Whichever rules provide for the lower cost to the individual prevail," Dean says.