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Confidentiality for Individuals Insured as Dependents: A Review of State Laws and Policies

Abigail English, Rachel Benson Gold, Elizabeth Nash and Jane Levine

HIGHLIGHTS

- Privacy concerns about health information can be important for individuals of both genders in diverse life circumstances. Confidentiality can be a factor when individuals are seeking a broad range of health care services, including substance abuse treatment, mental health care or services related to intimate partner violence. Privacy issues may be particularly acute for individuals seeking sexual and reproductive health care, including contraception, pregnancy-related care, and testing and treatment for STIs, including HIV.
- Despite widespread recognition of the importance of maintaining patient confidentiality, billing and insurance claims-processing procedures widely used in private health insurance today—most notably, the practice of sending explanation of benefits forms (EOBs) to a policyholder whenever care is provided under his or her policy—routinely violate confidentiality for anyone, often a minor or a young adult, insured as a dependent.
- This report reviews state-level legal requirements related to confidentiality in private insurance. It assesses state statutes and regulations that can have the effect of abrogating confidentiality through a number of different avenues and examines steps some states have taken to protect confidential access to care for individuals insured as dependents.
- Laws in almost all states can preclude confidentiality for dependents. About half the states either require or presume the sending of an EOB. Legal requirements often affect broader claims-processing procedures, with virtually all states requiring notices when claims are denied and many addressing issues that arise in the context of divorce and child custody.
- At least eight states have adopted statutes or regulations that could provide a starting point for giving dependents the confidentiality protection they need. However, it is important that the extent to which these existing policies protect confidentiality in actual practice be fully investigated before they are looked to as approaches that might be adopted more broadly.

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Background

Doctor-patient confidentiality is one of the oldest codified commitments in health care, with roots going back to the Hippocratic Oath. The congressionally mandated President's Commission for the Study of Ethical Problems in Medicine and Biomedical and Behavioral Research recognized in its 1983 report that respect for patients' privacy "is an important part of ethical health care practices, as well as the foundation on which a relationship of mutual trust and benefit can be built between patient and professional."[1] To implement this basic principle, the American Medical Association's Code of Medical Ethics mandates that information disclosed to a physician in the course of the patient-physician relationship be held confidential "to the utmost degree."[2]

Significance of Confidentiality Protection

Privacy concerns pertaining to health information can be important for individuals of both genders in a wide range of life circumstances. Confidentiality issues may arise for married persons covered under a spouse's health insurance policy or for couples who are separated or estranged; concerns may come into play in relation to care obtained by the children of divorced or separated parents. Similar issues may arise for same-sex partners whose coverage is held by a domestic partner. Finally, privacy issues are often seen as a potentially significant impediment for minors and young adults seeking care.

Confidentiality can be a factor when individuals are seeking a broad range of health care services. For example, privacy concerns may be a barrier to individuals seeking substance abuse treatment or mental health care. Lack of confidentiality may lead individuals experiencing intimate partner violence to hesitate in seeking care for fear their abuser may be alerted.

Privacy issues may be particularly acute for individuals seeking sexual and reproductive health care, including contraception, pregnancy-related care, and testing and treatment for STIs, including HIV; these services are the subject of this report.* Because of the serious implications of reproductive health issues at both an individual and a population level, the Department of Health and Human Services (DHHS) has designated the reduction of levels of teen pregnancy and STI infection as key public health priorities.[3] Similarly, the Centers for Disease Control and Prevention (CDC) has designated teen pregnancy and HIV as public health priorities with large-scale impacts on health.[4] Moreover, DHHS recently included reducing teen and unplanned pregnancy, preventing HIV and other STIs, and improving pregnancy-related care as national public health goals.[5]

It is known that minors and young adults delay or forgo needed reproductive health care because of concerns about confidentiality. For example, a nationwide study of adolescents seeking care from family planning clinics found that 60% of those younger than age 18 reported their parents knew they used a clinic for sexual health services—typically because they had told parents themselves or their parents had suggested that they seek care at the clinic.[6] Among teens who said they had not already discussed their clinic visit with a parent, 70% said they would not seek family planning services if their parents would have to be told, and a quarter said they would have unsafe sex if they were unable to obtain confidential care. In addition, mandating parental involvement for contraceptive services may negatively affect teens' willingness to use other services available at family planning clinics. According to a survey of women younger than age 18 seeking family planning health services, 11% indicated that they would delay accessing HIV or other STI services if parental involvement were mandated for contraception.[7] Moreover, a national survey of adolescents aged 12–17 found that concern that "their parents will find out they are having sex" was the most commonly cited barrier to STI testing.[8]

Many minors and young adults appear unwilling to use their insurance coverage to pay for their contraceptive care, likely at least in part because of confidentiality concerns. Although 90% of insured women older than 30 who obtained contraceptive services in 2002 used their coverage to pay for their care, only 68% of privately

*States place special constraints on the availability of abortion services, especially for minors. Most states require some form of parental involvement when a minor obtains an abortion, thereby affecting the confidentiality of these services for this age-group. Because of the unique legal environment governing the availability of abortion services to minors, abortion is not a subject of this inquiry.

insured teens and 76% of privately insured young adults aged 20–24 did so.[9]

Delaying or forgoing contraceptive services because of confidentiality concerns endangers minors, young adults and other dependents by increasing their risk of unintentionally becoming pregnant. Unintended pregnancy can have serious consequences, including delayed initiation of prenatal care, reduced likelihood of breastfeeding, poor maternal mental health, and increased risk of physical violence during pregnancy.[10] The negative outcomes associated with unintended pregnancies are compounded for adolescents. Teen mothers are less likely to graduate from high school or attain a GED by the time they reach age 30; they also have lower earnings and are more likely to receive public assistance. Children of teen parents are more likely to have lower cognitive attainment and exhibit more behavior problems. Sons of teen mothers are more likely to be incarcerated, and daughters are more likely to become adolescent mothers.

A pregnant woman of any age who is concerned about telling her husband or domestic partner that she is pregnant may delay entry into prenatal care. Early initiation of care can facilitate early identification of risk factors, treatment of conditions such as diabetes and high blood pressure that can complicate a pregnancy, and referrals for needed risk-reduction services, such as smoking cessation programs, nutrition services and care for substance abuse.[11] Moreover, pregnant women need access to STI/HIV testing, treatment and care to protect themselves and their children as well.[12,13]

Finally, individuals who delay or forgo testing and thus treatment for STIs put not only themselves at risk, but their sexual partners as well. Untreated gonorrhea[14] and chlamydia[15] infections can lead to serious health problems for men and women. Rarely, untreated gonorrhea can result in infertility in men. But for women, both infections left untreated can lead to pelvic inflammatory disease, which can result in infertility or increase the risk of ectopic pregnancy. Individuals with some STIs, such as chlamydia, gonorrhea, syphilis, herpes or trichomoniasis, may be more likely to acquire an HIV infection if they are HIV negative; if they are HIV-positive, having an STI can facilitate HIV transmission to their uninfected partners.[16] Despite considerable medical advances, HIV infection is still considered to be fatal without treatment, but early diagnosis[17] and treatment with antiretroviral drugs[18] can greatly delay progression to AIDS and help curb transmission to sexual partners.[19] Moreover, immunizations against the viral STIs, namely hepatitis B and human papillomavirus, are important tools in the prevention of the long-term complications of chronic infection with these viruses, notably cancers of the liver and cervix, respectively.[20,21]

Because of the importance of timely access to reproductive health services and the critical role of confidentiality, numerous health care provider organizations—including the American Academy of Pediatrics,[22–25] the American Academy of Family Physicians,[25] the American Academy of Child & Adolescent Psychiatry,[26,27] the Society for Adolescent Health and Medicine,[25,28] the American College of Obstetricians and Gynecologists[25,29] and the American Medical Association[30–32]—have adopted formal policy statements or clinical guidance supporting confidentiality protections for minors and young adults seeking sensitive services. At the federal level, the National Prevention Strategy developed by the National Prevention, Health Promotion, and Public Health Council called on health systems, insurers and clinicians to "implement policies and procedures to ensure…confidential reproductive and sexual health services."[33]

Inadvertent Breaches

Despite the widespread recognition of the importance of maintaining patient confidentiality, billing and insurance claims–processing procedures widely used in private health insurance today—most notably the practice of sending explanation of benefits forms (EOBs) to a policyholder whenever care is provided under his or her policy—routinely violate confidentiality for anyone, often a minor or a young adult, insured as a dependent on someone else's policy.

The federal privacy rule issued after the passage of the Health Insurance Portability and Accountability Act (HIPAA) permits health care providers to use protected health information—such as information relating to the person's medical condition or the care that was received—to secure payment, even in the absence of specific authorization from the patient.[34,35]

Although not required by HIPAA, many health care providers may choose to use patient consent forms that authorize disclosure of information "to obtain payment from insurance companies."[36,37] Once this consent is given, standard insurance claims–processing practices make it likely that at least some protected health information will be disclosed to the policyholder. Obviously, when the patient is the policyholder, no issue arises from this disclosure. However, when the patient is insured as a dependent on someone else's policy—such as that of a parent, spouse or domestic partner—disclosure of protected health information is possible, with potentially serious consequences.

One of the most frequent ways in which disclosure occurs is when insurers send an EOB to the policyholder.

EOBs inform policyholders of claims made and actions taken in response to those claims, for anyone covered under their policy. EOBs typically identify the individual who received care, the health care provider and the type of care obtained. They also include information on the amount charged for the care, the amount reimbursed by the insurer and any remaining financial obligation on the part of the policyholder or patient.[38,39]

To be sure, the purpose of an EOB is not to preclude receipt of confidential care by a dependent. Rather, EOBs are often required under state law as a way to ensure that policyholders are aware of actions taken and charges incurred under their policies. In fact, this practice arose largely as a result of advocacy efforts on behalf of policyholders and patients to increase the transparency of the health insurance process. EOBs also are widely seen as important tools in helping insurers reduce insurance fraud and medical identity theft.[40,41] Nonetheless, disclosures contained in EOBs essentially make it impossible for an individual covered as a dependent to obtain care confidentially. (Notably, EOBs are significantly less of a problem for individuals covered under Medicaid; most state Medicaid programs have taken steps either to limit use of EOBs or to suppress information related to the receipt of sensitive services for individuals enrolled in Medicaid plans.[42])

Although the practice of sending EOBs might be the most common—and most widely known—way in which confidentiality is jeopardized for dependents, it is far from the only area of vulnerability. As a general rule, it is standard practice for insurers to communicate only or primarily with the policyholder; rarely do they communicate directly with the patient or individual submitting a claim. That may mean that an individual covered as a dependent may find it difficult, if not impossible, to receive reimbursement directly, or even to submit a claim on his or her own. In some cases, it may be difficult for a health care provider to submit a claim on behalf of a dependent without the policyholder's involvement. Moreover, when insurers deny claims, they almost always send a notice of denial that includes an explanation for why the claim was denied, to the policyholder, even if the claim is for services provided to a dependent.

And increasingly, policyholders are able to access information about all claims filed under their policy via the insurer's website. In fact, insurers are increasingly giving policyholders the option of receiving all information, including EOBs, online or electronically, rather than in hard copy. Although there are clear benefits for expanding the provision of information online, this practice also allows policyholders access to historic information about dependents' care.

Implications of a Changing Health Care Environment

The Affordable Care Act (ACA)[43] will, albeit unintentionally, increase the reach of these confidentiality concerns in two distinct ways. First, by expanding the number of Americans who have insurance coverage, the ACA will expand the number of individuals affected by insurance processes that make it difficult to access confidential care when needed. Many of these newly insured individuals will be covered as dependents through a parent, spouse or domestic partner, and therefore will be potentially unable to obtain services confidentially.

Second, the ACA contains a provision allowing young adults to remain covered under their parents' policy until age 26. This provision, which went into effect shortly after the legislation was enacted in 2010, has already brought much needed coverage to more than three million young adults.[44,45] By definition, all of these young adults are covered as dependents, which means that they are all subject to the limitations on confidentiality discussed in this report.

Even now, however, the inability of individuals insured as dependents to access care on a confidential basis is already putting a strain on public resources.[46] Unable to access confidential care through their insurance plans, minors and other dependents, including young adults, often turn to publicly funded providers, such as family planning, maternal and child health, and STI clinics, for care. This leaves insurers in the enviable position of collecting premiums to cover services for which they are not asked to pay while putting a significant burden on already-stretched health programs.

