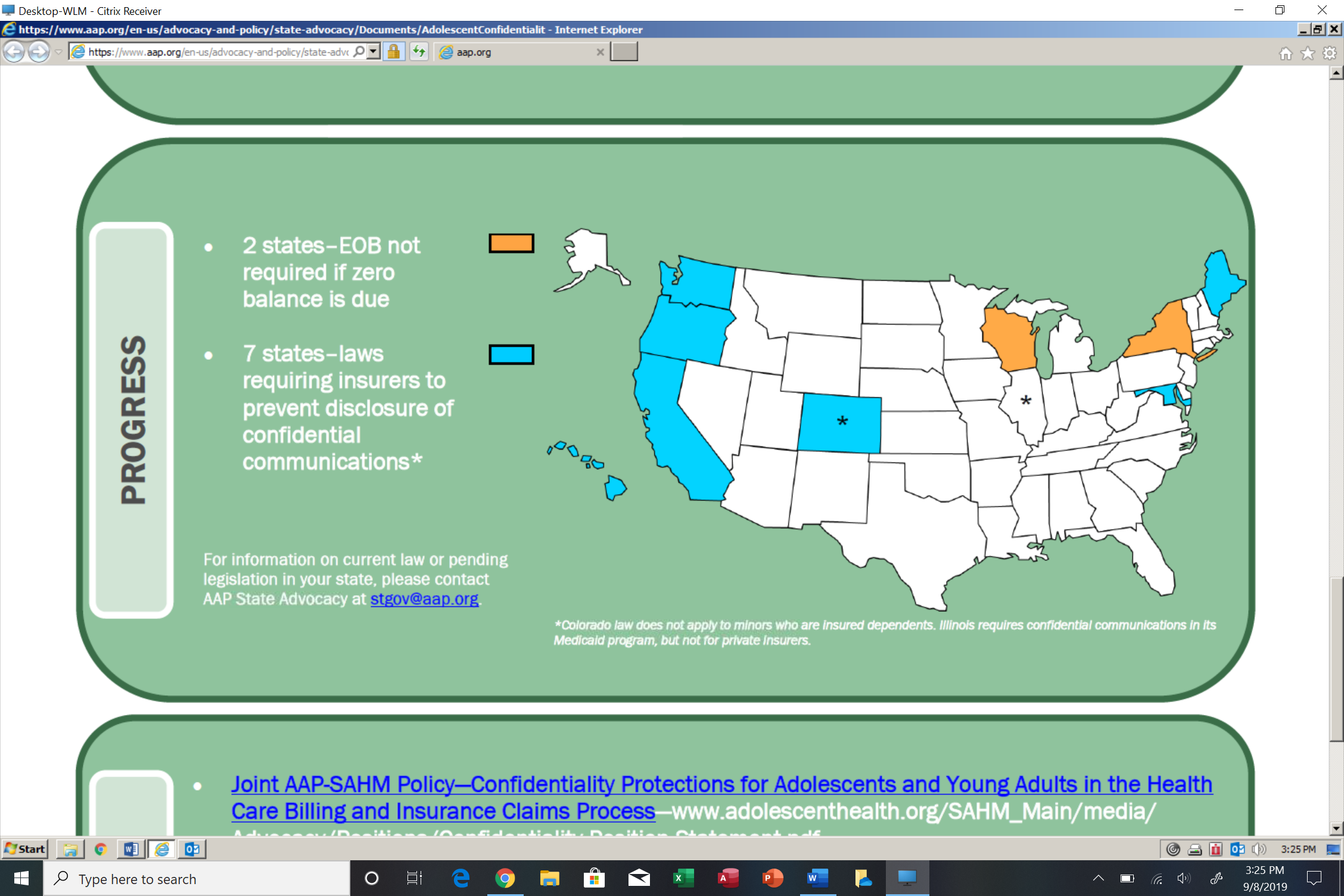
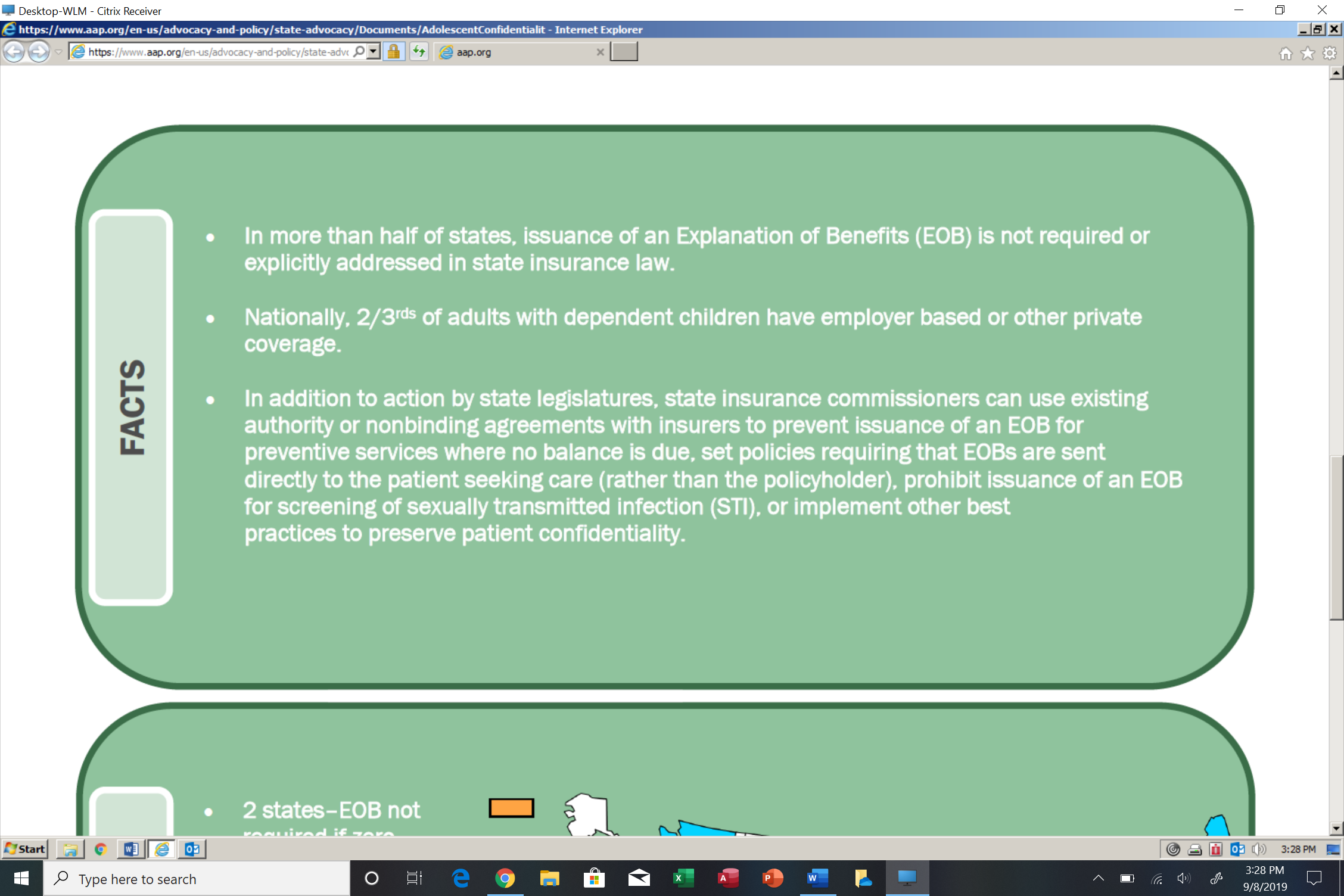
**EOB Research**



