

Overview of R 2013-11: Issuer disclosures, notices and processes to protect privacy of health care information

Reasons for the rule – The Office of the Insurance Commissioner (OIC) began working on this rule in 2013 in response to a request from a stakeholder coalition. The members of the coalition expressed concerns, saying that insurance companies sometimes disclose information regarding one family member's health care services (such as claims or Explanations of Benefits) to other family members who are on the same policy.

If people believe that they can't use their health insurance because a family member may find out, then many people won't use their health insurance. Instead, they may forgo health care, or they may receive the service but pay without using insurance, or they might even ask the provider to waive the cost.

This issue has a particularly strong impact on three groups of people: people who are under the age of 18 (minors), people in domestic violence situations, and young adults who are still on their parents' health plan.

In regard to minors, several sections of state law give minors the right to receive certain health care services without the knowledge or consent of their parents. For example, minors age 13 or over have the right to seek mental health services on their own. However, many minors won't seek these services if they think their parents may find out by receiving information from the insurance company.

In regard to people who are in domestic violence situations, an existing state regulation (WAC 284-04-510) already requires insurance companies to limit disclosure of information when people say in writing that disclosing the information could jeopardize their safety. In bringing this issue to the OIC, members of the stakeholder coalition expressed concerns about whether insurance companies are fully complying with this requirement.

For young adults who are still on their parents' health plan, it can be awkward to seek health care services if there's a possibility that their parents may receive information about it from the insurance company.

Sometimes even people who aren't minors or young adults and aren't in domestic violence situations face situations where they want or need to maintain privacy for medical services.

Many people are part of emotionally healthy families where it's possible – and even normal – for family members to share information about some or even all health care services without adverse repercussions.

Unfortunately, not every family is like this. Also, even in families that normally share health care information, situations can arise sometimes where people want privacy for health care services. As a result, it's important to ensure that people can receive health care services – and use their health insurance - without family members receiving information about those services from the insurance company.

Applicability – It's important to note that this proposed rule will only apply to health plans that the Washington Office of the Insurance Commissioner regulates. As a result, this will apply to fully-insured health plans, but not Medicaid, Medicare or self-funded health plans.

Next steps – The OIC is holding a stakeholder meeting in December. The agency is not planning to actively work on the rule during the legislative session, but after session, the agency will hold an additional stakeholder meeting (or multiple meetings, as necessary) before releasing a CR 102 draft.

This is an important issue and the OIC looks forward to finishing this work, but the agency does not have a specific target date for completion.