

Calculating Costs for Accounting of Disclosures

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The privacy rule allows a covered entity to charge a cost-based fee for providing an accounting of disclosure (AOD). Has your organization determined these costs? Calculating the actual costs may be more involved than you think. This article will discuss the requirements for setting the fee and how to determine actual costs for an AOD.

In granting individuals the right to an AOD, the Department of Health and Human Services (HHS) had to balance the individual's right to know how and to whom PHI is being disclosed and the financial and administrative burden on covered entities in responding to such requests. The balance struck by HHS with regard to cost was to grant the individual a right to an accounting once a year without charge. The covered entity may impose reasonable, cost-based fees for any subsequent requests during the one-year period.

HHS clarifies that the covered entity may recoup its reasonable retrieval and report preparation costs as well as any mailing costs incurred in responding to subsequent requests. The privacy rule requires that individuals be notified in advance of these fees and provided an opportunity to withdraw or amend a request for a subsequent accounting to avoid incurring excessive fees.

Setting Fees

The privacy rule allows a covered entity to charge a fee for providing copies of medical records and providing an AOD. However, calculating the cost for an AOD as permitted in 164.528 (c)(2) differs from calculating the cost for copying and related supplies provided for in 164.524 (c)(4). For example, in 164.528(c)(2):

- The covered entity cannot charge for first request for an AOD during any 12-month period but can charge for copies of medical records each time a request is received
- The fee charged for the AOD covers the entire process including preparation, while the fee charged for copies of medical records is limited to labor and supplies directly related to copying rather than the total release of information process

Both situations require the HIM professional to develop "a reasonable, cost-based fee." This is a calculation that should not be made in isolation and requires an organization to document how the fee was determined. Call upon the expertise of the organization's cost accountant, finance manager, or accounting firm to help with and review the calculations and identify other related costs that will be considered "reasonable."

Determining Costs

The "[Accounting for Disclosure Cost Analysis Worksheet](#)" below provides a detailed sample of the activities and expenses to consider when determining actual costs. Every facility differs in its approach and will need to tailor the worksheet to meet its individual needs. To establish your organization's actual costs, you must list the steps involved in preparing an AOD for your organization and the supplies and other non-labor expenses consumed in preparing it.

If possible, perform time studies of the process. The time it takes to prepare an accounting of disclosure will differ based on the approach. Some approaches for maintaining an accounting of disclosure include:

1. using an in-house developed database and placing it on the organization's network or intranet, or using a purchased software package with a database and requiring all parties who release personal health information (PHI) to enter their disclosures

2. requiring all parties who release PHI to submit a completed form to the HIM department for entry in one of the above databases
3. requiring all parties who release PHI to submit a completed form to the HIM department for logging or filing in the patient's record
4. requiring all parties who release PHI to document the disclosure in the patient's record

Because each organization will differ, the time study should consider the effort involved given the approach chosen. In the third and fourth approaches, test the efforts for records that are stored off site and in paper form, on microfilm, or scanned. This will provide you with sufficient data to develop a fee for each scenario and to know what fee to charge when a request is made for a record stored in a form other than paper that is kept on site.

Regardless of whether others are involved in the calculation, retain the documentation that supports your fee determination should complaints or litigation arise from the charges made.

Accounting for Disclosure Cost Analysis Worksheet

Note: This worksheet has been developed to provide guidance on components to consider in developing the basis for a reasonable, cost-based charge for the Accounting for Disclosure (164.528). This worksheet is not intended to be all inclusive. Users are encouraged to discuss inclusions to this analysis with their facility's cost accountant.

Labor Components

- Review and verify the request for the accounting of disclosure including confirming whether the request is "initial" or "repeat" within the same year. Discuss the purpose and content limitations of the accounting, availability, whether the patient wishes to have the report mailed or picked up, the accounting fee, and, if applicable, postage required and state sales tax
- Log request
- Find the patient in the master patient index
- Determine where accounting information is maintained:
 - Are disclosures maintained in the patient record?
 - Are disclosures maintained in a database?
 - Must calls be made to various departments to capture disclosures?
 - All of the above?
- Determine the locations of the records
- Determine disclosure locations to research
- Pull records
- Research databases for disclosures
- Poll other disclosure locations
- Prepare inventory of disclosures in a format established by the organization; copy requests if appropriate
- If this is a repeat request, prepare an invoice. If applicable, capture mailing costs
- Contact the patient regarding the accounting's availability and, if applicable, the fee required
- Annotate log to indicate that request has been prepared. File a copy in the designated location
- Annotate log with release date of accounting to patient and, if applicable, fee received
- If applicable, deposit fees received

Conduct time studies or prepare estimates of time to perform the above. Document studies and estimates.

Non-labor Expenses

- Space (including utilities) to house staff and equipment to perform the accounting of disclosure
- Furnishings

- Benefits and payroll taxes of staff performing this function
- Administrative overhead overseeing this function
- Other applicable overhead
- Consulting and professional guidance (for example, legal, accounting, consulting)
- Liability insurance
- Copy machine maintenance and supplies (if copies are prepared)
- Consumable supplies used: paper, staples, envelopes, etc.
- Printer maintenance and supplies
- Software license and annual maintenance
- PC maintenance
- MPI system maintenance
- Depreciation expense on items owned by the entity for this function
- Telephone
- Education
- Reference manuals

The full cost of the non-labor expenses cannot be allocated solely to accounting of disclosure, as these items are used for many other purposes. Consult with your facility's cost accountant.

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Reference

"Standards for Privacy of Individually Identifiable Health Information; Final Rule." 45 CFR Parts 160 and 164, *Federal Register* 67, no. 157 (August 14, 2002). Available at <http://aspe.hhs.gov/admnsimp/>.

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