



HUB 121, 4001 NE Stevens Way
Seattle, WA 98195



HUB 314, 4001 NE Stevens Way
Seattle, WA 98195

July 25, 2013

Office of the Insurance Commissioner
Meg L. Jones
P.O. Box 40258
Olympia WA 98504

Dear Ms. Jones:

We are writing as representatives of the more than 42,000 undergraduate and graduate students of the University of Washington (Seattle). We write in support of the response to the Pre-proposal Statement of Inquiry regarding Insurance Commissioner Matter No. R 2013-11, by the Washington Alliance for School Health Care, which concerns a covered person's health information being made available to other household members without their consent.

We are very concerned about the inadvertent breach of the privacies afforded by HIPAA when *Explanations of Benefits* paperwork is issued or electronically recorded and the recipient of healthcare services is not the policy holder. This is an issue that gravely impacts patients' safety and ability to access care and we are grateful that you are addressing it with this process.

We strongly believe that patients need clear assurance that utilizing insurance reimbursement does not preclude their ability to receive confidential services. In our work, we come into contact with multiple patient groups for whom this is a serious concern:

- Adult spouses of any age whose partner holds the insurance policy, particularly troubling when domestic violence is an issue in the relationship
- Minors who have the legal right to access confidential healthcare services, but are insured through a parent/caregiver, creating a deterrent to seeking care for sensitive services
- Young adults (age 18-26) who remain on their parent's health insurance up to age 26

This issue is also about access to critical health care. Patients are more likely to seek this type of care when they are assured that their providers can confidentially bill for these critical services. Currently state law only requires confidentiality in billing for services when a written request is submitted (WA Administrative Code, 284-04-510). This is unwieldy and unworkable as each insurer has a unique set of procedures for implementing a confidentiality request around billing, and this information is not routinely shared with the covered population. Since patients and providers are not aware of this provision, it is rarely if ever evoked in practice, and so affords little confidentiality protection. This creates several critical issues, including:

- Difficulty accessing mental health care in a situation of domestic violence where the abuser's knowledge of this fact may provoke dangerous or lethal consequences.
- Limited ability of providers to bill in school health centers and in other locations when a minor is unaccompanied and can legally self-consent for services.

- Reluctance of minors, who have the legal right to independently consent for a variety of services (including STI treatment, contraception, and behavioral health services) and also young adults (who may consent for any service) to access care knowing parents will be informed – completely disrupting the intention of current confidentiality protections.
- Issues of safety for a victim of sexual abuse who is seeking mental health services/ STI treatment, or abortion services due to abuse by a family member who is the policy holder.

We encourage you to work on producing new regulations for insurance carriers that will better guide them to safeguard their insured persons’ right to confidentiality. We request that these regulations mandate the kind of policies and procedures that are easily understood by patients and easily implemented by providers at the point of care. Although our focus is on EOBs, other forms of insurance-related communication should also be considered whenever the disclosure of information violates confidentiality (e.g., web access to historical patient billing records may not be called an “EOB” but could include sensitive information).

Our specific suggestions are that these new regulations include:

- a common method to request the suppression of the issuance of an EOB and other forms of insurance-related communication that will be used by all insurers in Washington
- a mandate that carriers convey billing suppression information clearly and consistently to providers and covered parties
- a reduction in the amount of information needed for the suppression request
- a requirement that insurers confirm in writing having received the request
- an ability for care providers to forward the signed request on the patients’ behalf
- mechanisms for enforcement, including penalties for noncompliance permitted under Title 48
- automatic suppression of detailed EOBs or other billing paperwork for all services where:
 - Section 2713 of the Affordable Care Act requires no patient financial liability
 - the service has existing confidentiality protection (e.g., mental health, STI care) in Washington State by law

We also respectfully request that the OIC engage the Health Benefit Exchange in this process due to their yet unknown role in aggregating cost sharing, although we recognize you may have limited regulatory control over the HBE.

The focus in these new regulations needs to be on practical solutions. This will ensure that confidentiality protections enshrined in law are actually upheld in real world situations and that patients’ access to care is safeguarded.

Sincerely,

Associated Students of the University of Washington Executive Board:

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