



One Federal Street, 5th Floor, Boston, MA 02110

Phone: 617.350.7279 HelpLine: 800.272.4232

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Frequently Asked Questions: New Privacy Protections for Patients

If you are on another person's health insurance plan (such as your parent, spouse or partner), you can now submit a request to that health insurance plan to keep information about any health care services you use confidential.

General Information

What problem does this fix?

If you are covered by another person's health insurance plan, such as your parent, spouse, or partner you are called the "dependent." The person who obtained the health insurance plan is considered the "policyholder" or "subscriber." If you are a dependent, anytime you receive health care services, your health insurance plan may send some of your confidential health information – such as the name of your provider and the date and type of the services you received – to the policyholder. The form sent is called the Summary of Payments (SOP) or Explanation of Benefits (EOB).

What is a Summary of Payments (SOP) form or Explanation of Benefits (EOB) form?

Health insurance plans send a Summary of Payments (SOP) form, also called an Explanation of Benefits (EOB) form, when a person with health insurance receives medical care. Under federal law, health insurance plans are required to send an SOP form when there is any denial of coverage for a health care service or when there is cost-sharing (co-pay, deductible or coinsurance) for the service. Health insurance plans may also send the form for other services. The SOP form details the type and cost of medical services that have been provided.

The SOP form may contain information on sensitive health care services, such as care related to sexual and reproductive health, domestic violence, sexual assault, mental health, substance use disorders, HIV testing and treatment, or gender identity. If you are a dependent on the plan, such as a young adult or spouse, and receive health care services, sending this form to the policyholder can unintentionally compromise your confidentiality.



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Why does my health insurance plan send information to the policyholder in the first place?

Consumer protection law sometimes requires health insurance plans to send the policyholder information about how and when their health insurance plan is being used. Unfortunately, this can lead to the private health information of dependents on the plan being shared with the policyholder. Now, Massachusetts law requires insurance companies to stop sharing this information with the policyholder when the patient who received medical care requests that the information stays confidential.

How does this law protect my health care confidentiality?

The law protects patient privacy in four main ways:

1. Health insurance plans must address the SOP form to the patient's name rather than to the policyholder.
2. All patients can choose their preferred method of receiving SOP forms, including at a different mailing address or through an online portal (where available).
3. SOP forms will contain general information only, such as "office visit" or "medical care," rather than explicit descriptions of sensitive health care services that could violate confidentiality.
4. All patients will have the option to opt-out of receiving an SOP form when there is no cost-sharing (meaning co-pay, deductible or coinsurance) for the health care visit or service.

When do these protections go into effect?

All of these protections go into effect on July 1, 2018. But health insurance plans have until April 1, 2019 to offer the SOP form to patients online instead of sending a copy in the mail. Some health insurance plans may offer the online option earlier if they are able.

Who can use these new privacy protections?

If you are age 18 and older and are covered by another's health insurance plan – such as your parent, spouse or partner – you can request to keep your health information confidential and the health insurance plan must comply with that request. If you're under 18, you can request to keep the information confidential only in certain circumstances, as described in the next question. A legal guardian who is legally allowed to consent to health care for the patient may also request these protections on behalf of the patient (learn more).



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If I'm under 18, do these protections apply to me?

If you're under 18, you can use these new protections only in the following circumstances below, based on existing Massachusetts minor consent laws.

If you're under 18 and you fall into any of the categories below, you can consent to your own healthcare. You can then request that the SOP be sent to a different mailing address or that you only receive it online (where available).

- You are married, divorced or widowed
- You are a parent**
- You are living on your own and managing your own finances**
- You are a member of the armed forces**
- You are pregnant or you believe you may be pregnant**

When the doctor determines that you are a 'mature minor', which means the doctor believes the minor can give informed consent to the treatment and it is in the minor's best interest not to notify his or her parents.**

**For these categories, minors under age 18 still cannot access abortion services unless permitted by a court order as described below and cannot access sterilization services.

After you make the initial request, a new request for sending the SOP to a different mailing address or viewing it online does not have to be completed at each health care visit. Once the request is in place, your health plan must continue to follow it until you request to change your preferred address. The best time to make this request is as soon as your health insurance starts and before you receive any medical services. However, you can still make this request after you receive health care services, ideally within one week from the date of service.

If you're under 18 you can access any of the services below on your own consent. You can then request that the SOP be sent to a different mailing address or that you only receive it online (where available).

