

Confidential Healthcare Communications

Best practices in EOB Suppression and Confidential Communications policies as identified in DCADV's 2020 Confidential Communications policy brief



January 2021



Overview

Protected Individuals

Detail

Definitions

**Confidential
Health
Information
Act, Senate Bill
138**

“Confidential communications request” means a request by a subscriber or enrollee that health care service plan communications containing medical information be communicated to him or her at a specific mail or email address or specific telephone number, as designated by the subscriber or enrollee.

Dependents who are seeking sensitive services or whose safety would be jeopardized by the sharing of information.

"...a health care service plan or health insurer... would be required to maintain confidentiality of medical information regarding the treatment of an insured, subscriber, or enrollee, including requiring a health care service plan or health insurer to accommodate requests by insureds, subscribers, and enrollees to receive requests for confidential communication of medical information in situations involving sensitive services or situations in which disclosure would endanger the individual."

“sensitive services” to include those that minors are able to consent for independently under state law—including among other services, mental health counseling, reproductive health services, STD testing and care, sexual assault services, and drug treatment. “Endanger” means that the subscriber or enrollee fears that disclosure of his or her medical information could subject the subscriber or enrollee to harassment or abuse.

2015



	Overview	Protected Individuals	Detail
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Regulation 4-2-35 within the Department of Regulatory Agencies, Division of Insurance, 3CCR 702-4, Life Accident and Health

2018

"developing a means of communicating exclusively with the covered adult child or adult dependent such that PHI would not be sent to the policyholder without prior consent of the covered adult child or adult dependent."

"adult child or adult dependent who is covered under the policy"

"Carriers must take reasonable steps to ensure that the protected health information (PHI) of any adult child or adult dependent who is covered under the policy is protected. This protection includes ensuring that any communications between the carrier and covered adult child remain confidential and private, as required under the Health Insurance Portability and Accountability Act (HIPAA). This protection of personal health information would include, but is not limited to, developing a means of communicating exclusively with the covered adult child or adult dependent such that PHI would not be sent to the policyholder without prior consent of the covered adult child or adult dependent."

Maryland



	Overview	Protected Individuals	Detail	Definitions
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SB 790: Health Insurance - Communications Between Carriers and Enrollees - Conformity With the Health Insurance Portability and Accountability Act

2014

Confidential Communications

Enrollees

The Commissioner shall develop and make available a standardized form for an enrollee to use to request confidential communications from a carrier in accordance with 45 C.F.R § 23 164.522(B).

A carrier that requires an enrollee to make a request for confidential communications in writing in accordance with 45 C.F.R § 164.522(B) shall accept the standardized form developed by the Commissioner under this section for that purpose.

“Enrollee” means a person entitled to health care benefits from a carrier.

Massachusetts



Overview

Protected Individuals

Detail

Definitions

All carriers shall permit...individuals to choose, in writing, an alternative method of receiving the common summary of payments form.

Carriers shall not specify or describe sensitive health care services in a common summary of payments form. In the event that the insured member has no liability for payment for any procedure or service, insured members can request suppression of common summary of payments forms for a specific service or procedure.

An insured member who is legally authorized to consent to that member's own care (or individual legally authorized on behalf of the insured member)

The alternative methods of receiving the common summary of payments form shall include, but not be limited to: (A) sending a paper form to the address of the subscriber; (B) sending a paper form to the address of the insured member; (C) sending a paper form to any alternate address upon request or (D) allowing the subscriber and/or the insured member to access the form through electronic means.

Carriers are not permitted to inquire as to the reasons for, or otherwise seeks to confirm, the endangerment.

Sensitive services include, but are not limited to, infectious disease, reproductive and sexual health, domestic violence and sexual assault and mental health and substance use disorders.

**An Act To
Protect Access
To Confidential
Healthcare,
Chapter 63
amending
Chapter 1760 of
the General
Laws**

2018



Overview

Protected Individuals

Detail

Definitions

2017 ORS
743B.555
Confidential
Communications (regulatory)

A carrier and a third party administrator doing business in this state: (a) Shall permit any enrollee to submit a confidential communications request.

The Department of Consumer and Business Services shall work with stakeholders to develop and make available to the public a standardized form... The department may encourage health care providers to clearly display the form and make it available to patients.

Enrollees

At a minimum, the form must: (a) Inform an enrollee about the enrollee's right to have PHI sent to the enrollee and not disclosed to the policyholder; (b) Allow an enrollee to indicate where to redirect communications containing PHI, including a specified mail or electronic mail address or specified telephone number; (c) Allow an enrollee to designate a mail or electronic mail address or telephone number for the carrier or third party administrator to contact the enrollee...

“Communication” includes:
 An explanation of benefits notice;
 Information about an appointment;
 A notice of an adverse benefit determination;
 A carrier's or third party administrator's request for additional information regarding a claim; A notice of a contested claim;
 The name and address of a provider, a description of services provided and other visit information; and Any written, oral or electronic communication described in this paragraph from a carrier or a third party administrator...

Washington



Overview

Protected Individuals

Detail

Definitions

SB 5889 - 2019-20
Concerning insurance communications confidentiality.

A carrier or insurer may not disclose nonpublic PHI concerning sensitive health care services provided to a protected individual to any person, including the policyholder, the primary subscriber, or any plan enrollees other than the protected individual receiving care, without the express written consent or verbal authorization on a recorded telephone line of the protected individual receiving care

"Protected individual:"
An adult covered as a dependent on the enrollee's health benefit plan, including an individual enrolled on the health benefit plan of the individual's registered domestic partner; or (ii) A minor who may obtain health care without the consent of a parent or legal guardian, pursuant to state or federal law.

"Protected individual" does not include an individual deemed not competent to provide informed consent for care.

. Communications subject to this limitation include the following written, verbal, or electronic communications: (a) Bills and attempts to collect payment; (b) A notice of adverse benefits determinations; (c) An EOB notice; (d) A carrier's request for additional information regarding a claim; (e) A notice of a contested claim; (f) The name and address of a provider, a description of services provided, and other visit information; and (g) Any written, oral, or electronic communication from a carrier that contains PHI.

"Dependent" means, at a minimum, the enrollee's legal spouse and dependent children who qualify for coverage under the enrollee's health benefit plan.

"Sensitive health care services" means health services related to reproductive health, sexually transmitted diseases, substance use disorder, gender dysphoria, gender affirming care, domestic violence, and mental health.

2020

**For more information:
Please visit dcadv.org**

