

Provider Letter In Response to Pregnancy Notification Incentive Programs

As health care providers, we are concerned that health insurance companies are both continuing the use of, and launching new, monetary incentive programs that ask providers to notify them of our patients' pregnancy. It is disappointing and extremely concerning that insurers would incentivize providers to share private medical data in exchange for monetary compensation, seemingly without consideration for how such information will be protected and without the consent of our patients. In this moment when providers and pregnant people are facing an increased risk of criminalization, additional analysis and consideration of the legal landscape is essential to protect both patients and providers. As physicians and health care providers, our responsibility is first and foremost to our patients. We will always seek to act with their best interest in mind, providing them with the care they want and need.

Aetna, Blue Cross Blue Shield, and UnitedHealthcare are just a few of the health insurers with incentive programs for obstetricians to report a patient's pregnancy at the first pre-natal visit. At first glance these programs, which we acknowledge have existed for years, appear to be admirable in their attempt to improve maternal health by increasing provider uptake of Medicaid patients and connecting pregnant people to resources and support. We agree that there is a role for both providers and insurance providers in addressing our nation's maternal mortality crisis. At the same time, we must understand that we are operating in a new legal landscape. In this moment, where providers and patients are facing threats of criminalization based on pregnancy outcomes, a deeper analysis of these programs raise serious concerns about data privacy and risks for criminalization.

We are concerned that insurers have not disclosed how the information collected through these programs will be used, stored, or protected. Unfortunately, it is not unimaginable that this information could be used to monitor and infer pregnancy outcomes based on insurance claims. We cannot dismiss this as unlikely when we know police and prosecutors are using digital evidence to target and criminalize people for their pregnancy outcomes. Particularly concerning is that many incentive programs are targeting patients enrolled in care through Medicaid Managed Care Organizations. As a result, the people at greatest risk for being reported through these incentive programs are more likely to be people with low incomes, and Black, Indigenous, and people of color. [Research](#) from National Advocates for Pregnant Women found that Black, Brown, low-income, and rural white women are targets of arrests related to pregnancy or pregnancy outcomes.

At a time when providers and patients are rightfully fearful of being criminalized for providing essential health care or for supporting the management of pregnancy complications, we are disappointed that insurers would ask providers to document and share detailed health information, sometimes including prior pregnancy outcomes, about a patient's pregnancy. Moreover, we recognize that the criminalization of pregnant people is not new. There is a long history of pregnant people being criminalized and reported to law enforcement and other state authorities. As a [result](#), pregnant and postpartum people have been wrongly subjected to trauma, family separation and incarceration. Recent [data](#) from If/When/How revealed that 39% of people who were criminally investigated or prosecuted for suspicion of self-managing their abortion or experiencing pregnancy loss came to the attention of law enforcement after seeking care and being reported by health care providers. As providers, we are committed to our oath to "first do no harm" and, as such, refuse to participate in actions that may lead to the criminalization of our patients.

As health care providers who have trained for many years to provide prenatal, pregnancy and postpartum care, we hold the knowledge and medical expertise required to care for our patients and connect them with additional wanted or needed medical and social supports. Trust between patients and providers is critical to our ability to provide community grounded, patient centered care. Evidence shows that interpersonal trust improves medical outcomes. Without established trust, our patients cannot feel comfortable seeking care or speaking with us about their health needs and concerns. It is unclear whether insurers are communicating about these pregnancy notification programs to policyholders and therefore enrollees are likely unaware these programs exist.

This move by health insurers is the latest in a long line of state and national measures that put pregnant people at risk of criminalization. As health care providers who have devoted our lives to caring for people, we stand against any efforts that would cause harm to our patients, their families, and the community. We are asking health insurers across the country to reevaluate these programs and consider the varying levels of legal risk patients and providers face depending on the state where they live, receive, and provide care, and to share how they will make adjustments to these programs accordingly. With the constitutional right to abortion eviscerated and digital data being used in criminal investigations and prosecution against pregnant people, health insurers must move forward with such programs thoughtfully. We look forward to continuing this dialogue so that all people can get the care they need.

Sincerely,

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