- For emergency services if delay would risk your health or life
- For diagnosis or treatment relating to STI treatment and testing and HIV testing
- For confidential family planning services – ask your healthcare provider if this visit applies to you
- For substance abuse treatment when you are 12 or older and at least two doctors have found you to be drug dependent (except for methadone maintenance therapy)
- For admission at a mental health treatment facility if you are 16 or older
- For abortion services if you obtain permission through a court order known as "judicial bypass," Mary Moe petition or 12S petition



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You need to make the request to send the SOP to a different mailing address or to view it online each time you receive this specific health care service. You should make the request as soon as possible after the service, ideally within one week from the date of service.

You can request that the SOP not be sent at all if you do not have any out-of-pocket costs (co-pay, deductible or coinsurance) for the health care visit, AND

- You fall into any of the categories listed in (1) above, OR
- You have received any of the services listed in (2) above.

You should make this request as soon as possible each time after you receive the health care service, ideally within one week from the date of service.

If you're still unsure whether these protections apply you can contact your health care provider, health care agency, or your health insurance plan.

Can a parent who is not the policyholder request these new privacy protections for a child under age 18?

There are only two situations when a non-policyholder parent can request that the SOP be sent to another address or not sent at all on behalf of their child under age 18.

The parent has exclusive legal authorization to consent to care for that under 18 year old child (usually this means sole custody) OR If that parent states in writing that sharing the information to the policyholder parent could put either the non-policyholder parent or the minor child in danger.

Do these protections apply to all kinds of health insurance?

These protections apply only to “fully-insured” plans and not “self-insured” plans. The best way to find out if your plan is fully-insured or self-insured is to call the member services number on the back of your health insurance card and talk with a customer service agent.

If the person whose insurance you are covered under works for a large company, the health insurance plan is probably a “self-insured” plan. This means that the health insurance plan coordinates the medical benefits, but the employer collects the monthly premiums from employees and is responsible for paying for their medical services. Even if your health insurance plan is self-insured, it can still accept your request for confidentiality under a national privacy protection law called “HIPAA.” Under HIPAA, you can request that the SOP form be sent to a different mailing address if sharing that form with the policyholder could put you in danger.



Sending the SOP form to a different mailing address or viewing the SOP online

How can I request for an SOP form to be sent to a different mailing address or viewed online?

Find your health insurance plan name and policy number. Both can be found on your health insurance card.

Call the customer service phone number on the back of your health insurance card or on your health plan's website. Say that you want to request the SOP form to be sent directly to your address and not to the policyholder, or that you would like to only receive it online instead of receiving a copy in the mail. Your health insurance plan may want you to make the request in writing and will give you instructions for how to do that.

When can I make the request that an SOP form be sent to a different mailing address or viewed online?

The best time to make this request is as soon as your health insurance starts and before you receive any medical services. However, you can still make this request after you receive health care services, ideally within one week from the date of service. Your health insurance plan must comply with your request within 3 business days of receiving the request. You can call your health insurance plan to find out the status of your request.

Do I have to make this request every time I see a health care provider?

No. A new request does not have to be completed at each health care visit. Once the request is in place, your health insurance plan must continue to follow it until you request in writing to change your preferred address or stop future forms from being sent to a different address than the policyholder.

If you're under 18, please refer to the question "If I'm under 18, do these protections apply to me?" in order to see whether you need to make the request every time you see a health care provider.

Can I request that an SOP form not be sent at all?

If you do not owe a co-pay or, deductible, or coinsurance for a medical visit or service, you can request that an SOP form not be sent at all. For example, you can request that an SOP form not be sent for preventive health services which have no co-pay, deductible or coinsurance. Preventive services include health care visits where you get counseling and testing for sexually transmitted infections (STIs), counseling and testing for HIV, birth control and other types of family planning services, pregnancy testing, or screening and counseling for domestic violence.



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How do I make this request?

Find your health insurance plan name and policy number. Both can be found on your health insurance card.

Call the customer service phone number on the back of your health insurance card or on your health insurance plan's website.

Specify which health care service you are referring to, including the date of the service and the name of your health care provider, and say that you do not want the SOP form for that service to be sent.

Your health plan may want you to make the request in writing and will give you instructions for how to do that.

Note: Your health insurance plan cannot ask why you do not want the SOP form to be sent.

Do I need to request that the SOP not be sent every time I see a health care provider?

Yes. You are only allowed to make this request when there is no patient payment for a health care visit or service. You should make the request as soon as possible after you receive health care services, ideally within one week from the date of service. Your health insurance plan must comply with your request within 3 business days of receiving it. You can call your health insurance plan to find out the status of your request.

