EMRS, BILLING, AND INSURANCE CLAIMS: PROTECTING THE CONFIDENTIAL INFORMATION OF ADOLESCENTS AND YOUNG ADULTS

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Overview

- Adolescents & young adults
- Consent requirements
- Confidentiality protections
- Disclosure requirements
- EMRs – benefits and risks
Adolescents & Young Adults

- Special concerns
  - Adolescents vs. young adults
  - Social context
- Health status
- Health care system issues
- Health care utilization
- Health insurance status
- Privacy

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Special Concerns

- Adolescents vs. young adults
  - Age
  - Developmental status
  - Legal status
  - Health insurance status

- Social context
  - Familial support
  - Institutional relationships
  - Living situations

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Critical period to prevent chronic diseases of adulthood
- Tobacco use
- Obesity
- Dental problems
- Hearing loss

Major health problems largely preventable

Behavior links
Health Status 2

- Motor vehicle crashes
  - Drinking & driving
- Violence
  - Homicide & fighting
- Reproductive and sexual health
  - STDs
  - HIV/AIDS
  - Pregnancy
Health Status 3

- Mental health concerns
  - Major depressive episodes
  - Suicide attempts & suicide
- Substance abuse
  - Binge drinking
  - Marijuana & other illegal drugs
  - Prescription medications
Health System Issues

- Acute care favored over prevention
- Financing/insurance difficult to navigate
- Shortage of providers trained/comfortable with caring for adolescents & young adults
- Age-linked legal requirements mismatched with developmental/social characteristics
  - Consent
  - Loss of eligibility/change in insurance
  - Change of primary care clinician
Health Care Utilization

- **Adolescents**
  - 40% of adolescents had a past year well-visit
    - Among those very few received recommended preventive services (2001-2004)
  - 54% received care in a medical home (2007)
    - 46% for those with mental health condition
    - 35% for those with mental health AND physical health condition

- **Young adults**
  - Lowest rates of ambulatory care visits
  - Very high rates ER visits

**Sources:** Irwin et al., 2009; Adams et al., in press; NHIS

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Health Insurance Status

- Adolescents & young adults insured at lower rates than younger children
- 2011 continuous health insurance coverage for at least a year
  - 89.3% of adolescents (ages 10-17)
  - 66.7% of young adults (ages 18-25)
- 2011 uninsured full-year or part-year
  - 11.7% of adolescents (ages 10-17)
  - 32.3% of young adults (ages 18-25)

Sources: NAHIC/UCSF analysis of National Health Interview Survey; English & Park, 2012

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2011 full year coverage

- Private coverage
  - 56.7% of adolescents (ages 10-17)
  - 51.5% of young adults (ages 18-25)

- Public coverage
  - 32.6% of adolescents (ages 10-17) [Medicaid & CHIP]
  - 15.2% of young adults (ages 18-25) [Medicaid]

Sources: NAHIC/UCSF analysis of National Health Interview Survey; English & Park, 2012

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Consent Requirements

- Parental or guardian consent usually required for minors < age 18
- Alternatives to parental consent
  - Court, foster parent, social worker, probation officer
- Minor consent authorized by state laws
  - Status
  - Services
- Young adults ≥ age 18 consent for themselves

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Minor Consent

- All states have some minor consent laws — specific laws vary
- Based on minor’s status (examples)
  - Emancipated
  - Married
  - Living apart
- Based on services (examples)
  - Contraception
  - Pregnancy related care
  - STD
  - Mental health
  - Substance abuse

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Confidentiality Protections

- Adolescents and young adults have privacy concerns
- Consent requirements affect confidentiality
  - Parental, 3rd party consent
  - Minor consent
  - Young adult consent
- Confidentiality protections contained in state & federal laws
  - HIPAA
  - Title X Family planning
  - State minor consent laws
- Confidentiality protections ill-matched with insurance claims & billing procedures

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Privacy Concerns

- Decades of research findings

- Effects
  - Willingness to seek care or use certain services
  - Choice of provider or site
  - Willingness to disclose sensitive information

- Issues
  - Sexual/reproductive health
  - Mental health
  - Substance use
  - Domestic/partner violence
  - Child abuse

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Federal Confidentiality Laws