Role of the States

The federal government plays an important role in protecting confidentiality, especially in the context of federally funded programs. For example, regulations governing the federal Title X family planning program[47,48] and federally funded drug and alcohol treatment programs[49] contain strong confidentiality protections.

More recently, HIPAA regulations established, for the first time, national standards for protecting the privacy of certain health information while allowing the flow of data needed for the delivery of high-quality health care.[50] HIPAA establishes a federal "floor" of confidentiality protection for adults, yet permits states* to adopt more stringent protections if they choose to do so,[51] and thus likely requires that confidentiality be maintained when

*In this report, *states* includes the 50 states and the District of Columbia.

the dependent is older than the age of majority. However, the situation differs when the dependent on a policy is a minor—even one authorized to consent for his or her own care. On the issue of disclosing minors' protected health information to parents, HIPAA defers to "state or other applicable law," and if the relevant law is silent on this issue, the regulation gives discretion to health care providers to determine whether to disclose such information to the parent.[50] The interaction of HIPAA privacy requirements with state insurance laws requiring certain disclosures is not clear.

Additional complications arise where the policyholder has financial liability to pay amounts not covered by insurance. When services are provided to a covered individual such as a dependent on a health insurance policy, it is inconsistent with both sound business practice and contract law to expect the policyholder to pay for the services unless the policyholder knows about them. Significantly, the ACA may take an important step toward facilitating confidentiality at least under some circumstances. The ACA requires that insurance plans cover certain preventive services—including contraception, prenatal care and testing for STIs, including HIV—without cost sharing.[52,53] By resolving the issue of financial liability, at least for these services, this provision removes the financial justification for communication with the policyholder in the case of dependents. Notably, at least some states have also addressed this issue, as discussed below.

Historically, states have taken the lead role in regulating health insurance. For example, states have enacted a wide array of benefit mandates as well as age limits for coverage of dependent children. Moreover, each state has a department of insurance that is charged, in part, with protecting consumers and regulating the business of insurance within its borders. These agencies seek to accomplish that goal through a variety of functions, including licensing companies and producers, regulating products and markets, and establishing consumer protection systems.[54] In the process of setting the rules of the road for the business of insurance, states have adopted a variety of legal requirements that can, in practice, either protect or impede confidentiality for individuals insured as dependents.

This report reviews those state-level legal requirements related to confidentiality in private insurance.* First, it assesses state statutes and regulations that can have the effect of abrogating confidentiality through a number of different avenues. These include provisions that require insurers to send EOBs to policyholders, as well as those related to how insurers acknowledge, deny or pay for claims that have been submitted. The report also looks at provisions affecting procedures for insurers to request additional information and those that address the handling of claims in the context of divorce or child custody. Finally, this report examines steps some states have taken to protect confidential access to care for individuals insured as dependents.

*Although similar issues sometimes exist in publicly funded health insurance programs, analysis or discussion of the issues in those programs is beyond the scope of this report.

Methodology

The first step in our analysis was to search Westlaw and Google Scholar in an attempt to locate articles in legal and health care journals related to communication between insurers and insured individuals so that this work could build on that existing work. We used search terms that included *notice, privacy, minor, health plan, health insurance* and *confidentiality*. The search did not identify any articles relevant to this inquiry.

Next, we searched the Westlaw and LexisNexis legal databases to identify relevant state statutes and regulations related to health insurance communications.* We limited the inquiry to topics related to outpatient services, excluding inpatient care in either hospitals or mental health facilities; we also excluded statutes and regulations related to long-term care and unrelated insurance coverage, such as plans that cover only care related to specific diseases and conditions. Throughout, we were looking for statutes and regulations that implicitly or explicitly abrogated confidentiality as well as those that provide for confidentiality under certain circumstances.

This search was based on a list of key words developed for use as search terms for this inquiry. The final list of key words and phrases used included 31 terms: *abortion, acknowledge, bill, child, chlamydia, claim, confidential, contraception, deny, disclose, explain, explanation of benefit, explanation of medical benefit, explanation of payment, explanation of reimbursement, explanation of services, family planning, gonorrhea, health, minor, notice, parent, pay, payment, policyholder, pregnancy, sex, sexually transmitted, syphilis, trichomoniasis* and *venereal.*

Each of these 31 terms was used alone and in combination, when appropriate. For these combinations, we generally looked for instances in which the two appeared within 100 words of each other in a statute or regulation. For example, we searched for instances in which *claim* appeared within 100 words of *notice*. The searches also included multiple variations of individual terms, such as *explain, explaining* and *explanation.* To ensure that we did not miss anything relevant, we did not use tools such as Narrow Search to limit the inquiry.

To determine that our search terms would produce usable results, we tested them in five states (Connecticut, Florida, Hawaii, Maine and Washington) in which we were already aware of relevant statutes and regulations before initiation of this project. We determined that the list of terms developed for this inquiry was sufficiently robust to find all the statutes and regulations previously identified in those states. On the basis of that test, we proceeded with the full search.

The initial searches yielded 49,383 statutes and regulations for the 50 states and the District of Columbia. We analyzed these results to find those statutes and regulations specifically relevant to this inquiry. This process involved several steps. First, we excluded statutes and regulations that related to insurance other than health insurance, such as workers compensation or property insurance. Second, we excluded statutes and regulations that did not deal with communication between health plans and policyholders, patients, claimants† or enrollees. Finally, from within the group that related to communication between plans and individuals, we excluded those statutes and regulations relating solely to timelines for insurer action and those concerning the process for appealing claim denials.

We then supplemented these database searches with information obtained through informal e-mail queries sent by Public Health Solutions in the spring of 2011 to the insurance department in each state and the District of Columbia. The query comprised two questions: (1) Does the state require that an EOB be sent to the policyholder when a claim is filed? and (2) Is there a law or policy that makes exceptions in cases where confidentiality of a dependent is needed? That effort yielded responses from 31 states. Many of these responses contained the opinion

*Throughout this report, the term *statute* refers specifically to laws enacted by Congress or state legislatures. The term *regulation* is used to refer to rules officially promulgated by federal or state agencies. The term *laws* is used to refer broadly to statutes and regulations combined, and the term *policies* is used to refer to state policies that have not necessarily been promulgated through official administrative procedures.

†The term *claimant,* not always defined in a statute or regulation, refers to the individual who files the claim with the insurer requesting payment under a health insurance policy. This could be the policyholder or the patient (each of which in turn is often referred to by other terms, such as *insured* or *beneficiary)*, or the health care provider.

of the respondent, based on his or her knowledge of state policy and insurance company practices in the state, rather than citations of statutes or regulations. Some responses included citations to statutes, regulations or both.

We checked the responses from state insurance departments against the findings of the database search and incorporated specific items, as warranted, into the analysis. We included, where appropriate, respondents' characterizations and descriptions of state policy and insurance company practice, in addition to the information related to their citations to statutes and regulations. Although almost all of the statutes and regulations cited by insurance department respondents were also found through the Westlaw search, this effort did yield citations to one statute and one regulation that were not also found during the Westlaw search;* we subsequently verified them and their citations.

The final analysis was based on 508 statutes and regulations relevant to our inquiry. It included items for each of the 50 states and the District of Columbia.

We analyzed these 508 statutes and regulations in depth and entered them into a spreadsheet according to whether they address EOBs, claim denial, claim acknowledgment, request for additional claim information, claim payment, claim processing or situations involving divorce or child custody. We also analyzed the group that seek to protect confidentiality. Full citations for all 508 statutes and regulations are given in the appropriate category of the Appendix table at the end of the report. We discuss them and also place them in the broader context of issues pertaining to confidentiality.

The statutes and regulations discussed in this report are current as of January 1, 2012. It should be noted, however, that although the search was extremely comprehensive, it is possible that some relevant statutes and regulations may not have been captured.

*Ky. Rev. Stat. Ann. § 304.17A-150 (LexisNexis 2012) and Alaska Admin. Code tit. 3, § 26.110 (2012).

Disclosure and Confidentiality in State Laws and Policies

The confidentiality framework that determines how disclosures are made and whether confidentiality is protected in the processing of health insurance claims includes three primary elements. The first element comprises the federal and state laws that speak to the privacy of medical information and records. The second element is the content of health insurance contracts and policy documents. The third, which is the main focus of this report, is state law related to the insurance claims process.

Numerous safeguards exist at both the federal and state level that protect confidentiality. For example, as mentioned in the Background chapter (page 3), since the early 1970s, federal regulations have contained strong privacy protections for family planning and substance abuse services, as well as broader protections for the privacy of health information generally. Specifically, the regulations for Title X[47,48] and the federal confidentiality rules for drug and alcohol programs[49] have protected the confidentiality of services for both adolescents and adults. More recently, HIPAA regulations established, for the first time, national standards for protecting the privacy of certain health information.[50] At the state level, laws adopted to implement the HIPAA privacy rule and a wide variety of previously existing constitutional and statutory provisions offer confidentiality protections.[55] These state laws include constitutional privacy rights, minor consent laws, medical records and health privacy laws, evidentiary privileges and funding program requirements, among others. Despite these protections, breaches of confidentiality often occur through the health insurance claims process.

Many of the procedures and communications that occur frequently in the handling of health insurance claims are determined not by laws but by the provisions of insurance contracts and insurance policy documents. Often, these are provisions contained in "boilerplate" language that insurers routinely use in their contracts for policies that are issued in more than one state, to facilitate consistency of plan administration across states. Some provisions may be the result of specific negotiation between a health insurance company and an employer to determine the rules for the employer's group plan. Such negotiations would be most likely in the case of very large employers who are in a position to influence the terms of a contract or policy, rather than accepting standard terms.

State statutes and regulations contain numerous provisions related to the insurance claims process. Every state has at least some statutory or regulatory provisions of this type. Most of these provisions are found in state insurance codes and related administrative regulations. Some are found in state health codes and related regulatory provisions. Significant variations occur among the states in terms of the topics addressed in statutes and regulations, the level of detail and the consistency of definitions and use of terms, to name a few. Both careful analysis of the meaning of an individual state's laws and comparison of legal provisions across states are made more difficult by the absence of clear definitions in many of the statutes and regulations. Most of the laws pertaining to the insurance claims process set forth when and how information may or must be disclosed and to whom; very few contain explicit protections of confidentiality or limits on disclosure.

Our careful review of state laws related to the insurance claims process revealed several requirements present across states that can be categorized according to the potential ways in which they breach confidentiality. The laws include a few provisions that explicitly protect confidentiality, which might serve as the basis for approaches that other states could consider. This chapter discusses each of these categories of requirements and identifies states that have included them in statutes or regulations.

Potential Breaches of Confidentiality

Across states, we identified statutes and regulations pertaining to six possible sources of confidentiality breaches in health insurance communications: those related to EOBs, denial of claims, acknowledgment of claims, requests for additional information about a claim, payment of claims, and claims made in cases of divorce and child custody. The existence, nature and extent of these laws vary considerably, as described below.

Explanation of Benefits

The EOB is one of the most ubiquitous elements of insurance claims processing. Virtually anyone who has a health insurance policy under which care has been received and

TABLE 1. Statutes and regulations related to EOBs

EOB provision	States*
EOB required/explicitly addressed in state law†	Alabama, California, Colorado, Illinois, Indiana, Kentucky, Louisiana, Maine, Maryland, Michigan, Minnesota, Missouri, Nebraska, New Hampshire, New York, Oklahoma, Rhode Island, Texas, Utah, Vermont, Virginia, Wisconsin
EOB not sent/required if no balance due	New York,‡ Wisconsin§
State law specifies recipient(s) of EOB	Alabama, Colorado, Illinois, Kentucky, Louisiana, Maine, Maryland,** Michigan,†† Minnesota, Missouri, Nebraska, New Hampshire, New York, Oklahoma, Rhode Island, Texas, Utah, Virginia
EOB must include information on specific services	Alabama, Maine, Michigan,†† New York
Required content or format of EOB is specified	Colorado, Illinois, Indiana, Louisiana, New York, Virginia, Wisconsin

*Includes the 50 states and the District of Columbia. †In some states, the statutory or regulatory language does not appear to contain an explicit requirement that an EOB be sent but does contain other requirements or provisions that appear to presume the sending of an EOB. ‡Payment must be sent directly to provider. §The information is contained in an official statement of the state Bureau of Market Regulation rather than in a statute or regulation. **Annual summary must be sent to policyholder. ††Term used is "explanation" rather than EOB.

