

2001 DRAFTING REQUEST

Senate Amendment (SA-SSA1-SB55)

Received: 07/09/2001

Received By: **kenneda**

Wanted: **As time permits**

Identical to LRB:

For: **Legislative Fiscal Bureau 266-5347**

By/Representing: **Jakel**

This file may be shown to any legislator: **NO**

Drafter: **kenneda**

May Contact:

Addl. Drafters:

Subject: **Health - miscellaneous**

Extra Copies: **ISR**

Submit via email: **NO**

Requester's email:

Pre Topic:

LFB:.....Jakel -

Topic:

Uniform fees for certified patient health care records

Instructions:

See Attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	kenneda 07/10/2001	jdyer 07/10/2001		_____			
/1			pgreensl 07/10/2001	_____	lrb_docadmin 07/10/2001		

FE Sent For:

<END>

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11	kenneda	1/10 jld	7/10 PS	7/10 PS/RS			

FE Sent For:

<END>



Legislative Fiscal Bureau

One East Main, Suite 301 • Madison, WI 53703 • (608) 266-3847 • Fax: (608) 267-5873

Date: 7/7/01

DELIVER TO: Ms. Debra Kennedy

Addressee Fax #: 48522 Addressee Phone #: _____

of Pages, Including Cover: three Sender's Initials: CM

From: Charles Morgan

Message:

From: Sweet, Richard
Sent:
To:
Subject:

As I understand the agreement on patient health care records, it is Senate Bill 71, with the following changes:

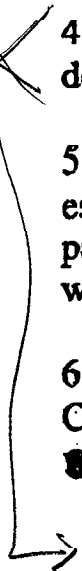
1. On page 2, line 10, "applicable tax" would replace "applicable state tax".
2. On page 3, line 3, after the period, insert: "In determining ^{the} an approximation of actual costs, the department may consider the following factors:
 - (a) Operating expenses such as wages, rent, utilities, and duplication equipment and supplies.
 - (b) The varying cost of retrieval of records, based on the different media on which the records are maintained.
 - (c) The cost of separating requested patient health care records from those that are not requested.
 - (d) The cost of duplicating requested patient health care records.
 - (e) The impact on costs of advances in technology."
3. The department would be required to revise its rules under s. 146.83(3m) every 3 years to account for increases or decreases in actual costs. Since this would be an ongoing duty, it should be statutory.

add

under this subsection

4. The changes in current law on what fees may be charged would not take effect until the department has first promulgated a rule under s. 146.83(3m). Jan 1, 2003
5. In developing the first rule under s. 146.83(3m), the department would be required to establish an advisory committee whose members represent a balance of persons who maintain patient health care records and persons who request patient health care records. Since this would be a one-time duty, it should be in a nonstatutory provision.

6. There was discussion about when the first draft rules should be submitted to the Legislative Council Rules Clearinghouse. ~~the rules should be submitted 9 months. ~~the rules should be submitted 9 months.~~~~



From Carrie Jabel: Change eff. date to Jan 1, 2003 (to avoid unconst. deleg of legis. authority)

2001

Date (time)
needed

SOON - In edit
7/10

LRB b 2030 / 1

BUDGET AMENDMENT

DAK: JLD:
J+hmb

See form **AMENDMENTS — COMPONENTS & ITEMS.**

D-NOTE

SENATE AMENDMENT TO SENATE SUBSTITUTE AMENDMENT 1 TO 2001 SENATE BILL 55

At the locations indicated, amend the substitute amendment as follows:

#. Page , line :

#. Page , line :

#. Page , line :

#. Page , line :

#. Page , line :

#. Page , line :

SDC:.....Keckhaver - CN2008, Uniform fees for patient health care records

FOR 2001-03 BUDGET — NOT READY FOR INTRODUCTION

CAUCUS SENATE AMENDMENT

TO SENATE SUBSTITUTE AMENDMENT 1,

TO 2001 SENATE BILL 55

1 At the locations indicated, amend the substitute amendment as follows:

2 **1.** Page 946, line 13: after that line insert:

3 **"SECTION 2850bg.** 146.83 (1) (b)[✓] of the statutes is amended to read:

4 146.83 (1) (b) Receive a copy of the patient's health care records upon payment
5 of reasonable costs fees, as established by rule under sub. (3m).

6 **SECTION 2850bh.** 146.83 (1) (c)[✓] of the statutes is amended to read:

7 146.83 (1) (c) Receive a copy of the health care provider's X-ray reports or have
8 the X-rays referred to another health care provider of the patient's choice upon
9 payment of reasonable costs fees, as established by rule under sub. (3m).

