

SENATE BILL REPORT

ESHB 1239

As Passed Senate - Amended, March 1, 2018

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: Passed House: 2/27/17, 90-6; 1/18/18, 91-5.

Committee Activity: Health Care: 3/13/17.

Health & Long Term Care: 2/15/18, 2/19/18 [DPA, w/oRec].

Floor Activity:

Passed Senate - Amended: 3/01/18, 40-9.

Brief Summary of Bill (As Amended by Senate)

- 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.

SENATE COMMITTEE ON HEALTH CARE

Staff: Kathleen Buchli (786-7488)

SENATE COMMITTEE ON HEALTH & LONG TERM CARE

Majority Report: Do pass as amended.

Signed by Senators Cleveland, Chair; Kuderer, Vice Chair; Conway, Fain, Keiser, Mullet and Van De Wege.

Minority Report: That it be referred without recommendation.

Signed by Senators Rivers, Ranking Member; Bailey.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Staff: LeighBeth Merrick (786-7445)

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 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 \$0.65 per page for the first 30 pages and \$0.50 per page for any additional pages. A clerical fee of up to \$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 \$1.17 per page for the first 30 pages, \$0.88 per page for all other pages, and a clerical fee of up to \$26.

Summary of Amended 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 the person's 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 may complete and provide a disclosure authorization to the health care facility or provider that specifies the health care information requested. 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.

Appropriation: None.

Fiscal Note: Available.

Creates Committee/Commission/Task Force that includes Legislative members: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony (Health Care): *Testimony from 2017 Regular Session.*
PRO: This bill would help more than 16,000 people who have hearings pending. Fifteen other states have passed similar bills. This is important because these are the people who can least afford claims. Recent law changes require applicants to provide medical records. Payments for medical records come out of the pockets of disabled people in Washington State and in many cases go to out of state companies. This reduces a barrier to access. The costs for medical records is unbearable to those who apply to the programs. It could benefit the state if this passes because more people will seek Social Security benefits. This has a limited administrative impact because the records may be provided digitally.

OTHER: The requirement that the disclosure must be completed should be changed to may be completed. The bill needs to specify what health care information is requested.

Persons Testifying (Health Care): PRO: Michael Althaus, Columbia Legal Services; Jeanette Laffoon, citizen.

OTHER: Lisa Thatcher, Washington State Hospital Association.

Persons Signed In To Testify But Not Testifying (Health Care): No one.

Staff Summary of Public Testimony on Engrossed Substitute House Bill (Health & Long Term Care): *The committee recommended a different version of the bill than what was heard.* PRO: Washington has the highest permissible charges for health care records in the country. These charges can be cost-prohibitive for low-income individuals who are desperately needing to access social security benefits. The cost to the health care provider is minimal compared to what they are permitted to charge. Many of the companies that the health care providers contract with are out of state yet take advantage of Washington's fee structure. The Social Security application process is lengthy and can be extremely challenging. Applicants are often denied due to insufficient paperwork which delays the process for accessing the benefit. This bill would expedite people's access to the benefit so they have resources to meet their basic needs.

OTHER: Requiring the patient to complete the disclosure authorization is in violation of the Health Insurance Portability and Accountability Act. The disclosure authorization should be optional and should request the patient to specify which records are needed.

Persons Testifying (Health & Long Term Care): PRO: Diana Stadden, The Arc Of Washington; Kate Baber, Washington Low Income Housing Alliance; Jeanette Laffoon, citizen; Alison Bilow, Columbia Legal Services.

OTHER: Chris Bandoli, Washington State Hospital Association.

Persons Signed In To Testify But Not Testifying (Health & Long Term Care): No one.