June 1, 2016

Janet Zastrow
United Healthcare Corporate Office
9900 Bren Rd E MN008-T-615
Minnetonka, MN 55343

Dear Ms. Zastrow:

The undersigned organizations are writing to express our interest in working with health plans such as yours to promote confidentiality in adolescent and young adult health care. As outlined below, our members are concerned that current laws and regulations governing the billing and explanation of benefits (EOB) processes are sufficiently complex that they lead to disclosure of what should be confidential information about health care of adolescents and young adults. We seek to change those circumstances and inquire today as to whether United Healthcare would be interested in working with us on this important issue.

Studies show that both adolescents and young adults are less likely than adults to seek screenings and treatment for mental health and reproductive care due to privacy concerns. For instance, as noted in a 2005 *Journal of the American Medical Association* article, "a study of 1,526 female adolescents presenting to 79 family planning clinics, 40 percent said they would not get contraception from the clinic if parental notification were mandatory, and almost one-half stated that they would subsequently use an over-the-counter method."

The American Academy of Family Physicians (AAFP), the American Academy of Pediatrics (AAP), and the Society for Adolescent Health and Medicine (SAHM) all have policy addressing this issue. For example, the AAFP policy on "Confidentiality, Physician/Patient" states, in part, "The privacy of adolescent minors should be respected. Parents should not, in some circumstances, have unrestricted access to the adolescent's medical records. Confidentiality must be maintained particularly in areas where the adolescent has the legal right to give consent." Likewise, the AAFP policy on "Adolescent Health Care, Confidentiality" states, in part, "Ultimately, regarding confidentiality, the judgment by the physician regarding the best medical interest and safety of the patient should prevail." SAHM's policy states, in part, "Confidential health care should be available, especially to encourage adolescents to seek health care for sensitive concerns and to ensure that they provide complete and candid information to their health care providers."

A recent joint position paper of AAP and SAHM on confidentiality reflects the AAFP's position. Published in the March 2016 *Journal of Adolescent Health*, "Confidentiality Protections for Adolescents and Young Adults in the Health Care Billing and Insurance Claims Process," was also endorsed by the American College of Obstetricians and Gynecologists (ACOG) and the North American Society of Pediatric and Adolescent Gynecology (NASPAG). The position paper states, in part, "Health care providers should be able to deliver confidential health services to consenting adolescents and young adults covered as dependents under a family's health insurance plan. These sensitive services include care related to

sexually transmitted infections (STIs), contraception, pregnancy, substance use/abuse, and mental health, as well as care for other health issues that an adolescent or young adult considers sensitive."

We recognize that adolescent and young adult patient confidentiality is not just a matter of AAFP, AAP, and SAHM policy. It is also a matter of state law and regulation. All states have some laws that allow minor adolescents to consent to certain services, such as STI diagnosis and treatment, often with explicit confidentiality protections; all young adults can consent to their own care and are entitled to confidentiality protection. To avoid fraud and medical identity theft, many states have laws that require insurance companies to send explanations of benefits (EOBs), and most states require insurers to inform policyholders of claims made for anyone covered under their policy.

Indeed, one of the main confidentiality obstacles is the explanation of benefit (EOB) process. EOBs are sent to the policyholder—often the parent—with sensitive information. For example, the individual who received care, the health care provider, and the type of care obtained can be listed on the EOB. Laws regarding EOBs vary from state to state. According to a 2012 *Guttmacher Institute* report, some state statutes or regulations require EOBs, and while others do not explicitly require an EOB, they mention an "explanation" must be sent. Of the states that do not require it, the use of EOBs still springs from health insurers' contracts, policies, and practices. In addition, as detailed in a 2015 report from the *National Family Planning & Reproductive Health Association*, the issue of confidentiality and disclosures in the health insurance claims arena are extensively addressed in federal as well as state laws.

With up to ten different minor consent rules in each state and potentially different confidentiality laws for each, physicians and insurers must understand a complicated web of requirements, often leaving both confused over what information is protected. Also, in every state, there are circumstances in which physicians must breach confidentiality (e.g. to report suspected child abuse). This complexity means physicians and insurers sometimes mistakenly allow access to what should be confidential information. We desire to work with health plans such as yours to simplify this complexity in ways that benefit you, our members, and the adolescent and young adult patients served by both.

We appreciate your time and consideration of this inquiry. If you or your staff is interested in exploring this subject further or has any questions, please contact Brennan Cantrell at the AAFP at 913-906-6000, ext. 4134, or bcantrell@aafp.org.

Sincerely,
American Academy of Family Physicians
American Academy of Pediatrics
The Society for Adolescent Health and Medicine