Note: EOB=explanation of benefits.

a claim has been submitted has received an EOB that includes one or more of the following elements: a general or detailed description of the care provided, the charges that were submitted to the insurer, the amount covered by insurance, the amount not covered and the policyholder's or patient's remaining financial responsibility, if any.

Throughout the following discussion of EOBs, we highlight primarily what we found in statutes and regulations. However, when relevant information was received informally from state insurance departments in response to the queries sent to them regarding requirements for EOBs and confidentiality protections, we mention that as well. The responses from insurance departments were brief, contained little detail and did not elaborate on the specific impact of various procedures or how they work in practice. The responses regarding legal requirements for EOBs overwhelmingly were consistent with what we found in the laws themselves.

Significant variation exists among states in terms of whether their laws require the sending of EOBs. Although use of EOBs verges on universal, the sending of these forms is not always required by state law. In fact, we found statutes or regulations in only about half the states that either explicitly require the sending of an EOB or contain language that clearly presumes that EOBs will be sent (Table 1). This finding was consistent with information received from seven state insurance departments* stating that EOBs are not required by statute or regulation; rather, their widespread use springs from health insurers' contracts, policies and practices. Several states that do not have laws explicitly addressing EOBs do require that an "explanation" be sent when a claim is denied or a payment is sent, as discussed below. These explanations may effectively function as EOBs even if not labeled as such in state law.

Among the states that do have statutes or regulations directly addressing EOBs, there are numerous variations on the basic requirement that an EOB be sent. Laws are more likely to contain an exception whereby EOBs do not need to be sent when a policyholder or patient has no balance due or remaining financial liability to the provider, as documented in both New York and Wisconsin. New York also provides that reimbursement must be paid directly to the provider to justify not sending an EOB when there is no balance due. We discuss these exceptions further at the end of this chapter. Some of the insurance departments† mentioned that EOBs for confidential care would or could be sent to the patient directly rather than to the policyholder. A few also asserted that they were not

*Indicated by those in Arkansas, Montana, Nevada, New Hampshire, New Jersey, North Carolina and Texas.

†Indicated by those in New York and Wisconsin.

TABLE 2. Statutes and regulations related to denial of claims

Type of communication and recipient	States*
Denial sent to insured, beneficiary, legal representative, designated adult family member, enrollee, covered person, subscriber or certificate holder	Alabama, Alaska, California, Colorado, Connecticut, Delaware, Florida, Georgia, Idaho, Illinois, Kentucky, Louisiana, Maine, Maryland, Minnesota, Missouri, Nebraska, New Jersey, Nevada, New Mexico, North Carolina, Ohio, Rhode Island, South Dakota, Texas, Vermont
Denial sent to health care provider	Alabama, Alaska, Arizona, California, Connecticut, Delaware, Florida, Hawaii, Idaho, Illinois, Kentucky, Louisiana, Maryland, Mississippi (pharmacist), Missouri, North Carolina, Ohio, Rhode Island, Tennessee, Texas, Vermont
Denial sent to claimant	Arizona, California, Delaware, Georgia, Louisiana, Maryland, Minnesota, Missouri, Nebraska, New Hampshire, New Jersey, North Carolina, Pennsylvania, Vermont, Virginia, Washington, West Virginia
Explanation of denial required†	Arizona, Colorado, Connecticut, Delaware, District of Columbia, Florida, Idaho, Illinois, Iowa, Kansas, Maine, Maryland, Massachusetts, Michigan, Minnesota, Missouri, Montana, Nebraska, Nevada, New Jersey, New Mexico, North Carolina, Ohio, Oregon, Pennsylvania, South Dakota, Tennessee, Texas, Utah, Vermont, Virginia, Washington, West Virginia, Wisconsin, Wyoming

*Includes the 50 states and the District of Columbia. †Sometimes the term *reason* or *reasons* is used instead of explanation.

Note: In some states, the law contains a provision that requires or specifies more than one category of individual who is to receive a communication. Those states are listed in more than one category. In some states, the provisions related to denial do not specify a recipient. Those states are not listed in this table. When a state has more than one statute or regulation, each one may list a different recipient or omit specification of a recipient.

aware of exemptions from EOB requirements for sensitive information,* or about any provisions related to sharing of information concerning dependents with the policyholder.†

EOBs or "explanations" are often associated in statutes and regulations with the sending of payments. A regulation in at least one state, Rhode Island, specifies explicitly that an EOB must be sent with any claim payment. Although approximately half the states do not appear to have statutes or regulations that explicitly address an EOB per se, some of these states, as well as others, do have requirements that an "explanation" be sent with any payment, or denial of payment, as more fully discussed below in the sections on denial and payment of claims.

The question of who receives EOBs leads to a thicket of confusing and overlapping statutory and regulatory provisions in state laws. Although it is common practice for insurers to send EOBs to policyholders, this is rarely reflected in explicit requirements of state statutes and regulations. Some states that have laws addressing EOBs are silent as to the recipient, but others do specify to whom an EOB is sent. One or more states specify each of the following as the designated recipient of an EOB: the insured, the beneficiary or a legal representative, the policyholder or group certificate holder, the member, the enrollee, the patient or the health care provider. Nebraska specifies that the insurer sends an EOB to "the claimant," stating that this might be the insured, the beneficiary, the legal representative or an immediate family member designated by the insured. Maryland specifies that an annual summary EOB should be sent to the policyholder. Finally, several insurance departments‡ mentioned that if a policyholder or enrollee requests it, an "explanation" must be sent, by which they may have been referring to an EOB.

The content of EOBs is also addressed by some states. Michigan specifies, without using the term EOB, that the "explanation" must include specific information on the services provided. Additional states include requirements for the content or format of EOBs.

Finally, some states have laws that address miscella-

*Indicated by those in Maryland and Mississippi.

†Indicated by those in Texas and Wyoming.

‡Indicated by those in New Jersey, New York and Washington.

TABLE 3. Statutes and regulations related to acknowledgment of claims

Recipient of acknowledgment	States*
Not specified	Arizona, Arkansas, Colorado, Connecticut, Delaware, District of Columbia, Georgia, Hawaii, Idaho, Illinois, Indiana, Iowa, Kansas, Maine, Maryland, Massachusetts, Michigan, Montana, Nevada, New Hampshire, New Mexico, New York, North Carolina, North Dakota, Ohio, Oregon, South Dakota, Tennessee, Texas, Utah, Wisconsin
The insured, beneficiary or legal representative, or covered person	Alaska, Kentucky, Minnesota, Nebraska, New Jersey, Rhode Island, Virginia, Washington, West Virginia
The health care provider	California, Florida, Kentucky, Louisiana, New Jersey, South Carolina, Vermont
The claimant	Alaska, Minnesota, Missouri, Nebraska, Pennsylvania, Virginia, Washington, West Virginia

*Includes the 50 states and the District of Columbia.

Note: In some states, the law contains a provision that requires or specifies more than one category of individual who is to receive a communication. Those states are listed in more than one category. In some states, the law requires sending the acknowledgment to the "first party claimant," which includes the insured or beneficiary. Those states are also listed in that category. In some states, one or more laws do not specify a recipient, but one or more do. The states in which at least one law specifies a recipient are not listed under "not specified."

neous aspects of EOBs, such as one in Texas that provides for disclosure about payment rates and a California provision allowing for inclusion of a notice of denial on an EOB.

Overall the EOB provisions in state statutes and regulations strongly suggest that EOBs are likely to have the effect of conveying information about the care received by an individual covered as a dependent to someone who is not the patient, thereby breaching confidentiality and raising privacy concerns. A few potential exceptions to this are suggested by the responses from state insurance departments and the statutes and regulations themselves, as discussed at the end of this chapter.

Denial of Claims

Federal law requires that when a claim is denied in a health benefit plan covered by the Employee Retirement Income Security Act (ERISA), a notice must be sent to the "participant or beneficiary," with participant defined as the "employee," who would ordinarily be the policyholder.[56,57] Consistent with this requirement, virtually every state has a statute or regulation requiring the sending of notices when health insurance claims are denied in whole or in part (Appendix Table). The level of detail required by federal law for these notices is evolving with the advent of the ACA. Requirements issued pursuant to the ACA for new plans include a significant level of detail (e.g., "the diagnosis code and its corresponding meaning, and the treatment code and its corresponding meaning") with respect to the information that must be provided to "claimants" when claims are denied.[58] As with EOBs, the sending of a notice of denial is likely to inform the policyholder of significant information about care that was received by a dependent, thereby breaching the patient's confidentiality.

The statutes and regulations that require sending notice of denials sometimes specify to whom the notice must be sent, but often they do not (Table 2, page 11). Examples of recipients specified by states to receive these notices include the insured, the beneficiary, a legal representative of the beneficiary or a designated adult family member, an enrollee, a covered person, a subscriber or a certificate holder. The health care provider is also often specified as a recipient. The claimant, who could be any of these, is sometimes a designated recipient as well.

Some of the statutes and regulations expressly require that the denial be explained. Although it is not always clear from these laws what level of detail is required in an explanation of a denial, they do suggest that the notification of denial of a claim can result in breach of a covered dependent's privacy and communication of their information to a parent, spouse or domestic partner.

Acknowledgment of Claims

Many states have explicit provisions requiring that claims be acknowledged without indicating who is to receive that acknowledgment (Table 3). Although the level of detail contained in such acknowledgments is not always clear,

TABLE 4. Statutes and regulations related to requests for additional information

Recipient of request	States*
The insured	Illinois, Kentucky, New Jersey, South Dakota
The health care provider	Alabama, California, Florida, Hawaii, Indiana, Maryland, Nevada, New Jersey, North Carolina, South Carolina, Tennessee, Texas
The insured, the health care provider or both	Arkansas, Colorado, Delaware (provider or policyholder), Georgia, Idaho, Illinois (insured or assignee), Iowa, Louisiana, Maine, Nebraska, New York, Ohio, Oklahoma, Oregon, Rhode Island, South Dakota, Utah
The claimant	Georgia, Iowa, Louisiana, Maryland, Michigan, Missouri, Nebraska, Nevada, New Hampshire, New Jersey, New York, Ohio, Vermont, West Virginia

*Includes the 50 states and the District of Columbia.

Note: In some states, the law contains a provision that requires or specifies more than one category of individual who is to receive a communication. Those states are listed in more than one category. In some states, the laws do not specify a recipient. These states are not included in this table.

this procedure also could result in a breach of a patient's confidentiality by alerting a parent, spouse or domestic partner that health care has been sought and received.

Many state laws do specify that the acknowledgment is to be sent to the insured, a beneficiary or a legal representative. Alternatively, or in addition, the acknowledgment may be directed to the health care provider, although the laws do not necessarily say who determines whether that is where the acknowledgement is directed. In the absence of explicit statutory or regulatory specification, it would be reasonable to assume that the acknowledgment should, at minimum, go to the claimant, and that is what the laws in some states specify.

Requests for Additional Information

State statutes and regulations often refer to the circumstances in which an insurer may request additional information about a claim for which reimbursement is sought (Table 4). Regardless of who receives such a request first (as specified in a statute or regulation), if that person does not have the information requested, the request could easily lead to a round of communications to other individuals that would result in disclosure of protected health information. For example, if parents, spouses or domestic partners receive the request for additional information, they would be alerted to the fact that care was provided under their policy to a covered dependent and possibly to the nature of that care.

Three states specify that the request is sent to the insured. Some specify that the request is to be sent to the provider. Others specify that the information be requested from the insured, the provider or both. And some states indicate that the request should go to the claimant.

Payment of Claims

Most states have statutes or regulations that address the processes used by insurers to pay for medical services rendered to enrollees (Appendix Table). Although in practice, payments are often made to the health care provider, that is not always the case. Particularly with respect to plans that have a network of providers, when care is received from out-of-network providers, those providers may not agree to receive payments directly from the insurer (or "accept assignment" of the right to be paid), and payment may then go to the policyholder or beneficiary. Many of the laws specify that payments for services are to be made by the insurer to one of the following: the beneficiary, the insured, the policyholder, the enrollee or the covered employee (Table 5, page 14). Some laws specify that payment be sent to a minor child's parent. Others indicate that payment goes to the provider, especially if the provider files the claim. Some specify that the claimant is to receive the payment.