(AAP, 2018)

**Medicaid**

Medicaid does not have the same requirements to send out EOBs. However, in many states, fee-for-service Medicaid plans may send out periodic EOBs as a method of complying with the federal regulation to combat fraud and verify receipt of services with Medicaid beneficiaries. States have other methods of complying with this regulation and can also exclude certain services, such as family planning, from EOBs.

The following is a summary of state approaches:

**Enacted through legislation:**

* State requires insurers to provide confidential communications upon written request of insured dependent (including minors): CA, MD, OR
* EOB protections:
  + No EOB required (unless requested by the patient) when there is no balance: NY, WI
  + EOBs suppressed in Medicaid for sensitive services: IL
* Confidentiality for minors:
  + Broader protections against disclosure of health information without minor’s consent: HI, ME
  + Specifically for STD treatment, including in billing process: CT, DE, FL

**Enacted through regulation:**

* State requires insurers to provide confidential communications upon written request of insured dependent (including minors): WA
* State requires insurers to provide confidential communications upon written request of insured dependent (excluding minors): CO

**Policies for Medicaid managed care organizations:**

* Policy memorandum requiring these organizations to suppress EOBs for healthcare services provided to minors who can consent to their own health care: NY
* Managed care contract amendments to conform with state law confidentiality protections: IL

**A Closer Look at Sample State Approaches**

California

* California’s Confidential Health Information Act, Cal. Civil Code § 56 et seq (ASTHO, 2018)
* builds on the process outlined in the HIPAA Privacy Rule, as well as a strong framework of patient privacy and confidentiality protections, including for minors, that had previously been in place in the state. (ASTHO, 2018)
* creates both a right and a process for individuals to make a request to their health insurance or managed care plan for “confidential communications.” (ASTHO, 2018) (Schuyler Center for Analysis and Advocacy, 2014)
  + means healthcare information related to sensitive services can be sent to a subscriber or enrollee at an address, e-mail, or phone number requested by the subscriber or enrollee. Healthcare information can also sent be confidentially if the subscriber or enrollee believes that disclosure could result in endangerment. (ASTHO, 2018)
  + requires plans to honor those requests from individuals obtaining sensitive services such as contraception, abortion, pregnancy-related care, STI services and mental health services or when the request states that disclosure could lead to harm. The law prohibits plans from conditioning acceptance on an explanation for the reasons behind the request. (Gold, 2013), (Abigail English, July)

