



Planned Parenthood Votes Northwest

July 25, 2013

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

Dear Ms. Jones:

On behalf of Planned Parenthood Votes Northwest, I write in response to the Preproposal Letter of Inquiry regarding Insurance Commissioner Matter No. R 2013-11, which concerns a person's health information being made available to other household members without their consent. Planned Parenthood Votes Northwest advocates on behalf of patients in Washington, where affiliates operate 34 health centers and provide clinical and educational services to more than 162,000 people each year.

Confidentiality is a fundamental principle underlying the delivery of health care. Nonetheless, the health insurance billing and claims processing procedures widely used today—notably the practice of sending “explanation of benefits” forms (EOBs) to a policyholder whenever care is provided under his or her policy—unintentionally but routinely violate this basic guarantee for anyone enrolled as a dependent on someone else's policy. While it is clear that the basic claims payment procedures commonly used by insurers conflict with the ability of any individual insured as a dependent to obtain confidential care, we know that it is an even bigger concern for patients seeking sensitive services like family planning and reproductive health care.

Privacy is hugely important when it comes to contraceptive services and sexually transmitted infections. Women may not want their partners to know about their contraceptive use or request for an STI test. A woman's safety could even be threatened when an abusive partner finds out that she is receiving care he does not know about.

Even the perception of lack of confidentiality in reproductive health care delivery can lead to considerable harm. For example, someone who foregoes or even just delays testing and treatment for STIs puts not only himself or herself at risk, but his or her partners as well. In addition, a pregnant woman who is concerned about telling her partner that she is pregnant may delay entry into prenatal care, with potentially serious consequences.

Also, fear of disclosure may lead many young women to decline to use their insurance coverage to pay for an abortion; lack of confidentiality under private insurance plans is tantamount to a de facto parental notification requirement, a provision that has been shown to create serious impediments for many teens. Some women and teens who are denied confidential abortion services delay having the procedure, which threatens their health and results in later, more costly abortions.

The issue of confidentiality in health care delivery already impacts large portions of the population, including nearly all teens and the many young adults covered under their parents' policies, as well as the millions of married adults insured through their spouses. Health care reform will greatly increase the number of people affected. Therefore it is critical that we take the steps now to give patients the utmost confidence that utilizing their insurance will not preclude their ability to receive confidential health services.

Confidential health services promote general health and well-being for everyone. Patients are more likely to develop trusting relationships with their health care providers when the issue of confidentiality has been addressed, and this confidential relationship, in turn, facilitates the open disclosure of health histories and risky behaviors.

Health care providers and policymakers should work together to develop payment methodologies that can preserve the integrity of the billing process while ensuring the provision of confidential care when needed.

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.

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 patient's 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

The bottom line is that when information about an individual's medical care is disclosed to any third party, like an insurer, no more information should be disclosed than is necessary for the functions to be performed by that third party. New regulations need to be focused on practical solutions to ensure that meaningful confidentiality protections for all patients are enshrined in law and are actually upheld in real world situations.

We're grateful that the Office of the Insurance Commissioner has taken steps towards fixing this serious problem. We appreciate the opportunity to provide comments on these issues, and thank you for your sincere consideration. We look forward to continued discussion about how we can improve confidentiality protections for all individuals who seek healthcare.

Sincerely,



Jennifer M. Allen  
Public Policy Director, Planned Parenthood Votes Northwest