More than a dozen states explicitly require that an explanation be sent with the payment. This requirement has particular significance because of its relationship to the requirements, or absence thereof, for the sending of EOBs. The statutes and regulations do not necessarily make clear whether the "explanation" they refer to is the same as an EOB or a different sort of explanation. In a sense, both the explanation accompanying a payment and the explanation required to accompany denials of claims as discussed

TABLE 5. Statutes and regulations related to payment

Type of communication/recipient	States*
Payment made to beneficiary, insured, policy-holder, enrollee or covered employee	Alaska, Arizona, Arkansas, Colorado, Connecticut, Delaware, Georgia, Hawaii, Idaho, Illinois, Indiana, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Minnesota, Mississippi, Missouri, Nebraska, Nevada, New Jersey, New Mexico, New York, North Carolina, Oregon, Pennsylvania, Rhode Island, South Dakota, Tennessee, Utah, Vermont, West Virginia, Wyoming
Payment made to health care provider	Florida, Georgia, Indiana, Kentucky, Maryland, Mississippi, New Jersey, New Mexico, North Carolina, Tennessee, Texas, Utah
Payment made to claimant	Louisiana, Maine, New Jersey, Pennsylvania, South Dakota, Washington, West Virginia
Explanation sent with payment	Arizona, Colorado, Connecticut, Delaware, District of Columbia, Idaho, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Mississippi, Missouri, New Mexico, Virginia, Wyoming

*Includes the 50 states and the District of Columbia.

Note: In some states, the law contains a provision that requires or specifies more than one category of individual who is to receive a communication. Those states are listed in more than one category. In some states, the laws do not specify a recipient. Those states are not listed in this table.

above might result in the disclosure of sensitive information to a parent, spouse or domestic partner in the same manner as something explicitly referred to as an EOB. In addition, if patients know that any insurance payment will go to one of these parties rather than to themselves, this knowledge might serve as a deterrent to seeking care.

Divorce and Child Custody

When couples separate or divorce, complex issues may arise with respect to health insurance coverage. Often, one spouse or domestic partner receives health insurance coverage through the other spouse or domestic partner's employment, and separation agreements or divorce decrees often provide for that coverage to continue. When this occurs, there may be many questions about who can file claims and who receives certain notices or other information from the insurer.

Similar issues arise with respect to children after separation or divorce. A child's health insurance coverage may come through the employment of the noncustodial parent, and questions may arise with respect to who can file claims and who receives notices. This can have significance with respect to confidentiality concerns for adolescents with dependent coverage. For example, an adolescent may seek contraception or STI testing with the knowledge of the custodial parent but without the knowledge of the noncustodial parent. If the latter receives the EOB, confidentiality may be breached.

Many states have statutes and regulations that address the handling of health insurance claims and payments in the context of divorce and child custody (Table 6, page 15). They generally do not appear to address the situation of domestic partners. Some of these laws originate in the state insurance codes, but others are found in family codes and elsewhere, thus illustrating the importance of casting the net widely to reach a full understanding of the dynamics of (and requirements covering) communications between insurers, providers, policyholders and covered persons. Many of these laws specify that the custodial parent or health care provider may file health insurance claims for the child's health care without the approval of the noncustodial parent and receive the payments, even if that noncustodial parent is the one providing the child with health insurance. At least one state specifies that the custodial parent receives the EOB regardless of whether that parent is the policyholder. And at least one state has a statute that authorizes a court to issue an order allowing both the custodial and noncustodial parents to obtain information from the child's insurer, which could raise confidentiality concerns if the patient were an adolescent seeking sensitive services.

Possible Approaches to Protecting Confidentiality

Eight states have adopted various provisions that address the confidentiality of sensitive health information in the billing and insurance claims context (Table 7, page 16). These provisions include identifying possible situations in which EOBs do not have to be sent, sending EOBs di-

TABLE 6. Statutes and regulations related to divorce and child custody

Type of communication and authorized actor	States*
Custodial parent, or the health care provider, may file insurance claims and/or receive payments	Alabama, Connecticut, District of Columbia, Idaho, Illinois, Indiana, Michigan, Missouri, Nevada, New Hampshire, New Jersey, New Mexico, New York, North Carolina, North Dakota, Ohio, Oklahoma, Oregon, Rhode Island, South Carolina, South Dakota, Tennessee, Texas, Utah, Vermont, Washington, West Virginia, Wyoming
Custodial parent and employee receive EOB	Alabama
Court is authorized to permit both custodial and non-custodial parents to obtain information from insurer	Kansas
*Includes the 50 states and the District of Columbia. *Note:* EOB=explanation of benefits.	

rectly to the patient, and in some way protecting the confidentiality of minors and adults. Not all of these provisions relate directly to insurance claims, but they may have some relevance depending on how they are interpreted in relation to the health insurance laws or responded to by health insurers writing policies.

One approach that has been adopted is to not require sending an EOB when there is no balance due from the policyholder or patient after the patient has satisfied any applicable copayments. As mentioned above, versions of this approach were identified in New York and Wisconsin. For example, a New York statute provides the following:

> Except on demand by the insured or subscriber, insurers, including health maintenance organizations…shall not be required to provide the insured or subscriber with an explanation of benefits form in any case where the service is provided by a facility or provider participating in the insurer's program and full reimbursement for the claim, other than a co-payment that is ordinarily paid directly to the provider at the time the service is rendered, is paid by the insurer directly to the participating facility or provider.[59]

Another approach is to send EOBs for sensitive services only to the patient, using whichever address or means of communication the patient specifies, as provided for by HIPAA. New York and Wisconsin also have specified that these forms can be sent to the patient directly.*

Minor consent laws sometimes address confidentiality issues in the billing process. For example, Connecticut, Delaware and Florida include in their laws authorizing minors to consent for their own diagnosis and treatment for STIs that the care must be confidential, including in relation to sending of a bill. However, these statutes do not refer to the insurance claims process. For example, a Connecticut statute provides the following:

> Any municipal health department, state institution or facility, licensed physician or public or private hospital or clinic, may examine or provide treatment for venereal disease for a minor, if the physician or facility is qualified to provide such examination or treatment. The consent of the parents or guardian of the minor shall not be a prerequisite to the examination or treatment. The physician in charge or other appropriate authority of the facility or the licensed physician concerned shall prescribe an appropriate course of treatment for the minor. *The fact of consultation, examination or treatment of a minor under the provisions of this section shall be confidential and shall not be divulged by the facility or physician, including the sending of a bill for the services to any person other than the minor…*[60] (emphasis added)

Three states have statutes or regulations that address confidentiality for minors that are not related to specific services. Hawaii has established a mechanism for "minors without support" to consent for their own primary health care and expressly requires that if such a minor does not want information about the care disclosed to a parent, spouse or other family member, the health care provider must inform the insurer when submitting a health insurance claim. Maine specifies that a parent may request an explanation of the payment or denial of a claim for a "dependent child" (without specifying the age) who is insured on the parent's plan but acknowledges that the insured

*In other states, such as Nebraska, that mentioned the patient—or beneficiary, enrollee or member—as a recipient of the EOB, other recipients were indicated as well.

TABLE 7. Statutes and regulations protecting confidentiality

Protection afforded	States*
EOB not sent when no balance is due	New York, Wisconsin
EOB may be sent to patient	New York, Wisconsin
Confidential STI treatment for minors, including in billing process	Connecticut, Delaware, Florida
General confidentiality provisions	
Health care provider must inform insurer when "minors without support" request confidentiality	Hawaii
Minor may refuse parents' request for EOB or claim denial	Maine
Insurer may not disclose private health information, including by mailing an EOB, without authorization of minor or adult patient	Washington

*Includes the 50 states and the District of Columbia.

Note: EOB=explanation of benefits.

dependent child may have the right to withhold consent to that disclosure. Finally, Washington provides that for any service a minor may consent to under state or federal law, the insurer may not disclose any nonpublic health information, including "mailing appointment notices, calling the home to confirm appointment, or mailing a bill or explanation of benefits to a policy holder or other covered person, without the express authorization of the minor."[61] Also the insurer cannot require the minor to get permission from the policyholder or other covered person in order to receive a health service or to submit a claim.

Washington's regulation also contains strong protections of confidentiality for adult dependents as well as minors. Specifically, insurers are required to honor requests to limit disclosure of information when the request is made by the person who is the subject of the information, such as to a spouse to prevent domestic violence. For example, this regulation provides that insurers:

> …shall limit disclosure of any information, including health information, about an individual who is the subject of the information if the individual clearly states in writing that disclosure to specified individuals of all or part of that information could jeopardize the safety of the individual. Disclosure of information under this subsection shall be limited consistent with the individual's request, such as a request for the licensee to not release any information to a spouse to prevent domestic violence…[and] shall not disclose nonpublic personal health information concerning health services related to reproductive health, sexually transmitted diseases, chemical dependency and mental health, including mailing appointment notices, calling the home to confirm appointments, or mailing a bill or explanation of benefits to a policyholder or certificateholder, if the individual who is the subject of the information makes a written request…[and] shall not require an adult individual to obtain the policyholder's or other covered person's authorization to receive health care services or to submit a claim…[and] shall recognize the right of any minor who may obtain health care without the consent of a parent or legal guardian pursuant to state or federal law, to exclusively exercise rights granted under this section regarding health information; and…[s]hall not disclose any nonpublic personal health information related to any health care service to which the minor has lawfully consented, including mailing appointment notices, calling the home to confirm appointments, or mailing a bill or explanation of benefits to a policyholder or other covered person, without the express authorization of the minor. In addition, a licensee shall not require the minor to obtain the policyholder's or other covered person's authorization to receive health care services or to submit a claim as to health care which the minor may obtain without parental consent under state or federal law.[61]

Discussion

Understanding the relationship between legal requirements that result in disclosures of private information as part of the health insurance claims process and the laws that protect confidentiality of medical information can be perplexing.* In this analysis of state statutes and regulations, we found provisions in the laws in almost all states that lead to disclosure to a policyholder or other third party of confidential health information for dependents seeking sensitive health care services. In about half the states, laws exist that either require or presume the sending of an EOB. Although sometimes the EOB may be sent to the patient, most often the recipient, if specified by statute or regulation, is someone else, who could be a parent, spouse or domestic partner. But in many states, these provisions reach far beyond EOB requirements, to affect broader claims-processing procedures and issues that arise in the context of divorce and child custody.

Equally significantly, we found that at least some states do not have explicit statutes or regulations that create breaches in confidentiality for dependents needing sensitive services. The number of states without any statutory or regulatory provisions that result in disclosures to someone other than the patient is small because of the widespread existence of requirements for notices when claims are denied, as mandated by federal law for many health plans; however, the lack of detail in some of the laws requiring notices of claim denials may mean that the risk of lost confidentiality varies among states with such requirements. When absolute statutory or regulatory requirements that result in breaches of confidentiality are absent, an opportunity may exist to address these issues through negotiation at the contract level, without having to go through the arduous process of repealing statutes or modifying regulations.

Finally, we found a small number of states that have adopted statutes or regulations that could provide a starting point for giving dependents the confidentiality protection they need. However, it is important that the extent to which these existing policies provide confidentiality in actual practice be fully investigated before they are looked to as approaches that might be adopted more broadly.

Issues in State Laws

Existing state laws present a number of challenging issues when examined from a perspective of securing confidentiality for dependents seeking to use coverage for sensitive health care services. There is a risk that confidentiality can be breached at many points along the way in the filing and processing of health insurance claims. Our confirmation of the statutory and regulatory foundation creating this risk, which has been known from empirical experience for some time, vividly underscores the paucity of confidentiality protections in state laws related to health insurance and the insurance claims process.

Many of the procedures for communicating information in the insurance claims process are set forth in insurance contracts and policies rather than determined by state statutes and regulations. A review of these contracts and policies is beyond the scope of this project. The issue, however, is significant because it suggests that there already is some flexibility to address the challenge of confidentiality through negotiation about the terms of insurance contracts and policies without needing to pursue legislative or regulatory change. Persuading insurance companies to alter their practices and insurers and employers to negotiate contract terms that provide confidentiality protection for dependents will be challenging but possibly worthy of pursuit.