10 **SECTION 2850bi.** 146.83 (3m)[✓] of the statutes is created to read:

1 146.83 (3m) ^(a) The department shall, by rule, prescribe fees that are based on an
 2 approximation of actual costs. The fees, plus applicable ~~state~~ tax, are the maximum
 3 amount that a health care provider may charge under sub. (1) (b) for duplicate
 4 patient health care records and under sub. (1) (c) for duplicate X-ray reports or the
 5 referral of X-rays to another health care provider of the patient's choice. The rule
 6 shall also permit the health care provider to charge for actual postage or other actual
 7 delivery costs. ~~§~~ INSERT 2-7 ✓

January 1, 2003 ✓

8 **2.** Page 1219, line 15: after that line insert:

9 “SECTION 3872x. 908.03 (6m) (d) ✓ of the statutes is amended to read:

10 908.03 (6m) (d) *Fees.* ~~The~~ Before ~~July 1, 2001~~, the department of health and
 11 family services shall, by rule, prescribe uniform fees that are based on an
 12 approximation of the actual costs. The fees, plus applicable ~~state~~ tax, are the
 13 maximum amount that a health care provider may charge under par. (c) 3. for
 14 certified duplicate patient health care records. The rule shall also allow the health
 15 care provider to charge for actual postage or other actual delivery costs. The
 16 commencement of an action is not a prerequisite for the application of this
 17 paragraph.

18 SECTION 3872y. 908.03 (6m) (d) ✓ of the statutes, as affected by 2001 Wisconsin ✓
 19 Act (this act), is amended to read: January 1, 2003 December 31, 2002 ↓

20 908.03 (6m) (d) *Fees.* ~~Before ~~July 1, 2001~~~~ ^a After ~~June 30, 2002~~ the department of
 21 health and family services shall, by rule, prescribe uniform fees that are based on an
 22 approximation of actual costs. The fees, plus applicable ~~state~~ tax, are the maximum
 23 amount that a health care provider may charge for certified duplicate patient health
 24 care records. The rule shall also allow the health care provider to charge for actual

1 postage or other actual delivery costs. ~~The commencement of an action is not a~~
2 ~~prerequisite for the application of this paragraph~~ For duplicate patient health care
3 records and duplicate X-ray reports or the referral of X-rays to another health care
4 provider that are requested before commencement of an action, s. 146.83 (1) (b) and
5 (c) and (3m) applies.”

6 3. Page 1338, line 20: after that line insert:

④ (a)

7 “(14g) FEES FOR PATIENT HEALTH CARE RECORDS; RULES. The department of health
8 and family services shall submit in proposed form the rules required under section
9 146.83 (3m) of the statutes, as created by this act, to the legislative council staff
10 under section 227.15 (1) of the statutes no later than the first day of the ~~5th~~ month
11 beginning after the effective date of this subsection.”

✓ 10th

✓ INSERT 3-11

12 4. Page 1420, line 19: after that line insert:

13 “(16f) FEES FOR PATIENT HEALTH CARE RECORDS; RULES. The treatment of sections
14 146.83 (1) (b) and (c) and 908.03 (6m) (d) (by SECTION 3872y) of the statutes takes
15 effect on ~~July 1, 2002~~.”

(END)

January 1, 2003 ✓

D-NOTE

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INSERT 2-7

(30) In determining the approximation of actual costs for the purposes of this subsection, the department may consider all of the following factors:

1. Operating expenses, such as wages, rent, utilities, and duplication equipment and supplies.
2. The varying cost of retrieval of records, based on the different media on which the records are maintained.
3. The cost of separating requested patient health care records from those that are not requested.
4. The cost of duplicating requested patient health care records.
5. The impact on costs of advances in technology.

(b) By January 1, 2006, and every 3 years thereafter, the department shall revise the rules under par. (a) to account for increases or decreases in actual costs.”.

INSERT 3-11

(b) To develop the rules under paragraph (a), the secretary of health and family services shall establish an advisory committee composed of members who represent a balance of persons who maintain patient health care records and persons who request patient health care records.”.

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRBb2030/2dn

DAK:j...

Jld

To Carri Jakel:

This budget amendment changes the effective date of the fee changes for patient health care records under s. 146.83, stats., to be January 1, 2003, rather than July 1, 2002, to provide DHFS sufficient time to promulgate rules and to avoid a potential unconstitutional delegation of legislative authority that might ensue if, as had been proposed, the changes were tied to the date of rules promulgation. The amendment also deletes the word "state," in modifying "tax" from the language amending s. 908.03 (6m) (d), stats.; Dick Sweet indicated that the omission of this change in the proposed language was an oversight.

Debora A. Kennedy
Managing Attorney
Phone: (608) 266-0137
E-mail: debora.kennedy@legis.state.wi.us

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRBb2030/1dn
DAK:jld:pg

July 10, 2001

To Carri Jakel:

This budget amendment changes the effective date of the fee changes for patient health care records under s. 146.83, stats., to be January 1, 2003, rather than July 1, 2002, to provide DHFS sufficient time to promulgate rules and to avoid a potential unconstitutional delegation of legislative authority that might ensue if, as had been proposed, the changes were tied to the date of rules promulgation. The amendment also deletes the word "state," in modifying "tax" from the language amending s. 908.03 (6m) (d), stats.; Dick Sweet indicated that the omission of this change in the proposed language was an oversight.

