

# 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

# Special Concerns

- Adolescents vs. young adults
  - Age
  - Developmental status
  - Legal status
  - Health insurance status
- Social context
  - Familial support
  - Institutional relationships
  - Living situations

# Health Status 1

- 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*

# Health Insurance Status 1

- 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

# Health Insurance Status 2

- 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

# 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  $\geq$  age 18 consent for themselves

# 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

# Confidentiality Protections

- Adolescents and young adults have privacy concerns
- Consent requirements affect confidentiality
  - Parental, 3<sup>rd</sup> 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



# 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

# 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

# HIPAA: Minors as Individuals 1

- 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

# HIPAA: Minors as Individuals 2

- 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

# HIPAA: Special Privacy Protections 1

- 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

# HIPAA: Special Privacy Protections 2

- 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



# Confidentiality for Adolescents & Young Adults

- Both adolescents & young adults have privacy concerns
- Legal confidentiality protections not identical for adolescent minors ( $< 18$ ) and young adults ( $\geq 18$ )
- 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

# 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 1/2 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

# 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

# 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)



# 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

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