The vagueness, variations and definitions (or lack of definitions) of key terms included in the state statutes and regulations are a significant concern. Although common sense might presume a clear and consistent meaning is assigned in statute or regulation for such terms as *policyholder, beneficiary* or *enrollee,* these terms are not always

*States may have provisions in their medical privacy laws, health insurance laws or both that address how conflicts should be resolved. For example, Wash. Admin. Code § 284-04-525 provides that "[i]n the event of a conflict between this chapter [on the privacy of consumer financial and health information] and the state or federal laws, [insurers] shall comply with the state and federal laws governing privacy, as such laws relate to the business of insurance, except as expressly required by this chapter." An analysis of these provisions is beyond the scope of this inquiry but would ultimately be important in determining a strategy for protecting confidentiality in any individual state.

defined, at least not clearly so within the same statute or regulation in which they appear. The variation in the use of terms among states means that comparisons across states are difficult. Also, the use of terms appears to vary between statutes within a given state, thus adding further confusion.

Another issue that emerged from our inquiry is the failure of many of the state laws to specify to whom certain notices, queries or explanations are sent. This was the case with respect to EOBs, denials of claims, acknowledgments of claims, requests for additional information and sending of payments. The absence of clear statutory or regulatory directives is troubling and makes it difficult to discern how serious the risk of breach of confidentiality actually is.

Perhaps the most notable observation that emerged from our findings is the apparent conflict between the provisions of state insurance laws governing communications that occur in the insurance claims process and the state laws that provide confidentiality protections for health care information. It is apparent from empirical experience that the insurance laws "win," but the reason for this is not entirely clear. One reason might be that, apart from the federal HIPAA privacy regulations, the state-based confidentiality laws provide little direction to insurance companies about how to protect confidentiality in the billing and claims process. We found only a small handful of provisions in state statutes and regulations that addressed the relationship between confidentiality and the claims process in even the most basic way.

Possible Approaches

Our review of state laws and policies, and our communications with state insurance departments, did yield a few possible approaches to promoting confidential access to sensitive health services for dependents who are insured under a parent's, spouse's or domestic partner's policy. Little is known about how these approaches are actually working "on the ground." In addition, several of them, while offering some promise, also appear to pose problems of their own or contain gaps or loopholes. Greater knowledge about how well the existing approaches are working and where there are gaps is critically important to determining which pathways could be pursued, either by contract or through legislative and regulatory change. Therefore, additional research is warranted.

Because many practices in the insurance claims process are determined by contract rather than by statute or regulation, there is already some flexibility at the contract level and in the documentation of insurance policies to address confidentiality issues without having to seek statutory or regulatory change. As the number of young adults covered as dependents on a parent's policy increases, so too may the pressure to solve the challenges posed by the conflicts between confidentiality protections and disclosures through the claims process. The remainder of this discussion focuses on those few states that have adopted confidentiality protections by statute or regulation, rather than by insurance contract. These statutory and regulatory provisions might, however, provide some suggestion of approaches that could be incorporated into insurance policies and contracts even in the absence of a statutory requirement to do so.

Three states (Connecticut, Delaware and Florida) have statutes that provide confidentiality in the billing process related to minors accessing STI services. Unfortunately, the utility of these laws is limited because they address only billing and not the confidentiality issues that can arise throughout the full claims submission and payment processes.

Our review of state laws suggested that many states do not include detailed requirements for the specific contents of EOBs and other notices that are sent out as part of the insurance claims process. As a result, insurers could limit the specificity of information on an EOB, explanation of denial or explanation accompanying payment to the minimum required by law, thereby reducing the likelihood that confidentiality would be breached and sensitive information would be revealed. However, sending any type of explanation might alert the policyholder unless the notice were sent or given directly to the patient.

One approach that has been adopted is not to require sending an EOB when there is no balance due from the policyholder after the patient has paid any applicable copayments. We found versions of this approach in at least two states (New York and Wisconsin). Although this approach might entail at least a partial solution to the problem of confidentiality loss, it is unlikely that most insured individuals would know about this protection unless they were specifically informed about it. It is also possible that insurers would elect to send EOBs in these circumstances unless they were prohibited from doing so, either by state policy or contractual provision.

Another approach is to send EOBs for sensitive services only to the patient using whichever address or means of communication the patient specifies, as provided for by HIPAA. At least two states (New York and Wisconsin) have specified that an EOB can be sent to the patient directly. The HIPAA privacy rule also contains special confidentiality protections that allow individuals to request that information be sent to a different address or by a different method than whatever is usual, and that allow individuals

to request that confidential information not be disclosed. Although the privacy rule requires that individuals must be permitted to make this request to a HIPAA-covered entity, the covered entity is not always required to agree.

States or insurers could establish procedures for adults and for minors who can consent for their own care so that they can request the confidentiality protections afforded by HIPAA. At least one state (Hawaii) has adopted this approach. In that state, a law allows minors who are "without support" (i.e., living apart from their parents) to seek primary care on the basis of their own consent. The statute providing for minors without support to consent to their own care also contains an explicit provision that these minors, or their health care providers, can request that information about their care not be disclosed to their parents or spouses when a claim is filed if the minor does not want the information disclosed. It is not clear how this is working in practice.

States or insurers could allow minors who can consent for their own care, as well as adults covered as dependents, to withhold consent for the sending of sensitive information when a parent or spouse who is the policyholder requests it. At least one state (Maine) explicitly acknowledges that "dependent children" who are insured on a parent's policy may have the right to withhold consent in these circumstances. Although this approach seems to offer some protection, it does not preclude a parent or spouse from pressuring the patient into allowing disclosure. This might be a particular risk in dysfunctional families or abusive relationships. The provision also does not address what happens in these situations if the policyholder has some residual financial responsibility.

Finally, insurers and health care providers could refrain from mailing appointment notices, calling the home to confirm appointments or mailing a bill or EOB without the express authorization of a minor who can consent for care or an adult dependent. At least one state (Washington) has a law requiring this approach for insurers, as discussed in the chapter on disclosure and confidentiality.

One ongoing concern about withholding EOBs and other notices from policyholders relates to the fact that they may have financial liability for payment of amounts not covered by insurance. This issue would have to be addressed by any strategy for protecting confidentiality. One welcome development in this regard relates to the provisions of the ACA pertaining to preventive services. The ACA, if fully implemented, requires that insurance plans cover certain preventive services—including some sensitive services, such as family planning and STI testing—without any cost sharing on the part of the patient. This resolves the issue of policyholder financial liability at least as to that set of services.

Implementation of any of these approaches in any particular state would depend on a careful review of relevant state and federal laws. It would also depend on knowledge gained from further research about how these approaches are working so far in the states where they have been adopted. The knowledge gained from this project can be used to inform further review, analysis and research.

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APPENDIX TABLE. Statutes and regulations that address various aspects of health insurance communications

State*	Explanation of benefits	Deny or contest a claim	Acknowledgment of a claim	Request for additional claim information	Payment of a claim	Related to divorce and child custody	Confidentiality protections
Alabama	Ala. Admin. Code r. 482-1-124-.04(5) (2011)	Ala. Admin. Code r. 482-1-124-.04(9) (2011) Ala. Admin. Code r. 482-1-079-.18 (2011)		Ala. Admin. Code r. 482-1-124-.04(3) (2011)	Ala. Admin. Code r. 482-1-079-.18 (2011)	Ala. Code § 27-21B-10(f)(3) (2011)	
Alaska		Alaska Stat. § 21.36.125 (2012) Alaska Stat. § 21.36.495 (2012)	Alaska Stat. § 21.36.125 (2012) Alaska Admin. Code tit. 3, § 26.040 (2012)		Alaska Stat. § 21.36.125 (2012) Alaska Stat. § 21.36.495 (2012) Alaska Admin. Code tit. 3, § 26.110 (2012) Alaska Stat. § 21.54.050 (2012)		
Arizona		Ariz. Rev. Stat. § 20-461 (LexisNexis 2011) Ariz. Rev. Stat. § 20-841.05 (LexisNexis 2011) Ariz. Rev. Stat. § 20-1057.02 (LexisNexis 2011) Ariz. Admin. Code § 20-6-801 (2010)	Ariz. Rev. Stat. § 20-461 (LexisNexis 2011) Ariz. Admin. Code § 20-6-801 (2010)		Ariz. Rev. Stat. § 20-461 (LexisNexis 2011) Ariz. Admin. Code § 20-6-801 (2010)		
Arkansas		Ark. Code Ann. § 23-66-206(13)(J) (LexisNexis 2012)	Ark. Code Ann. § 23-66-206(13)(B) (LexisNexis 2012)	054-00-043 Ark. Code R. § 13 (LexisNexis 2012)	Ark. Code Ann. § 23-66-206(13)(J) (LexisNexis 2012) Ark. Code Ann. § 23-86-104 (LexisNexis 2012)		

*Includes the 50 states and the District of Columbia

State*	Explanation of benefits	Deny or contest a claim	Acknowledgment of a claim	Request for additional claim information	Payment of a claim	Related to divorce and child custody	Confidentiality protections
California	Cal. Ins. Code § 10123.13 (Deering 2012)	Cal. Health & Safety Code § 1371 (Deering 2012) Cal. Health & Safety Code § 1371.35 (Deering 2012) Cal. Ins. Code § 10123.13 (Deering 2012) Cal. Ins. Code § 790.03(h)(13) (Deering 2012) Cal. Code Regs. tit. 10, § 2695.7(b)(10) (2012) Cal. Code Regs. tit. 28, § 1300.71(d)(2) (2012)	Cal. Ins. Code § 790.03(h)(2) (Deering 2012) Cal. Ins. Code § 10133.66(c) (Deering 2012) Cal. Code Regs. tit. 28, § 1300.71(c) (2012)	Cal. Health & Safety Code § 1371.35 (Deering 2012) Cal. Code Regs. tit. 28, § 1300.71(d) (2012)	Cal. Ins. Code § 10123.13 (Deering 2012) Cal. Code Regs. tit. 10, § 2695.7(b)(10) (2012)		
Colorado	3 Colo. Code Regs. § 702-4-2-35 (LexisNexis 2012)	Colo. Rev. Stat. §§ 10-3-1104(1)(h)(V) and (XIV) (2011) Colo. Rev. Stat. § 10-16-113(2) and (3) (2011) 3 Colo. Code Regs. § 702-4-2-17(6)(E) (LexisNexis 2012)	Colo. Rev. Stat. §10-3-1104(1)(h)(IV) (2011)	Colo. Rev. Stat. § 10-16-106.5 (2011) 3 Colo. Code Regs. § 702-4-2-17(6)(E) (LexisNexis 2012)	Colo. Rev. Stat. § 10-3-1104(7)(h)(X) (2011)		
Connecticut		Conn. Gen. Stat. § 38a-483b (2011) Conn. Gen. Stat. § 38a-513a (2011) Conn. Gen. Stat. § 38a-816(6)(n) (2011)	Conn. Gen. Stat. § 38a-816(6)(b) (2011)		Conn. Gen. Stat. § 38a-816(6)(j) (2011)	Conn. Gen. Stat. § 38a-497a(b) (2011) Conn. Gen. Stat. § 46b-84(e) (2011)	Conn. Gen. Stat. § 19a-216 (2011)

