



INFORMATION BLOCKING EXCEPTION #7: FEES EXCEPTION

Official Title – Fees Exception: When will an actor’s practice of charging fees for accessing, exchanging, or using electronic health information not be considered information blocking?

Exception applies if an actor charges fees, including fees that result in a reasonable profit margin, for accessing, exchanging, or using EHI, provided certain conditions are met.

Objective of the Exception – This exception enables actors to charge fees related to the development of technologies and provision of services that enhance interoperability, while not protecting rentseeking, opportunistic fees, and exclusionary practices that interfere with access, exchange, or use of EHI.

Key Conditions of the Exception:

- ✓ Meet the basis for fees condition
 - For instance, the fees an actor charges must:
 - Be based on objective and verifiable criteria that are uniformly applied for all similarly situated classes of persons or entities and requests.
 - Be reasonably related to the actor’s costs of providing the type of access, exchange, or use of EHI.
 - Not be based on whether the requestor or other person is a competitor, potential competitor, or will be using the EHI in a way that facilitates competition with the actor.
- ✓ Not be specifically excluded.
 - For instance, the exception does not apply to:
 - A fee based in any part on the electronic access by an individual, their personal representative, or another person or entity designated by the individual to access the individual’s EHI.
 - A fee to perform an export of electronic health information via the capability of health IT certified to § 170.315(b)(10).
- ✓ Comply with Conditions of Certification in § 170.402(a)(4) (Assurances – certification to “EHI Export” criterion) or § 170.404 (API).

Addressed on: [Page 25879 of final rule](#). For a detailed explanation of this exception also please reference our detailed [cheat sheet](#).