

Request for Responses

1. Is an electronic file size an appropriate proxy for “pages” in setting fees for electronic access, or is it simply a substitute for a per-page proxy?
 - *No, file size is not a good surrogate for pages because EHRs may contain pictures, voice files, movies or other content that would be much larger than a text file.*
2. If file size is appropriate, how should cost be calculated, particularly considering the questions below?
 - *N/A*
3. If not, what is a better proxy for calculating labor costs for electronic access?
 - *As vendors, we could not begin to suggest how labor costs should be calculated. There are many reasons to anticipate that there will be variable amounts of time consumed on providing access to a record. These can include the need to segregate data that might have special protections, such as adolescent reproductive care or behavioral health information. We suggest that clinicians, hospitals, and medical records personnel be queried to provide more detail.*
4. One of the objectives of Stage 2 of the Meaningful Use EHR Incentive Program is to provide individuals the ability to view, download and transmit their health information.^{1[1]} Therefore, should the producible form and format of the electronic copy the individual requests affect how the individual is charged? (For example, an individual downloads an electronic copy onto a portable thumb drive or CD vs. using the download or transmit capabilities of certified EHR technology or email.) This issue may also arise when an individual uses personal health records or mobile health devices.
 - *VDT only requires the ability to generate a CCDA, although vendors may provide the capability to download and transmit additional e information and/or formats. So again, there could be variable amounts of effort if more than a CCDA is being generated and may in fact exceed the capacity of a thumb drive or even a CD.*
5. If, due to interoperability issues between an EHR where the requested information is maintained, and the software used to create the copy for the individual (for example, proprietary software of a business associate which provides the electronic copy to the individual), the business associate must download the file from the EHR, and subsequently upload it to the business associate’s software before generating an electronic copy for an individual, should labor costs associated with this process be charged to the individual? Why or why not?
 - *Again, this is a question more appropriate to ask of clinicians, hospitals, and medical records experts, but these parties are all businesses and one would expect that they should be reimbursed for the work that they do.*
6. If so, how should they be calculated?
 - *We defer to those with more familiarity with the level of effort involved.*

^{1[1]} 45 C.F.R. § 170.314.

7. Additionally, if the information is located in several different EHRs, downloaded, and uploaded to a separate software or system, should labor costs associated with this process be charged, as well – and if so, how should they be calculated?
 - *The person or business that is aggregating data from multiple sources would rightfully expect to be reimbursed for their efforts. The level of effort would vary depending upon the services provided. For example, are they de-duplicating data? Are they including more than just what is in a CCDA? Are they including more than just text files? These would all add to the level of effort and therefore to the cost of providing the service.*
8. Similarly, if information from an EHR has to be printed on paper (therefore paginated) and then scanned and uploaded to a different software program used to create and/or send the copy for/to the individual, should the individual be charged, and if so, how should the cost be calculated?
 - *Again, this is a question more appropriate to ask of clinicians, hospitals, and medical records experts, but these parties are all businesses and one would expect that they should be reimbursed for the work that they do. We would ask, under what circumstance this might be occurring as well since all CEHRT is required to have the VDT capability?*
9. Would you answer anything differently if the copy of the data from the designated record set were being transmitted to a non-HIPAA covered business, such as a PHR vendor compared to another HIPAA-covered entity or that organization's business associate?
 - *No*