Masking sensitive health services

What does masking sensitive services mean?

Health insurance plans are no longer allowed to identify or describe sensitive health care services in an SOP. Instead the SOPs must only contain general information, such as "office visit" or "medical care" along with the date the service happened. This will happen automatically and does not need to be requested.



Which sensitive services will be automatically masked on the SOP?

The SOP will contain more general descriptions such as “office visit” or “medical care” for the following services:

1. Mental Health Services
2. Substance Use Disorder Services, including Medication and Treatment
3. Gender Transition-Related Services
4. Testing, Treatment and Prevention of Sexual Transmitted Infections (for example, HPV vaccines)
5. Testing, Treatment and Prevention of HIV and AIDS (including pre-exposure prophylaxis known as PrEP)
6. Hepatitis C Testing, Treatment and Medication
7. Hepatitis B Testing, Treatment and Medication
8. Reproductive Services (for example, breast, cervical and prostate cancer screening, identification and treatment of minor infections)
9. Contraceptive Services
10. Fertility Services
11. Abortion Services
12. Pregnancy Testing and Counseling on Pregnancy Options
13. Any Visit Including Assessment of Sexual Risk, Pregnancy Intention, and/or Reproductive/Sexual/Pregnancy Coercion
14. Services Related to Sexual Assault
15. Domestic Violence Diagnosis, Services, Support and Counseling
16. Management of Abnormal Pap Smears
17. Diagnosis and Treatment of Vaginal Infections
18. Prenatal Care

The above sensitive health care services may be related to any type of health care visit, such as evaluation, screening, treatment/service, counseling, management and prescribed medications.

These services are masked are based on the way your health care provider codes your health care visits for billing. If you have concerns about whether a service will be masked, talk to your health care provider during your visit.

Will the name of the health care provider I see also be masked?

No, the name of the provider will not be masked, even when the service description is masked. If you are concerned that the name of your provider may show that you have accessed sensitive services, you should use one of the other options for protecting confidentiality, such as requesting that the form be sent to a different address, only be made available online, or that no SOP is sent.



Other

Do these protections apply to health care bills as well as SOP forms?

No. You should contact your health care provider directly and ask about options of how to protect your privacy if you are concerned about the provider sending a bill.

What if my health plan has a deductible?

A deductible is the amount you pay for health care services before your health insurance plan starts to pay. With a \$2,000 deductible, for example, you or members of your family have to pay the first \$2,000 of health care services. After the deductible is fully paid, you and your family members usually pay only a co-pay or coinsurance for services.

If you wish to use one of these privacy protections but your health plan has a deductible, you should know that the policyholder can still find out how much money has been paid so far towards the deductible. For example, if you pay \$100.00 for a mental health counseling visit, the policyholder would be able to see that \$100 was paid towards the \$2,000 deductible, but they would not know what the services were for. If your deductible has already been fully paid prior to accessing the service, this does not apply.

What can I do if I have any problems with making the confidentiality request, or having my health insurance plan accept and follow my request? Or what if sensitive services aren't masked on my SOP?

If you have any problems with submitting a request for confidentiality, getting your request accepted and honored by your health insurance plan, or with your health insurance plan masking sensitive services, you should do two things:

1. Contact your health insurance plan to make a complaint and ask what needs to be done differently to make sure this does not happen again.
2. Contact the Division of Insurance Consumer Services Section at 877-563-4467 or 617-521-7794. All complaints by phone must be followed up by a written submission to the Consumer Services Section. You must include at least the following information requested on the Insurance Complaint Form: your name and address; the nature of complaint; and your signature authorizing the internal release of any information regarding the complaint to help the Division with its review of the complaint. You may also fill out the complaint form online at: <https://www.mass.gov/forms/doi-insurance-complaint-submission-form>



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Summary of PATCH Act Protections

BEFORE: Insured on someone else's insurance	NOW: Insured on someone else's insurance
Other person (parents, spouse) gets insurance statement with details of your patient visits and medical tests.	You, the patient, can ask for insurance statements to be sent TO YOU ONLY .
Sensitive services are detailed (mental health, substance use health, sexual health, and others) so anyone who sees the statement knows exactly why you saw a doctor or had medical tests.	Only general language will be used when sensitive services are received, such as "office visit" or "medical care."
Statements sent even when no money is owed.	Patients can request that statements not be sent when no money is owed.
Name of the healthcare provider is visible on the form.	Name of the healthcare provider is visible on the form.