

# Improving Confidentiality Protections for EOBs in Massachusetts

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## **HEALTH CARE FOR ALL**

Health Care For All is a Massachusetts nonprofit advocacy organization working to create a health care system that provides comprehensive, affordable, accessible, and culturally competent care to everyone, especially the most vulnerable among us.

# Explanation of benefits form (EOB)

- Communication from health insurance company to the primary subscriber/policyholder on the plan
- Routinely sent each time an enrollee on the plan accesses health care
- Details the type and cost of medical services received
- Written or electronic format

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# Federal laws governing EOBs

- **HIPAA “endangerment clause”**
  - Permits an individual to request that the insurer communicate protected health information “by alternative means or at alternative locations” when disclosure would endanger the individual
- **ERISA/DOL regulations**
  - Requires private health insurers to provide notice of any “adverse benefit determination,” which includes any patient cost-sharing

# Importance of confidentiality for EOBs

- Sensitive health information may be disclosed in an EOB
- Violates the basic right to privacy for anyone enrolled as a dependent on another's policy

# Who is impacted?

- **Adult spouses** covered as dependents on a partner's plan, *especially when the partner is abusive or coercive*
- **Young adults (ages 18-26)** insured as dependents on their parents' plan
- **Minors** insured as dependents on their parents' plan



# Repercussions

- Young adults and minors may **be deterred from seeking sensitive services.**
  - Disclosure to an abusive partner or family member can **worsen violence or abuse.**
  - Delayed or foregone treatment **results in health problems and higher costs** down the road.
  - Privately insured individuals may utilize publicly-funded community clinics, **shifting costs to publicly funded programs.**
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# Advocacy process in MA

- Women's health coalition subgroup worked to influence MA Division of Insurance regulations
- Broad coalition established to advocate for legislation:
  - sexual and reproductive health
  - domestic violence/sexual assault
  - mental health & substance use disorders
  - adolescent & young adult health

# PATCH Alliance

## *Protecting Access to Confidential Healthcare*

- AIDS Action Committee
- Action for Boston Community Development
- Association for Behavioral Healthcare
- ACLU of Massachusetts
- Boston Area Rape Crisis Center
- Boston Children's Hospital, Division of Adolescent/Young Adult Medicine
- Boston Public Health Commission
- Cambridge Health Alliance
- Citizens for Citizens
- College Health Association of Administrators & Nurse Directors
- Conference of Boston Teaching Hospitals
- Connors Center for Women's Health & Gender Biology, Brigham & Women's
- Eastern MA Abortion Fund
- Fenway Health
- Gay & Lesbian Advocates & Defenders
- Health Care For All
- Health Law Advocates
- Health Quarters
- Ibis Reproductive Health
- Jane Doe Inc.
- Judicial Consent for Minors Lawyer Referral Panel
- MA Alliance on Teen Pregnancy
- MA Assoc. for School-Based Health Care
- MA Family Planning Association
- MA Law Reform Institute
- MA Organization for Addiction Recovery
- MA Psychiatric Society
- NARAL Pro-Choice Massachusetts
- National Alliance on Mental Illness Mass
- National Association of Social Workers – MA Chapter
- National Family Planning & Reproductive Health Association
- Partners HealthCare System
- Planned Parenthood Advocacy Fund of MA
- Southern Jamaica Plain Health Center
- Tapestry Health
- The Dimock Center
- The Second Step
- Victim Rights Law Center
- Women's Bar Association

# *An Act to Protect Access to Confidential Healthcare (S. 2138)*

- Issue EOBs at member level
- Allow plan members to choose preferred method of receiving forms (e.g. alternate mailing address or electronically)
- Automatically suppress diagnostic descriptions for sensitive services
- Allow members to request that forms be suppressed when no remaining balance on a claim
- Health plan and provider education for insured patients and consumers

# Opposition and Counterarguments

- Existing confidentiality protections are sufficient
- Application to minors
- Administrative burden on health insurance plans
- Inconsistent with efforts to increase health care transparency



# Strategy tips

- Research current confidentiality landscape
- Build a broad-based coalition
- Collaborate with health insurance plans if possible
- Leverage political support
- Document the impact through provider and patient stories

# Questions?

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