State*	Explanation of benefits	Deny or contest a claim	Acknowledgment of a claim	Request for additional claim information	Payment of a claim	Related to divorce and child custody	Confidentiality protections
Delaware		Del. Code Ann. tit. 18, § 2304(16)(n) (2011) 18-1400-1408 Del. Code Regs. § 4.0(4.3) (LexisNexis 2012) 18-900-902 Del. Code Regs. § 1.0 (LexisNexis 2012) 18-1300-1310 Del. Code Regs. § 6.0 (LexisNexis 2012)	Del. Code Ann. tit. 18, § 2304(16)(b) (2011) 18-1400-1408 Del. Code Regs. § 4.0(4.3) (LexisNexis 2012) 18-900-902 Del. Code Regs. § 1.0 (LexisNexis 2012)	18-1400-1408 Del. Code Regs. § 4.0(4.3) (LexisNexis 2012) 18-1300-1310 Del. Code Regs. § 6.0 (LexisNexis 2012)	Del. Code Ann. tit. 18, § 2304(16)(j) (2011) Del. Code Ann. tit. 18 § 3543 (2011) 18-1400-1408 Del. Code Regs. § 4.0(4.3) (LexisNexis 2012) 18-900-902 Del. Code Regs. § 1.0 (LexisNexis 2012) 18-1300-1310 Del. Code Regs. § 6.0 (LexisNexis 2012) Del. Code Ann. tit. 18, § 3543 (2011)		Del. Code Ann. tit. 16, § 710 (2011)
District of Columbia		DC Code Ann. §31-2231.17	DC Code Ann. §31-2231.17		DC Code Ann. §31-2231.17	DC Code Ann. §1-307.41	
Florida		Fla. Stat. Ann. § 626.9541(1)(i)(3)(f) (LexisNexis 2012) Fla. Stat. Ann. § 627.613 (LexisNexis 2012) Fla. Stat. Ann. § 627.6131(4)(b) (LexisNexis 2012) Fla. Stat. Ann. § 641.3155(14) (LexisNexis 2012) Fla. Stat. Ann. § 641.3903(5)(c)(6) (LexisNexis 2012)	Fla. Stat. Ann. § 626.9541(1)(i)(3)(c) (LexisNexis 2012) Fla. Stat. Ann. § 627.426 (LexisNexis 2012) Fla. Stat. Ann. § 641.3155(15) (LexisNexis 2012) Fla. Stat. Ann. § 641.3903(5)(c)(3) (LexisNexis 2012)	Fla. Stat. Ann. § 627.6131(4)(c) (LexisNexis 2012)	Fla. Stat. Ann. § 627.6131(4)(b) (LexisNexis 2012)		Fla. Stat. Ann. § 384.30

State*	Explanation of benefits	Deny or contest a claim	Acknowledgment of a claim	Request for additional claim information	Payment of a claim	Related to divorce and child custody	Confidentiality protections
Georgia		Ga. Code Ann. § 33-24-59.5(b)(1) (2011) Ga. Code Ann. § 33-24-59.14(b)(1) (2011) (eff. Jan. 1, 2013)	Ga. Code Ann. § 33-6-34 (2011)	Ga. Code Ann. § 33-24-59.5(b)(1) (2011) Ga. Code Ann. § 33-24-59.14(b)(1) (2011) (eff. Jan. 1, 2013)	Ga. Code Ann. § 20-2-890 (2011) Ga. Code Ann. § 20-2-917 (2011) Ga. Code Ann. § 45-18-11 (2011) Ga. Code Ann. § 33-30-9 (2011)		
Hawaii		Haw. Rev. Stat. Ann. § 431:13-103(11)(P) (LexisNexis 2011) Haw. Rev. Stat. Ann. § 431: 13-108(c) (LexisNexis 2011)	Haw. Rev. Stat. Ann. § 431:13-103(11)(B) (LexisNexis 2011)	Haw. Rev. Stat. Ann. § 431:13-108(c) (LexisNexis 2011)	Haw. Rev. Stat. Ann. § 431:13-103(11)(L) (LexisNexis 2011) Haw. Rev. Stat. Ann. § 431: 13-108(c) (LexisNexis 2011)	Haw. Rev. Stat. Ann. § 576E-17 (LexisNexis 2011)	Haw. Rev. Stat. Ann. § 577D-2(i) (LexisNexis 2011)
Idaho		Idaho Code Ann. § 41-1329 (2011) Idaho Code Ann. § 41-5602(4) (2011)	Idaho Code Ann. § 41-1329 (2011)	Idaho Code Ann. § 41-5602(4) (2011)	Idaho Code Ann. § 41-1329 (2011) Idaho Code Ann. §§ 41-5602(2) and (3) (2011)	Idaho Code Ann. § 32-1214C(8) (2011)	
Illinois	215 Ill. Comp. Stat. Ann. 5 / 143.31(c) (LexisNexis 2012)	215 Ill. Comp. Stat. Ann. 5 / 154.6(n) (LexisNexis 2012) 50 Ill. Code R. 919.50 (LexisNexis 2012) 50 Ill. Code R. 5420.70 (LexisNexis 2012)	215 Ill. Comp. Stat. Ann. 5 / 154.6(b) (LexisNexis 2012)	215 Ill. Comp. Stat. Ann. 5 / 357.9 (LexisNexis 2012)	215 Ill. Comp. Stat. Ann. 5 / 154.6(l) (LexisNexis 2012) 50 Ill. Code R. 919.50 (LexisNexis 2012) 50 Ill. Code R. 5420.70 (LexisNexis 2012) 215 Ill. Comp. Stat. Ann. 5 / 367a(4) (LexisNexis 2012)	215 Ill. Comp. Stat. Ann. 125 / 4-2(d)(2) (LexisNexis 2012) 215 Ill. Comp. Stat. Ann. 165 / 15.12 (LexisNexis 2012) 215 Ill. Comp. Stat. Ann. 5 / 356i (a)(2) (LexisNexis 2012)	

State*	Explanation of benefits	Deny or contest a claim	Acknowledgment of a claim	Request for additional claim information	Payment of a claim	Related to divorce and child custody	Confidentiality protections
Indiana	Ind. Code Ann. § 27-8-5.5-2(c) (LexisNexis 2011)	Ind. Code Ann. § 5-10-8.1-6 (LexisNexis 2011) Ind. Code Ann. § 27-4-1-4.5(2) (LexisNexis 2011) Ind. Code Ann. § 27-8-5.7-5 (LexisNexis 2011) Ind. Code Ann. § 27-13-36.2-3 (LexisNexis 2011)	Ind. Code Ann. § 27-4-1-4.5(2) (LexisNexis 2011)	Ind. Code Ann. § 5-10-8.1-6 (LexisNexis 2011) Ind. Code Ann. § 27-8-5.7-5 (LexisNexis 2011) Ind. Code Ann. § 27-13-36.2-3 (LexisNexis 2011)	Ind. Code Ann. § 5-10-8.1-6 (LexisNexis 2011) Ind. Code Ann. § 27-4-1-4.5(2) (LexisNexis 2011) Ind. Code Ann. § 27-8-5.7-5 (LexisNexis 2011) Ind. Code Ann. § 27-13-36.2-3 (LexisNexis 2011) Ind. Code Ann. § 27-8-5-15(b)(7)(c) (LexisNexis 2011)	Ind. Code Ann. § 27-8-23-6 (LexisNexis 2011)	
Iowa		Iowa Code § 507B.4(10)(n) (LexisNexis 2011)	Iowa Code § 507B.4(10)(b) (LexisNexis 2011)	Iowa Admin. Code r. 191-15.32(507B) (2011)	Iowa Code § 507B.4(10)(b) (LexisNexis 2011)		
Kansas		Kan. Stat. Ann. § 40-2404(9)(j) (LexisNexis 2011) Kan. Stat. Ann. § 40-2442 (LexisNexis 2011)	Kan. Stat. Ann. § 40-2404(9)(b) (LexisNexis 2011) Kan. Stat. Ann. § 40-2442 (LexisNexis 2011)	Kan. Stat. Ann. § 40-2442 (LexisNexis 2011)	Kan. Stat. Ann. § 40-2404(9)(j) (LexisNexis 2011) Kan. Stat. Ann. § 40-2442 (LexisNexis 2011)	Kan. Stat. Ann. § 23-3003 (LexisNexis 2011)	
Kentucky	806 Ky. Admin. Regs. 12:092(3)(5) (2012)	Ky. Rev. Stat. Ann. § 304.12-230 (LexisNexis 2012) Ky. Rev. Stat. Ann. § 304.17A-702 (LexisNexis 2012) Ky. Rev. Stat. Ann. § 304.17A-706 (LexisNexis 2012) 806 Ky. Admin. Regs. 12:092(3)(9) (2012)	Ky. Rev. Stat. Ann. § 304.12-230 (LexisNexis 2012) Ky. Rev. Stat. Ann. § 304.17A-704 (LexisNexis 2012) 806 Ky. Admin. Regs. 12:092(3)(8) (2012)	806 Ky. Admin. Regs. 12:092(3)(3) (2012)	Ky. Rev. Stat. Ann. § 304.12-230 (LexisNexis 2012) Ky. Rev. Stat. Ann. § 304.17A-150 (LexisNexis 2012) Ky. Rev. Stat. Ann. § 304.17A-702 (LexisNexis 2012)		

State*	Explanation of benefits	Deny or contest a claim	Acknowledgment of a claim	Request for additional claim information	Payment of a claim	Related to divorce and child custody	Confidentiality protections
Louisiana	La. Rev. Stat. Ann. § 22:1873 (2012)	La. Rev. Stat. Ann. § 22:1834 (2012) La. Rev. Stat. Ann. § 22:1873 (2012) La. Rev. Stat. Ann. § 22:1964(14)(n) (2012) La. Admin. Code tit. 37, § 6013 (2012)	La. Rev. Stat. Ann. § 22:1832 (2012) La. Rev. Stat. Ann. § 22:1833 (2012) La. Rev. Stat. Ann. § 22:1964(14)(j) (2012)	La. Rev. Stat. Ann. § 22:1873 (2012) La. Admin. Code tit. 37, § 6013 (2012)	La. Rev. Stat. Ann. § 22:1964(14)(j) (2012) La. Admin. Code tit. 37, § 6007 (2012) La. Admin. Code tit. 37, § 6009 (2012)		
Maine	Me. Rev. Stat. Ann. tit. 24-A, § 4303(13) (LexisNexis 2011)	Me. Rev. Stat. Ann. tit. 24-A, § 2164-D (LexisNexis 2011) Me. Rev. Stat. Ann. tit. 24-A, § 2436 (LexisNexis 2011)	Me. Rev. Stat. Ann. tit. 24-A, § 2164-D (LexisNexis 2011) Me. Rev. Stat. Ann. tit. 24-A, § 7110 (LexisNexis 2011)	Me. Rev. Stat. Ann. tit. 24-A, § 2436 (LexisNexis 2011)	Me. Rev. Stat. Ann. tit. 24-A, § 2164-D (LexisNexis 2011) Me. Rev. Stat. Ann. tit. 24-A, § 2436 (LexisNexis 2011) Me. Rev. Stat. Ann. tit. 24-A, § 24-A §4317 (LexisNexis 2011) Me. Rev. Stat. Ann. tit. 24-A, § 2814 (LexisNexis 2011)		Me. Rev. Stat. Ann. tit. 24-A, § 2713-A (LexisNexis 2011) Me. Rev. Stat. Ann. tit. 24-A, § 2823-A (LexisNexis 2011)
Maryland	Md. Code Ann., Ins. § 15-1007 (LexisNexis 2011) Md. Code Regs. 31.10.41.07 (2011)	Md. Code Ann., Ins. § 14-136 (LexisNexis 2011) Md. Code Ann., Ins. § 15-1005 (LexisNexis 2011) Md. Code Ann., Ins. § 15-1006 (LexisNexis 2011) Md. Code Ann., Ins. § 27-304 (LexisNexis 2011) Md. Code Regs. 31.10.18.04 (2011) Md. Code Regs. 31.15.08.03(B)(12)(b) (2011)	Md. Code Ann., Ins. § 27-304 (LexisNexis 2011)	Md. Code Ann., Ins. § 15-1005 (LexisNexis 2011) Md. Code Regs. 31.15.08.03(B)(12)(c) (2011)	Md. Code Ann., Ins. § 15-1005 (LexisNexis 2011) Md. Code Ann., Ins. § 27-303 (LexisNexis 2011) Md. Code Regs. 31.10.41.07 (2011) Md. Code Regs. 31.15.08.03 (2011)	Md. Code Ann., Ins. § 15-405 (LexisNexis 2011)	