- Federal constitutional right of privacy
- Federal funding programs
  - Title X Family Planning
  - Medicaid
  - Federal drug & alcohol programs
- HIPAA Privacy Rule
  - Importance of state laws in application of federal laws
Minors are treated as “individuals” under HIPAA Privacy Rule in 3 circumstances:

- Minor has the right to consent and has consented; or
- Minor may obtain care without parental consent and the minor, a court, or someone else has consented; or
- Parents accede to confidentiality agreement between minor and health care provider
Minor acting as “the individual” can exercise rights re “protected health information”

Right of the individual
- Access to information
- Control over disclosure
- Request privacy protection
HIPAA: Disclosure to Parents

- If state or other law requires it, provider must disclose.
- If state or other law prohibits it, provider may not disclose.
- If state or other law permits it, provider has discretion to disclose.
- If state or other law is silent or unclear, provider has discretion to grant or withhold access.
Health care providers and health plans must permit individuals to:
- Request confidential communication
- Receive protected health information by alternative means or at alternative locations

Health care providers
- Must accommodate reasonable request

Health plans
- Must accommodate reasonable request if the individual states that disclosure could endanger the individual
Individuals may request no disclosure of protected health information without their authorization.

Covered entities (health plans, health care providers)
- Not required to agree
- If they do agree, must comply
State Confidentiality Laws

- State constitutional right of privacy
- Minor consent
- Medical confidentiality & medical records
- Patient access to health records
- Professional licensing
- Evidentiary privileges
- State funding programs
Both adolescents & young adults have privacy concerns

Legal confidentiality protections not identical for adolescent minors (< 18) and young adults (≥ 18)

Disclosures via billing and insurance claims affect both age groups

EMR issues more complex for adolescent minors (< 18)
Implications of ACA

- Changing health environment
- More young adults will have health insurance
  - Coverage to age 26 on family policy
- Coverage of preventive services without cost sharing in private health plans
  - Contraceptive services
  - STD screening
- Confidentiality challenges for young people covered on a family health insurance policy

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Disclosure Requirements

- Federal laws
- State laws
  - Requirements that abrogate confidentiality
  - Approaches to protect confidentiality
State Insurance Requirements: Disclosure

- Explanation of Benefits (EOB)
- Denial of claims
- Acknowledgment of claims
- Requests for additional information
- Payment of claims
EOBs: Widespread Use

- EOBs ubiquitous
  - Laws in ½ of states presume or explicitly require EOBs
  - Insurance contracts, policies, practices usually require
- Typically sent by private health insurance plans to policyholder who may/may not be patient
- Less frequent use in Medicaid for sensitive services
- Purpose
  - Fraud prevention
  - Transparency of insurance claims process

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EOBs: Content

- General or detailed description of the care provided
- Charges that were submitted to the insurer
- Amount covered by insurance
- Amount not covered
- Policyholder’s or patient’s remaining financial responsibility, if any
Denials of Claims

- Required by federal law in ERISA
  - To “participant or beneficiary”
  - New requirements pursuant to ACA
    - Diagnosis code and corresponding meaning
    - Treatment code and corresponding meaning

- Required by state law in almost every state

- Recipient variously specified as the insured, the beneficiary, a legal representative of the beneficiary or a designated adult family member, an enrollee, a covered person, a subscriber, a certificate holder, the health care provider, and/or the claimant

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Protecting Confidentiality

- EOB not sent when no balance due (NY, WI)
- EOB sent directly to patient (NY, WI)
- Confidential STD care includes billing (CT, DE, FL)
- Health care provider must inform insurer when “minors without support” request confidentiality (HI)
- Minor may refuse parents’ request for EOB or claim denial (ME)
- Insurer may not disclose private health information, including by mailing an EOB, without authorization of minor or adult patient (WA)

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Electronic Medical Records

- Who has access?
  - Adolescent minor patient
  - Young adult patient
  - Parent of adolescent or young adult patient

- Effect of laws?
  - HIPAA
  - Minor consent laws
  - Insurance laws
Conclusion

- Protecting confidentiality of health information for adolescents & young adults involves complex relationship among multiple federal and state laws that affect policy and practice in numerous institutions
  - Consent requirements
  - Confidentiality protections
  - Disclosure requirements

- Consideration of ethical obligations should inform implementation of laws
Sources/Resources


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