Maryland and Oregon passed laws similar to California’s. (ASTHO, 2018)

Washington state and Colorado have used insurance regulations rather than legislation to protect confidentiality. (ASTHO, 2018)

Washington

* regulatory model represents the broader approach and is based on the Health Information Privacy Model Act issued by the National Association of Insurance Commissioners. (ASTHO, 2018)
* only state to adopt the model. (ASTHO, 2018)
* adopted in 2001 - explicitly require insurers to obtain authorization for disclosure from minors for any healthcare service for which they have consented. (ASTHO, 2018) (Gold, 2013)
  + 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.” (Abigail English, July)
* In addition, the regulations require insurers to limit disclosure of health information if the individual states in writing that such disclosure could jeopardize his/her safety. (ASTHO, 2018)
* Insurers must also honor written requests to limit disclosure of health information related to sensitive services. (ASTHO, 2018) (Gold, 2013) (Abigail English, July)
  + 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 (Wash. Admin. Code § 284-04-510.) (Abigail English, July)
* implementation has been relatively limited, process is not well known and can conflict with individual insurance companies’ practices of issuing EOBs. (ASTHO, 2018) (Schuyler Center for Analysis and Advocacy, 2014) (Gold, 2013)

Colorado

* regulatory approach is more limited in that it only applies to adult children or adult dependents covered under a family member’s plan and requires carriers to take reasonable steps to ensure their PHI is protected, but does not outline specific procedures by which this needs to happen. (ASTHO, 2018) (Gold, 2013)
* The lack of specificity has presented challenges around implementation since the regulation took effect in January 2014. (ASTHO, 2018)
* requires plans to develop a way to communicate directly with the dependent so that information would not be sent to the policyholder without the dependent’s consent. (Gold, 2013)

Massachusetts\*, New York and Wisconsin - only sends EOBs when there is a balance due on the claim beyond whatever copayment was paid at the time of service – only for BCBS of Mass (Gold, 2013)

Massachusetts

Sensitive health information contained in an EOB can no longer be shared with the primary subscriber of a health plan if that person is not the patient in the state of Massachusetts.

According to the [**new law**](http://www.hcfama.org/sites/default/files/eob_confidentiality_legislative_fact_sheet_4.8.16.pdf), an Act to Protect Access to Confidential Healthcare (PATCH):

* Insurers must allow patients to choose their preferred method of receiving EOBs, including at an alternate address or through HIPAA-compliant electronic means
* EOBs will provide generic information only, such as “office visit” or “medical care,” rather than more explicit descriptions that could violate confidentiality
* Patients can opt out of receiving an EOB when no remaining balance exists on a claim
* Patients would be informed of their options to request confidential means of receiving EOBs
* The state Division of Insurance and Department of Public Health are required to educate providers and patients on these protections

The [**bill (S 2296)**](https://malegislature.gov/Bills/190/S2296) that became law was sponsored by state Sen. Karen Spilka and state Rep. Kate Hogan.

“The PATCH Act provides everyone who is a patient the privacy they need to feel comfortable seeking healthcare,” [**said**](http://www.telegram.com/item/20180411/hogans-bill-on-patient-privacy-is-now-law) Hogan, who is chairman of the Joint Committee on Public Health.(Donovan, 2018)

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 (N.Y. Ins. Law § 3234 (Consol. 2011). (Abigail English, July)
* 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. (Abigail English, July)
* New York also have specified that these forms can be sent to the patient directly.\*(Abigail English, July)
* State Department of Health’s Office of Health Insurance Programs sent out a policy memo in 2016 outlining the procedures for the state’s Medicaid managed care plans to comply with confidentiality protections for minors who are enabled under state statute consent to their own healthcare. (ASTHO, 2018)

Wisconsin

* also have specified that these forms can be sent to the patient directly.(Abigail English, July)

Illinois

* focused on confidentiality in Medicaid managed care. (ASTHO, 2018)
* General Assembly amended its law (305 Ill. Comp. Stat. 5/5-30) in 2015 to protect against disclosure of information, including in billing and EOBs, about sensitive healthcare services. State officials are now working to ensure this language is included in managed care contracts.

Minnesota

* prohibits Medicaid Managed Care Plans from sending EOBs for ‘sensitive services’ and several other states suppress EOBs for the provision of specific sensitive services, such as minors seeking care and treatment of sexually transmitted diseases (Florida, Connecticut and Delaware). (Schuyler Center for Analysis and Advocacy, 2014)

Connecticut, Delaware, Florida

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. (Abigail English, July)

Connecticut

* 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) (Conn. Gen. Stat. § 19a-216 9.) (Abigail English, July)

Hawaii

* 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. (Abigail English, July)

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 dependent child may have the right to withhold consent to that disclosure. (Abigail English, July)

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