State*	Explanation of benefits	Deny or contest a claim	Acknowledgment of a claim	Request for additional claim information	Payment of a claim	Related to divorce and child custody	Confidentiality protections
Massachusetts		Mass. Ann. Laws ch. 176D, § 3(9)(n) (LexisNexis 2011)	Mass. Ann. Laws ch. 176D, § 3(9)(b) (LexisNexis 2011)		Mass. Ann. Laws ch. 176D, § 3(9)(j) (LexisNexis 2011)	Mass. Ann. Laws ch. 32A, § 11A (LexisNexis 2011) Mass. Ann. Laws ch. 32B, § 9H (LexisNexis 2011) Mass. Ann. Laws ch. 175, § 110l (LexisNexis 2011) Mass. Ann. Laws ch. 176A, § 8F (LexisNexis 2011) Mass. Ann. Laws ch. 176B, § 6B (LexisNexis 2011) Mass. Ann. Laws ch. 176G, § 5A (LexisNexis 2011)	
Michigan	Mich. Comp. Laws Serv. § 550.1405 (LexisNexis 2012)	Mich. Comp. Laws Serv. § 550.940 (LexisNexis 2012) Mich. Comp. Laws Serv. § 550.1211a (LexisNexis 2012) Mich. Comp. Laws Serv. § 550.1402 (LexisNexis 2012) Mich. Comp. Laws Serv. § 500.2026(n) (LexisNexis 2012)	Mich. Comp. Laws Serv. § 550.940 (LexisNexis 2012) Mich. Comp. Laws Serv. § 550.1211a (LexisNexis 2012) Mich. Comp. Laws Serv. § 550.1402 (LexisNexis 2012) Mich. Comp. Laws Serv. § 500.2026(b) (LexisNexis 2012)	Mich. Comp. Laws Serv. § 500.2006(3) (LexisNexis 2012)	Mich. Comp. Laws Serv. § 550.1211a (LexisNexis 2012) Mich. Comp. Laws Serv. § 500.2026(j) (LexisNexis 2012)	Mich. Comp. Laws Serv. § 550.1419a (LexisNexis 2012) Mich. Comp. Laws Serv. § 550.1807 (LexisNexis 2012)	
Minnesota	Minn. Stat. Ann. § 62J.581 (LexisNexis 2011)	Minn. Stat. Ann. § 72A.20(12)(14) (LexisNexis 2011) Minn. Stat. Ann. § 72A.201(4)(3)(i) (LexisNexis 2011)	Minn. Stat. Ann. § 72A.20(12)(2) (LexisNexis 2011) Minn. Stat. Ann. § 72A.201(4)(1) (LexisNexis 2011)		Minn. Stat. Ann. § 72A.20(12)(10) (LexisNexis 2011) Minn. Stat. Ann. § 72A.201(4)(3)(i) (LexisNexis 2011)		

State*	Explanation of benefits	Deny or contest a claim	Acknowledgment of a claim	Request for additional claim information	Payment of a claim	Related to divorce and child custody	Confidentiality protections
Mississippi		Miss. Code Ann. § 73-21-155(3)(c) (2012)			Miss. Code Ann. § 25-15-17 (2012) Miss. Code Ann. § 73-21-155(3)(c) (2012) Miss. Code Ann. § 83-9-47 (2012)		
Missouri	Mo. Ann. Stat. § 376.1400 (LexisNexis 2011)	Mo. Ann. Stat. § 375.1007 (LexisNexis 2011) Mo. Ann. Stat. § 376.383 (LexisNexis 2011) Mo. Ann. Stat. § 376.1400 (LexisNexis 2011) Mo. Code Regs. Ann. tit. 20, § 100-1.050 (2010) Mo. Code Regs. Ann. tit. 20, § 100-5.010 (2010) Mo. Code Regs. Ann. tit. 20, § 400-6.400 (2010)	Mo. Ann. Stat. § 375.1007 (LexisNexis 2011) Mo. Ann. Stat. § 376.383(2)(3) (LexisNexis 2011) Mo. Code Regs. Ann. tit. 20, § 100-1.030 (2010) Mo. Code Regs. Ann. tit. 20, § 400-6.400 (2010)	Mo. Ann. Stat. § 376.383(2)(3) (LexisNexis 2011)	Mo. Ann. Stat. § 375.1007 (LexisNexis 2011) Mo. Ann. Stat. § 376.383 (LexisNexis 2011) Mo. Ann. Stat. § 376.1400 (LexisNexis 2011) Mo. Code Regs. Ann. tit. 20, § 100-1.050 (2010) Mo. Code Regs. Ann. tit. 20, § 400-6.400 (2010)	Mo. Ann. Stat. § 454.624 (LexisNexis 2011) Mo. Ann. Stat. § 454.700(4) (LexisNexis 2011)	
Montana		Mont. Code Ann. § 33-18-201 (2011)	Mont. Code Ann. § 33-18-201 (2011)	Mont. Code Ann. § 33-18-232 (2011)	Mont. Code Ann. § 33-18-201 (2011)		
Nebraska	210 Neb. Admin. Code § 61-008.04 (2011)	Neb. Rev. Stat. Ann. § 44-1540(13) (LexisNexis 2012) 210 Neb. Admin. Code §§ 61-008.01 and 008.03 (2011)	Neb. Rev. Stat. Ann. § 44-1540(2) (LexisNexis 2012) 210 Neb. Admin. Code § 61-006 (2011)	Neb. Rev. Stat. Ann. § 44-8004 (LexisNexis 2012) 210 Neb. Admin. Code § 61-007 (2011)	Neb. Rev. Stat. Ann. § 44-1540(11) (LexisNexis 2012) 210 Neb. Admin. Code § 61-008.03 (2011)		

State*	Explanation of benefits	Deny or contest a claim	Acknowledgment of a claim	Request for additional claim information	Payment of a claim	Related to divorce and child custody	Confidentiality protections
Nevada		Nev. Rev. Stat. Ann. § 689A.755 (LexisNexis 2011) Nev. Rev. Stat. Ann. § 689B.0295 (LexisNexis 2011) Nev. Rev. Stat. Ann. § 695B.400 (LexisNexis 2011) Nev. Rev. Stat. Ann. § 695G.230 (LexisNexis 2011)	Nev. Rev. Stat. Ann. § 686A.310(b) (LexisNexis 2011)	Nev. Rev. Stat. Ann. § 683A.0879 (LexisNexis 2011) Nev. Rev. Stat. Ann. § 689A.410 (LexisNexis 2011) Nev. Rev. Stat. Ann. § 689B.255 (LexisNexis 2011) Nev. Rev. Stat. Ann. § 695B.2505 (LexisNexis 2011) Nev. Rev. Stat. Ann. § 695C.185 (LexisNexis 2011) Nev. Rev. Stat. Ann. § 695D.215 (LexisNexis 2011)	Nev. Rev. Stat. Ann. § 686A.310(n) (LexisNexis 2011) Nev. Rev. Stat. Ann. § 689B.100 (LexisNexis 2011)	Nev. Rev. Stat. Ann. § 689A.450 (LexisNexis 2011) Nev. Rev. Stat. Ann. § 689B.320 (LexisNexis 2011) Nev. Rev. Stat. Ann. § 695A.155 (LexisNexis 2011) Nev. Rev. Stat. Ann. § 695B.360 (LexisNexis 2011) Nev. Rev. Stat. Ann. § 695C.167 (LexisNexis 2011)	
New Hampshire	N.H. Rev. Stat. Ann. § 420-B:8-n (LexisNexis 2012) N.H Rev. Stat. Ann § 420-H:4 (LexisNexis 2012)	N.H. Rev. Stat. Ann. § 415-A:4-a(I)(c) (LexisNexis 2012)	N.H. Rev. Stat. Ann. § 415:10 (LexisNexis 2012) N.H. Rev. Stat. Ann. § 417:4(XV)(2) (LexisNexis 2012)	N.H. Rev. Stat. Ann. § 415-A:4-a(II)(d) (LexisNexis 2012)	N.H. Rev. Stat. Ann. § 417:4(XV)(10) (LexisNexis 2012)	N.H. Rev. Stat. Ann. § 161-H:2(IV) (LexisNexis 2012)	

State*	Explanation of benefits	Deny or contest a claim	Acknowledgment of a claim	Request for additional claim information	Payment of a claim	Related to divorce and child custody	Confidentiality protections
New Jersey		N.J. Stat. Ann. § 17:29B-4(9)(n) (LexisNexis 2012) N.J. Stat. Ann. § 17:48H-33.1 (LexisNexis 2012) N.J. Stat. Ann. § 17B:27-75 (LexisNexis 2012) N.J. Stat. Ann. § 17B:30-13.1(n) (LexisNexis 2012)	N.J. Stat. Ann. § 17:29B-4(9)(n) (LexisNexis 2012) N.J. Stat. Ann. § 17:48-8.4 (LexisNexis 2012) N.J. Stat. Ann. § 17:48A-7.12 (LexisNexis 2012) N.J. Stat. Ann. § 17:48E-10.1 (LexisNexis 2012) N.J. Stat. Ann. § 17:48H-33.1 (LexisNexis 2012) N.J. Stat. Ann. § 17B:26-9.1 (LexisNexis 2012) N.J. Stat. Ann. § 17B:27-44.2 (LexisNexis 2012) N.J. Stat. Ann. § 17B:30-13.1(b) (LexisNexis 2012) N.J. Stat. Ann. § 26:2J-8.1 (LexisNexis 2012)	N.J. Stat. Ann. § 17:48-8.4 (LexisNexis 2012) N.J. Stat. Ann. § 17:48A-7.12 (LexisNexis 2012) N.J. Stat. Ann. § 17:48E-10.1 (LexisNexis 2012) N.J. Stat. Ann. § 17:48H-33.1 (LexisNexis 2012) N.J. Stat. Ann. § 17B:26-9.1 (LexisNexis 2012) N.J. Stat. Ann. § 17B:27-44.2 (LexisNexis 2012) N.J. Stat. Ann. § 17B:27-75 (LexisNexis 2012) N.J. Stat. Ann. § 26:2J-8.1 (LexisNexis 2012)	N.J. Stat. Ann. § 17:29B-4(9)(n) (LexisNexis 2012) N.J. Stat. Ann. § 17:48-8.4 (LexisNexis 2012) N.J. Stat. Ann. § 17:48A-7.12 (LexisNexis 2012) N.J. Stat. Ann. § 17:48E-10.1 (LexisNexis 2012) N.J. Stat. Ann. §§ 17:48H-33.1(d)(1) and (6) (LexisNexis 2012) N.J. Stat. Ann. § 17B:26-9.1 (LexisNexis 2012) N.J. Stat. Ann. § 17B:27-44.2 (LexisNexis 2012) N.J. Stat. Ann. § 17B:27-75 (LexisNexis 2012) N.J. Stat. Ann. § 26:2J-8.1 (LexisNexis 2012)	N.J. Stat. Ann. § 26:2J-10.1 (LexisNexis 2012) N.J. Stat. Ann. § 17:48-6:15 (LexisNexis 2012) N.J. Stat. Ann. § 17:48A-7.10 (LexisNexis 2012) N.J. Stat. Ann. § 17:48E-32.1 (LexisNexis 2012) N.J. Stat. Ann. § 17B:27-30.1 (LexisNexis 2012) N.J. Stat. Ann. § 17B:27-30.3 (LexisNexis 2012) N.J. Stat. Ann. § 17B:27A-4.1 (LexisNexis 2012) N.J. Stat. Ann. § 17B:27A-18.1 (LexisNexis 2012)	
New Mexico		N.M. Stat. Ann. § 59A-16-20(N) (LexisNexis 2012)	N.M. Stat. Ann. § 59A-16-20(B) (LexisNexis 2012)		N.M. Stat. Ann. § 59A-16-20(J) (LexisNexis 2012)	N.M. Stat. Ann. § 59A-22-34.2 (LexisNexis 2012) N.M. Stat. Ann. § 59A-23-7.2 (LexisNexis 2012) N.M. Stat. Ann. § 59A-46-38.1 (LexisNexis 2012) N.M. Stat. Ann. § 59A-47-37 (LexisNexis 2012)	
New York	N.Y. Ins. Law § 3234 (Consol. 2011)		N.Y. Ins. Law § 2601 (Consol. 2011) N.Y. Comp. Codes R. & Regs. tit. 11, § 216.4 (LexisNexis 2012)	N.Y. Ins. Law § 3224-a(b) (Consol. 2011) N.Y. Comp. Codes R. & Regs. tit. 11, § 216.5 (LexisNexis 2012)	N.Y. Ins. Law § 3224-a(b) (Consol. 2011) N.Y. Comp. Codes R. & Regs. tit. 11, § 216.6(c) (LexisNexis 2012)	N.Y. Ins. Law § 2608-a (Consol. 2011)	N.Y. Ins. Law § 3234 (Consol. 2011) N.Y. Insurance Department, Informal Opinion, Dec. 6, 2002

