

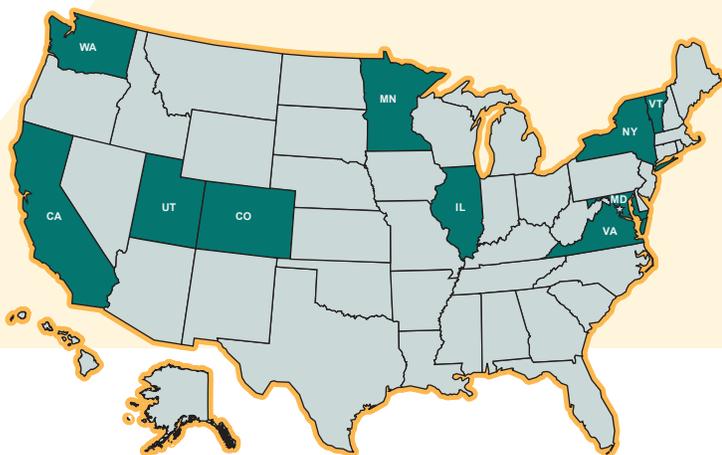
Confidentiality: Opportunities and Barriers for Family Planning

BACKGROUND

Many individuals seek out Title X-funded health centers because of the confidential, sensitive services they provide regardless of individuals' ability to pay. **Confidentiality is part of Title X regulations, which stipulate that funded health centers must provide confidential services to all individuals.** Implementation of the Affordable Care Act (ACA) in conjunction with Medicaid expansion in some states increased the number of individuals covered by Medicaid or commercial health plans, expanding access to care. However, billing these third party payers can result in the generation of explanation of benefits (EOB) and other communications to the policyholder that can potentially compromise confidentiality for covered dependents. Some choose not to bill their insurance in order to maintain confidentiality. Altarum and Urban Institutes conducted the study, *Addressing the Impact of the ACA on Title X Family Planning Services*, to gain an understanding of Title X providers' abilities to contract with and bill Medicaid and other health plans for services rendered while maintaining confidentiality.

METHODS

In-person and virtual site visits were conducted with a sample of 10 states (CA, CO, IL, MD, MN, NY, UT, VA, VT, and WA) to collect data related to the provision of services at Title X-funded health centers following implementation of the ACA. Site visits included interviews with 189 key informants involved with Title X including grantees and health centers, Medicaid officials, and health plans.



WHY ARE CONFIDENTIAL COMMUNICATIONS IMPORTANT NOW?

- ▲ More Title X clients have third party health insurance due to Medicaid expansion, a shift towards Medicaid managed care, and growing private insurance coverage.
- ▲ Confidential care is one of the tenants of Title X but third party health insurance sends communications such as explanations of benefits (EOBs) and denials of coverage.
- ▲ Certain groups, including adolescents and young adults covered by their parent's insurance, risk disclosure of sensitive health care information from these communications.
- ▲ The Health Insurance Portability and Accountability Act (HIPAA) requires health plans to accommodate reasonable requests for confidential communications if a person is in danger, but provide no guidance on implementation.

EMERGING PRACTICES

Since passage of the ACA, some states have been alerted to the potential confidentiality breaches that may result from billing insurers. Policymakers in several states have implemented stronger confidentiality protections for family planning and other sensitive services, such as mental and behavioral health. The table below provides a few examples of recent policy or legislation aimed at protecting confidentiality.

Emerging Practice	Method	State(s)
EOB redirection legislation for covered dependents	Legislation	California, Maryland, Washington
Medicaid policy to withhold EOBs globally or by diagnosis code for sensitive services	Policy	Illinois, Maryland, Colorado, New York, Minnesota, Washington, Utah, Vermont
Legislation mandating confidential communications for minors	Legislation	Minnesota

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LESSONS LEARNED

Developing or passing such policies with assistance of multi-sector coalitions or collaborative groups with mental health, substance abuse, veteran, or other non-reproductive health stakeholders appears to be an important facilitator. The following are select lessons learned from such collaborative efforts:

▲ **Frame confidentiality concerns in a way that resonates with legislators or intended audience.**

Illinois stakeholders partnered with mental health care, substance abuse providers, and veterans groups to expand the broad base of support because, for example, veterans in Illinois may have mental and behavioral health care needs and can stay on parents' insurance until age 30.

▲ **Including stakeholders beyond family planning when drafting policy language could increase buy-in and proactively address concerns that may impact passage and implementation.**

The Maryland Confidential Communications Bill was passed with victims of domestic violence in mind and covered mental and behavioral health services as well as family planning and reproductive health services. Maryland stakeholders worked with health insurance carriers to draft the bill and held the language to existing HIPAA protections to quell insurer fears that the bill could have a broader effect.

▲ **Coalitions can also enhance implementation of stronger confidentiality protections.**

Implementation of a Washington state statute that allows suppression of EOBs for those with private insurance has been slow mostly because individuals are unaware of the statute or consider the process burdensome. The state is working with a coalition of family planning organizations, children's health advocates, and pediatricians and will engage health plans and more provider groups as they get further along in the rule-making process.

IMPLEMENTATION BARRIERS

While legislation ensuring confidential health insurance communications is a growing method to protect clients seeking sensitive medical care, there are remaining barriers to effective implementation of such policies.

- ▲ One of the biggest barriers was the **need for client education**, particularly because confidential communication policies typically put the burden on the client.

- ▲ Many stakeholders expressed concern that **confidential communication policies were not enough to protect confidentiality** for clients.
- ▲ Withholding claims information from the policyholder may violate the right to access information about how the policy is being used.
- ▲ **Health plans may not understand the confidential communications policy** or how to process requests for confidentiality.
- ▲ When a client is unable to pay out-of-pocket for a service but wants confidential communications it can **complicate the ability of the health plan to bill for that service.**

CONCLUSION

The ability of health centers to bill health plans while ensuring confidentiality is important in ensuring clients' continued access to services while also allowing health centers to minimize uncompensated care. Passage of state legislation or Medicaid policy is a growing method to address potential breaches and facilitate confidential communications in health care. While creating these laws and policies is a vital first step, and multi-sector collaboration can facilitate the development and implementation of such policies, challenges remain.



DISCLAIMER

The findings and conclusions of this study are those of the authors and do not necessarily represent the views of the Office of Population Affairs or the U.S. Department of Health and Human Services. References available upon request.

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