Explanations of Benefits & Safeguarding Sensitive Health Information

Health care providers can play an important role in healing and treatment for survivors of domestic and intimate partner violence (DV/IPV)—a relationship built on the trust that the information shared is private. Not surprisingly, survivors of DV/IPV have unique privacy and confidentiality concerns about how sensitive health information is shared, and with whom.

This memo looks at Explanation of Benefit (EOB) documents, explains the concerns about how they handle sensitive information, and explores possible solutions. It builds on important privacy and confidentiality conversations and explores where action and care is needed to ensure that health insurance companies adhere to privacy principles.

Explanation of Benefit (EOB) documents are automatically generated letters from the ***health insurance company*** that are sent to the ***policy holder*** describing what covered benefits were paid out to a provider.

Key Facts

- EOBs are generated by health insurance plans and sent to the main policy holder, not to the patient who received the services.
- EOBs generally list the date of service, the services provided, the name of the provider who delivered the service, and how much the insurance company paid the provider.
- These statements are not bills and require no action on the part of the plan holder.

EOBs were designed to put in place a transparent process about what health plans were charging, and explain the benefit coverage and limits for the policy holders. The statements help minimize billing surprises, reduce fraud or waste, and help policy holders understand their benefits and coverage limits.

Key Facts

- The EOB includes information about how much of the cost of the service the patient might be responsible for, as well as how much would be applied to the deductible or out-of-pocket limit. This helps the policy-holder know how much of their benefit is being used.
- EOBs are used as a check on providers against billing for services they did not provide and to reduce billing errors.

When a provider submits a claim to the insurance company, they include billing codes for the services and time they spent with the patient. EOBs are generated for each encounter between a covered patient and a provider and include the information from the provider's claim.

Key Facts

- EOBs may include a list of all the services delivered at the time of service based on the billing codes submitted as part of the provider's claim.
- The EOB will also include the name of the provider and/or of the practice.

There are many concerns about EOBs and how the information routinely included on these documents may impact survivors.

Key Concerns

- EOBs are sent to policy holders, not to the patient. This means that the policy holder will have access to information that details all the services provided to a patient, and that the patient did not consent to being shared.
- Sensitive data may be shared on EOBs. This could include the name or type of provider (e.g., a counselor or an STI clinic), the type of services delivered, or any other information that the patient does not consent to sharing with the policyholder.

This troubling disclosure of information impacts a wide range of patients but has a disproportionate impact on vulnerable patients who do not want to share their personal health information, or wish to control who can see their data and when.

Key Concerns

- Patients impacted include:
    - Adult spouses who are not the policyholder, including victims of DV/IPV
    - Young Adults to age 26 who get their health insurance through their parents' plan
    - Minors who want to access health services without their parents knowing and/or without parental consent

EOBs are regulated at the state level. Each state has its own policies and has wide discretion on what information is included and sent home. Many advocates have recognized the challenges of protecting sensitive health information in EOBs, and some states are improving state law and regulations and implementing best practices.

Policy Solutions

- Allow ***patients*** to control how and when EOBs are sent
    - Send EOBs directly to the patient and not the primary policyholder, or offer that as an option
    - EOBs should be sent to members only and through their preferred mechanisms of contact (e.g., email or alternate mailing address)

- Automatically redact or suppress codes for sensitive services so that they do not appear on the EOB or appear as general services
    - Require the option to suppress EOBs for sensitive services
    - Offer the option to suppress certain services and sensitive information from EOBs
- Automatically replace sensitive information or codes with generic information
    - Use generic terms like "office visit" rather than a specific test of visit
    - The technology exists to put these systems in place
- Only send EOBs for services that have an impact on deductibles or cost-sharing
    - EOBs should not be sent if there is no balance on the service, for example for preventive services, screening and brief counseling for DV/IPV or STI testing. Preventive screenings have no cost-sharing and no impact on deductibles or out of pocket costs
- Educate patients and providers about the limits of confidentiality, what EOBs are, and what may happen

- Safety net providers, including Title X clinics, do not have to bill for services; but some patients won't mind if services are billed for, it's important to ask

States, including CA, CO, MD, MA, OR, and more, have made significant progress addressing confidentiality through legislative and regulatory change—and many more are pursuing change. The solutions that the states pick vary—and the rules are somewhat difficult to monitor and enforce. But progress is possible and is being made each day. Futures Without Violence (FUTURES) has advocated for a strong informed consent process to ensure that patients understand how providers use health information and what information providers may have to share. FUTURES' has developed privacy principles and action steps for improving the confidentiality of sensitive health information in electronic health records and these too can inform the EOB conversation.

Developed by Futures Without Violence