

`Frequently Asked Questions regarding 2013 revisions to New York State Public Health Law Article 23

1. When did changes to the law go into effect?
 - A. Amendments to Article 23 were enacted with the passage of the State Budget on April 3, 2013 and the changes became effective immediately.
2. What are the key changes to the law?
 - A. The revisions to Article 23 were sought in order to modernize statutory language, repeal outdated provisions and align the legislation with current public health practice. Specific changes include the following:
 - Archaic terminology was updated throughout the document such as changing the term 'venereal disease' to 'sexually transmitted disease'.
 - Sections of the legislation which addressed forced isolation and treatment were removed.
 - County health departments will be able to seek third-party reimbursement for STD-related clinical services that are provided directly or contractually by the county health department.
 - The statutory section pertaining to Expedited Partner Therapy for Chlamydia legislation was set to expire January 1, 2014 but this "sunset clause" was removed thereby making the legislation permanent.

STD Billing

3. Are local health departments (LHDs) required to implement billing for STD-related clinical services?
 - A. State and local public health programs have experienced reductions in discretionary funding for services. Billing public and commercial third party payers may offer LHD STD clinics additional revenue to support direct service delivery and offset budget gaps. However, Public Health Law section 2304 requires LHDs to seek reimbursement "to the greatest extent practicable." LHDs will need to evaluate the costs associated with the development, implementation and maintenance of billing infrastructure and determine if such costs will be offset by the revenue generated.
4. What if an LHD STD clinic patient does not want to have a claim submitted to their insurance?

- A. Under the legislation, patients cannot be denied STD diagnosis and treatment services by an LHD if a patient is not willing to provide insurance information.
5. Under HIPAA, clinics must provide a Notice of Privacy to patients for signature. Should local health departments obtain a separate patient consent to bill for STD services?
- A. Technically, a separate patient consent form is not necessary under HIPAA; by signing the Notice of Privacy Form, a patient is acknowledging that protected health information may be shared with insurance companies to bill for care.

While not required, clinics may choose to develop a separate consent form that serves to inform the patient that some protected health information collected during the STD clinic visit may be shared with the patient's insurance company. A patient who refuses to allow the insurance company to be billed would not sign this section of the consent form. The following is sample consent language:

"I consent to allow the _____ Department of Public Health to bill my health insurance for the health care services I receive. I understand that some protected health information may be disclosed to my health insurance provider to the extent necessary to reimburse for those services. I understand that my STD Clinic record will remain confidential and protected by NYS Public Health Law Section 2306."

6. If a minor who is seeking services has insurance through a parent or guardian but expresses fears of disclosure to the parent/guardian, can we still treat the minor?
- A. Yes, and since only the minor's income should be included in determining the fee, the minor may owe little or nothing.
7. Can a minor seeking services who has insurance through a parent or guardian and is comfortable with this approach request that the explanation of benefits be redirected to another address?
- A. Yes, adolescents may contact the health care plan and request that an alternative address be used when issuing an EOB for services provided to the adolescent patient. The adolescent should contact the health plan to determine what procedures or forms are required to request an address change. Furthermore, adolescents should make this request before seeking services in order to allow enough time for the health plan to make the necessary changes to their information system. In some situations, the adolescent has listed the health care provider's address as the alternative address for EOB notifications. Minors should be advised that Insurance Law §3234(c) allows the primary policyholder to demand an EOB even if one is not required.

Adult children who are covered by their parents' insurance plan as well as other adults who are concerned about, or at risk of, retaliation from their partner or spouse may also wish to redirect EOBs. Insurance Law 2612(h)(2)(A) and Title 11, Insurance, New York Codes, Rules and Regulations (NYCRR) provide protections for the redirection of communications from health plans for victims of domestic violence.

8. If a person has insurance and does not want to use it, can a sliding fee scale be used?
 - A. The patient should be billed for the cost of the services. If the patient cannot pay the full amount of the bill, then it would be appropriate to use a sliding fee scale to attempt to obtain payment for the services rendered. A client cannot be denied services if s/he cannot pay the sliding fee scale.

9. If a person has Medicaid coverage, can they request that Medicaid not be billed?
 - A. The law does not make any distinction based on type of insurance plan. A person cannot be denied STD diagnosis and treatment services if the patient is not willing to have their insurance billed, regardless of the type of insurance.

10. What happens if a patient has a co-pay for services not covered by insurance?
 - A. The Affordable Care Act has provisions that require the majority of insurance plans to cover certain preventive services (received in-network) without cost sharing (no co-payment or coinsurance) by the patient (this requirement refers only to plans that are not 'grandfathered'). The Department of Health and Human Services has defined the preventive services to be covered as those services described in the U.S. Preventive Services Task Force (USPSTF) A and B recommendations (available at: <http://www.uspreventiveservicestaskforce.org/uspstf/uspsabrecs.htm>), the Advisory Committee on Immunization Practices of the Centers for Disease Control and Prevention, and certain guidelines for infants, children, adolescents and women supported by the Health Resources and Services Administration Guidelines including the American Academy of Pediatrics Bright Futures periodicity guidelines. With respect to STDs, preventive services include but are not limited to Chlamydia screening of women under 25, gonorrhea screening of women, syphilis screening and risk reduction counseling. Clinics should not charge patients a co-pay or coinsurance for these preventive services. These services should be provided to the patient for free with the total cost covered by insurance. For other services, patients may have a financial liability for payment of amounts not covered by insurance.

Other Questions

11. Can STD-infected minors consent to their own diagnosis and treatment?

- A. No changes were made to the law with respect to minors' rights; health care practitioners may diagnose, treat or prescribe for a person under the age of eighteen without the knowledge or consent of the parents or guardians of the minor.

12. What is the definition of a 'minor'?

- A. A minor is any person under the age of eighteen. A person eighteen or older is an adult. A minor may consent to any type of treatment if the minor is the parent of a child or has married. A minor who is pregnant may consent to prenatal care.

13. Are LHD STD clinics required to diagnose and treat cases of epididymitis?

- A. While epididymitis is not specifically included among the list of STDs in Public Health Law §2311, it is most frequently caused by *C. trachomatis* or *N. gonorrhoeae* and therefore requirements for diagnosis and treatment of these etiologic causes of epididymitis would apply.