Debra A. Kennedy
Managing Attorney
Phone: (608) 266-0137
E-mail: debra.kennedy@legis.state.wi.us



State of Wisconsin
2001 - 2002 LEGISLATURE

LRBb2030/1
DAK:jld&hnh:pg

LFB:.....Jakel – Uniform fees for certified patient health care records

FOR 2001-03 BUDGET — NOT READY FOR INTRODUCTION

SENATE AMENDMENT

TO SENATE SUBSTITUTE AMENDMENT 1,

TO 2001 SENATE BILL 55

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5 of reasonable costs fees, as established by rule under sub. (3m).

6 **SECTION 2850bh.** 146.83 (1) (c) of the statutes is amended to read:

7 146.83 (1) (c) Receive a copy of the health care provider’s X-ray reports or have
8 the X-rays referred to another health care provider of the patient’s choice upon
9 payment of reasonable costs fees, as established by rule under sub. (3m).

10 **SECTION 2850bi.** 146.83 (3m) of the statutes is created to read:

1 146.83 (3m) (a) The department shall, by rule, prescribe fees that are based on
2 an approximation of actual costs. The fees, plus applicable tax, are the maximum
3 amount that a health care provider may charge under sub. (1) (b) for duplicate
4 patient health care records and under sub. (1) (c) for duplicate X-ray reports or the
5 referral of X-rays to another health care provider of the patient's choice. The rule
6 shall also permit the health care provider to charge for actual postage or other actual
7 delivery costs. In determining the approximation of actual costs for the purposes of
8 this subsection, the department may consider all of the following factors:

9 1. Operating expenses, such as wages, rent, utilities, and duplication
10 equipment and supplies.

11 2. The varying cost of retrieval of records, based on the different media on which
12 the records are maintained.

13 3. The cost of separating requested patient health care records from those that
14 are not requested.

15 4. The cost of duplicating requested patient health care records.

16 5. The impact on costs of advances in technology.

17 (b) By January 1, 2006, and every 3 years thereafter, the department shall
18 revise the rules under par. (a) to account for increases or decreases in actual costs.”.

19 **2.** Page 1219, line 15: after that line insert:

20 “**SECTION 3872x.** 908.03 (6m) (d) of the statutes is amended to read:

21 908.03 (6m) (d) *Fees.* ~~The~~ Before January 1, 2003, the department of health
22 and family services shall, by rule, prescribe uniform fees that are based on an
23 approximation of the actual costs. The fees, plus applicable tax, are the maximum
24 amount that a health care provider may charge ~~under par. (c) 3.~~ for certified duplicate

1 patient health care records. The rule shall also allow the health care provider to
2 charge for actual postage or other actual delivery costs. The commencement of an
3 action is not a prerequisite for the application of this paragraph.

4 **SECTION 3872y.** 908.03 (6m) (d) of the statutes, as affected by 2001 Wisconsin
5 Act (this act), is amended to read:

6 908.03 (6m) (d) *Fees.* ~~Before January 1, 2003~~ After December 31, 2002, the
7 department of health and family services shall, by rule, prescribe uniform fees that
8 are based on an approximation of actual costs. The fees, plus applicable tax, are the
9 maximum amount that a health care provider may charge for certified duplicate
10 patient health care records. The rule shall also allow the health care provider to
11 charge for actual postage or other actual delivery costs. ~~The commencement of an~~
12 ~~action is not a prerequisite for the application of this paragraph~~ For duplicate patient
13 health care records and duplicate X-ray reports or the referral of X-rays to another
14 health care provider that are requested before commencement of an action, s. 146.83
15 (1) (b) and (c) and (3m) applies.”.

16 **3.** Page 1338, line 20: after that line insert:

17 “(14g) FEES FOR PATIENT HEALTH CARE RECORDS; RULES.

18 (a) The department of health and family services shall submit in proposed form
19 the rules required under section 146.83 (3m) of the statutes, as created by this act,
20 to the legislative council staff under section 227.15 (1) of the statutes no later than
21 the first day of the 10th month beginning after the effective date of this subsection.

22 (b) To develop the rules under paragraph (a), the secretary of health and family
23 services shall establish an advisory committee composed of members who represent

1 a balance of persons who maintain patient health care records and persons who
2 request patient health care records.”

3 **4.** Page 1420, line 19: after that line insert:

4 “(16f) FEES FOR PATIENT HEALTH CARE RECORDS; RULES. The treatment of sections
5 146.83 (1) (b) and (c) and 908.03 (6m) (d) (by SECTION 3872y) of the statutes takes
6 effect on January 1, 2003.”

7 (END)