State*	Explanation of benefits	Deny or contest a claim	Acknowledgment of a claim	Request for additional claim information	Payment of a claim	Related to divorce and child custody	Confidentiality protections
North Carolina		N.C. Gen. Stat. § 58-3-172 (2012) N.C. Gen. Stat. §§ 58-3-225(b) and (c) (2012) N.C. Gen. Stat. § 58-63-15(11)(n) (2012)	N.C. Gen. Stat. § 58-63-15(11)(b) (2012)	N.C. Gen. Stat. §§ 58-3-225(b) and (c) (2012)	N.C. Gen. Stat. § 58-3-225(b) (2012) N.C. Gen. Stat. § 58-63-15(11)(b) (2012)	N.C. Gen. Stat. § 58-51-120 (2012)	
North Dakota			N.D. Cent. Code § 26.1-04-03 (2011)			N.D. Cent. Code § 26.1-36.5-04 (2011)	
Ohio		Ohio Rev. Code Ann. § 3901.381(B) (LexisNexis 2012) Ohio Admin. Code 3901-1-07(C) (LexisNexis 2012) Ohio Admin. Code 3901-8-11(D) (LexisNexis 2012)	Ohio Admin. Code 3901-1-07(C) (LexisNexis 2012)	Ohio Rev. Code Ann. §§ 3901.381(B)(2) and (3) (LexisNexis 2012) Ohio Admin. Code 3901-1-07(C) (LexisNexis 2012) Ohio Admin. Code 3901-8-11(D) (LexisNexis 2012)		Ohio Rev. Code Ann. § 3924.47 (LexisNexis 2012)	
Oklahoma	Okla. Stat. Ann. tit. 36, § 6055 (LexisNexis 2012)			Okla. Stat. Ann. tit. 36, § 1219(C) (LexisNexis 2012) Okla. Stat. Ann. tit. 74, § 1328(C) (LexisNexis 2012)		Okla. Stat. Ann. tit. 36, § 6058A (LexisNexis 2012) Okla. Stat. Ann. tit. 43, §118.2 (LexisNexis 2012)	
Oregon		Or. Rev. Stat. Ann. § 746.230(1)(m) (LexisNexis 2009)	Or. Rev. Stat. Ann. § 746.230(1)(b) (LexisNexis 2009)	Or. Rev. Stat. Ann. § 743.911(1) (LexisNexis 2009)	Or. Rev. Stat. Ann. § 746.230(1)(j) (LexisNexis 2009) Or. Rev. Stat. Ann. § 743.543 (LexisNexis 2009)	Or. Rev. Stat. Ann. § 743.847(7) (LexisNexis 2009)	
Pennsylvania		40 Pa. Stat. Ann. § 1171.5(a)(10)(xiv) (LexisNexis 2012) 31 Pa. Code § 146.7 (2012)	40 Pa. Stat. Ann. § 1171.5(a)(10)(ii) (LexisNexis 2012) 31 Pa. Code § 146.5 (2012)		40 Pa. Stat. Ann. § 1171.5(a)(10)(x) (LexisNexis 2012) 31 Pa. Code § 146.7 (2012)		

State*	Explanation of benefits	Deny or contest a claim	Acknowledgment of a claim	Request for additional claim information	Payment of a claim	Related to divorce and child custody	Confidentiality protections
Rhode Island	02-030-013 R.I. Code R. § 4(H) (LexisNexis 2012)	R.I. Gen. Laws § 27-9.1-4(a)(12) (2012) R.I. Gen. Laws § 27-18-61(b) (2012) R.I. Gen. Laws § 27-19-52(b) (2012) R.I. Gen. Laws § 27-20-47(b) (2012) R.I. Gen. Laws § 27-41-64(b) (2012) 02-030-013 R.I. Code R. § 4(I) (LexisNexis 2012)	R.I. Gen. Laws § 27-9.1-4(a)(2) (2012) 02-030-013 R.I. Code R. § 4(H) (LexisNexis 2012)	R.I. Gen. Laws § 27-18-61(b) (2012) R.I. Gen. Laws § 27-19-52(b) (2012) R.I. Gen. Laws § 27-20-47(b) (2012) R.I. Gen. Laws § 27-41-64(b) (2012) 02-030-013 R.I. Code R. § 4(A) (LexisNexis 2012)	R.I. Gen. Laws § 27-9.1-4(a)(10) (2012) R.I. Gen. Laws § 27-18-61(a) (2012) R.I. Gen. Laws § 27-19-52(a) (2012) R.I. Gen. Laws § 27-20-47(a) (2012) R.I. Gen. Laws § 27-41-64(a) (2012)	R.I. Gen. Laws § 15-29-10 (2012)	
South Carolina			S.C. Code Ann. § 38-59-20 (2011) S.C. Code Ann. § 38-59-230 (2011)	S.C. Code Ann. § 38-59-230 (2011)		S.C. Code Ann. § 38-71-260 (2011)	
South Dakota		S.D. Codified Laws § 58-33-67 (LexisNexis 2011) S.D. Admin. R. 55:03:06:01 (2011)	S.D. Codified Laws § 58-33-67 (LexisNexis 2011)	S.D. Codified Laws § 58-12-20 (LexisNexis 2011) S.D. Admin. R. 55:03:06:01 (2011)	S.D. Codified Laws § 58-33-67 (LexisNexis 2011)	S.D. Codified Laws § 58-33-88 (LexisNexis 2011)	
Tennessee		Tenn. Code Ann. § 56-8-105(12) (2011) Tenn. Code Ann. § 56-32-126 (2011)	Tenn. Code Ann. § 56-8-105(2) (2011)	Tenn. Code Ann. § 56-7-109(b) (2011)	Tenn. Code Ann. § 56-7-109(b) (2011) Tenn. Code Ann. § 56-8-105(7) (2011)	Tenn. Code Ann. § 56-7-2302 (2011)	

State*	Explanation of benefits	Deny or contest a claim	Acknowledgment of a claim	Request for additional claim information	Payment of a claim	Related to divorce and child custody	Confidentiality protections
Texas	Tex. Ins. Code Ann. art. 1456.003 (d) (LexisNexis 2012) 28 Tex. Admin. Code § 21.5020 (LexisNexis 2012)	Tex. Ins. Code Ann. art. 541.060 (LexisNexis 2012) Tex. Ins. Code Ann. art. 843.338 (LexisNexis 2012) Tex. Ins. Code Ann. art. 1301.103 (LexisNexis 2012) 28 Tex. Admin. Code § 21.203 (LexisNexis 2012)	Tex. Ins. Code Ann. art. 542.003 (LexisNexis 2012) Tex. Ins. Code Ann. art. 542.055 (LexisNexis 2012) 28 Tex. Admin. Code § 21.203 (LexisNexis 2012)	Tex. Ins. Code Ann. art. 542.055 (LexisNexis 2012) Tex. Ins. Code Ann. art. 843.3385 (LexisNexis 2012) Tex. Ins. Code Ann. art. 1301.1054 (LexisNexis 2012) 28 Tex. Admin. Code § 21.2804 (LexisNexis 2012) 28 Tex. Admin. Code § 21.2805 (LexisNexis 2012) 28 Tex. Admin. Code § 21.2808 (LexisNexis 2012)	Tex. Ins. Code Ann. art. 843.338 (LexisNexis 2012) Tex. Ins. Code Ann. art. 1204.251 (LexisNexis 2012) Tex. Ins. Code Ann. art. 1251.005 (LexisNexis 2012) Tex. Ins. Code Ann. art. 1251.114 (LexisNexis 2012) Tex. Ins. Code Ann. art. 1301.103 (LexisNexis 2012) Tex. Ins. Code Ann. art. 1456.003(b) (LexisNexis 2012) 28 Tex. Admin. Code § 21.2807 (LexisNexis 2012)	Tex. Ins. Code Ann. art. 1504.055 (LexisNexis 2012) 28 Tex. Admin. Code § 21.2009 (LexisNexis 2012)	
Utah	Utah Code Ann. § 31A-26-301.6(7) (LexisNexis 2012)	Utah Code Ann. § 31A-26-301.6(3)(a)(ii) (LexisNexis 2012) Utah Code Ann. § 31A-26-303 (LexisNexis 2012)	Utah Code Ann. § 31A-26-301.5 (LexisNexis 2012) Utah Code Ann. § 31A-26-301.6(10) (LexisNexis 2012) Utah Code Ann. § 31A-26-303 (LexisNexis 2012)	Utah Code Ann. § 31A-26-301.6(3)(b)(ii) (LexisNexis 2012)	Utah Code Ann. § 31A-26-301.5 (LexisNexis 2012) Utah Code Ann. § 31A-26-301.6(6) (LexisNexis 2012)	Utah Code Ann. § 31A-22-610.5 (LexisNexis 2012)	
Vermont	21-040 Vt. Code R. § 023 (2012)	Vt. Stat. Ann. tit. 8, § 4724(9)(M) (2012) Vt. Stat. Ann. tit. 18, § 9418(b)(2) (2012)	Vt. Stat. Ann. tit. 8, § 4724(9)(B) (2012) Vt. Stat. Ann. tit. 18, § 9418(d) (2012)	Vt. Stat. Ann. tit. 18, §§ 9418(b)(2) and (c) (2012)	Vt. Stat. Ann. tit. 8, § 4724(9)(M) (2012) Vt. Stat. Ann. tit. 8, § 4082 (2012)	Vt. Stat. Ann. tit. 8, § 4100b (2012)	

State*	Explanation of benefits	Deny or contest a claim	Acknowledgment of a claim	Request for additional claim information	Payment of a claim	Related to divorce and child custody	Confidentiality protections
Virginia	Va. Code Ann. § 2.2-2818 (2012) Va. Code Ann. § 38.2-514 (2012) Va. Code Ann. § 38.2-3407.4 (2012) Va. Code Ann. § 38.2-3407.13:2 (2012)	Va. Code Ann. § 38.2-510(14) (2012) 14 Va. Admin. Code § 5-400-70 (LexisNexis 2011)	Va. Code Ann. § 38.2-510(2) (2012) 14 Va. Admin. Code § 5-400-50 (LexisNexis 2011) 14 Va. Admin. Code § 5-400-60 (LexisNexis 2011)		Va. Code Ann. § 38.2-510(10) (2012)	Va. Code Ann. § 38.2-3407.2 (2012)	
Washington		Wash. Admin. Code § 284-30-330 (2011) Wash. Admin. Code § 284-30-380 (2011)	Wash. Admin. Code § 284-30-330 (2011) Wash. Admin. Code § 284-30-360 (2011)		Wash. Rev. Code Ann. § 48.44.026 (LexisNexis 2012) Wash. Admin. Code § 284-30-330 (2011) Wash. Admin. Code § 284-30-380 (2011)	Wash. Rev. Code Ann. § 48.01.235 (LexisNexis 2012)	Wash. Admin. Code § 284-04-510(3) (2011)
West Virginia		W. Va. Code Ann. §§ 33-11-4(9)(n) and (o) (LexisNexis 2011) W. Va. Code R. §§ 114-14-6(6.3) and (6.5) (2012)	W. Va. Code Ann. § 33-11-4(9)(b) (LexisNexis 2011) W. Va. Code R. § 114-14-5 (2012)	W. Va. Code Ann. § 33-45-2 (LexisNexis 2011)	W. Va. Code Ann. §§ 33-11-4(9)(j) and (o) (LexisNexis 2011) W. Va. Code R. § 114-14-6(6.4) (2012)	W. Va. Code Ann. § 33-15-16 (LexisNexis 2011) W. Va. Code Ann. § 33-16-11 (LexisNexis 2011) W. Va. Code Ann. § 48-12-113 (LexisNexis 2011)	
Wisconsin	Wis. Stat. Ann. § 632.725 (LexisNexis 2011) Wis. Stat. Ann. § 632.857 (LexisNexis 2011)	Wis. Admin. Code Ins. 6.11 (2011)	Wis. Admin. Code Ins. 6.11 (2011)				Office of the Commissioner of Insurance, Fact Sheet on Standard Health Insurance Forms, PI-083, May 2004
Wyoming		Wyo. Stat. Ann. § 26-13-124(a)(xiv) (2012) Wyo. Stat. Ann. § 26-40-201 (2012)	Wyo. Stat. Ann. § 26-13-124(a)(ii) (2012)		Wyo. Stat. Ann. § 26-13-124(a)(x) (2012)	Wyo. Stat. Ann. § 26-15-135 (2012)	

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