



MEMO

TO: WIC Local Agency Coordinators

FROM: Angie Brenner, WIC Bureau Chief

SUBJECT: WIC Participant Confidentiality for Medicaid or Private Insurance Billing

DATE: December 16, 2019

This document consolidates information regarding the confidentiality of WIC participant information and provides guidance on how to obtain permission for the release of records for Medicaid or private insurance billing, hereafter referred to as “billing.” A local public health agency or other agency that houses a Missouri WIC local agency, hereafter referred to as “agency” must protect WIC participant confidentiality, even when billing for medical services.

The Missouri WIC program cannot provide specific guidance that is appropriate for all agencies, as agencies have varying capacities for recordkeeping, billing, and reporting and may approach billing in a unique way. Each agency should consult with their own legal counsel for a review of their specific plan to ensure it meets all Health Insurance Portability and Accountability Act (HIPAA) and WIC regulations. WIC federal regulation references and general guidance are provided below.

NOTE: WIC federal regulations regarding confidentiality of applicant and participant information can be found at 7 CFR 246.26. See Attachment A-WIC Federal Regulations Regarding Applicant and Participant Confidentiality.

WIC FEDERAL REGULATIONS: WIC federal regulations require state and local agencies to restrict the use and disclosure of confidential applicant and participant information to persons directly connected with the administration or enforcement of the WIC program, per 7 CFR 246.12(d)(1)(ii). Federal regulations prohibit even the confirmation of an individual’s participation in the WIC program to be shared with entities outside of the administration of the WIC program and considers all personally identifiable participant information confidential.

MEDICAID BILLING METHODS: The MO HealthNet Physician Manual, 13.12. D Women, Infant and Children (WIC) Services, states that agencies with MO HealthNet National Provider Identifiers (NPIs) for the agency and the performing provider may bill for a minimal office visit (CPT code 99211) and for a hemoglobin lab (CPT code 85018) performed during a WIC certification of MO HealthNet eligible clients, only if the agency is able to substantiate that its costs exceed any amounts received from other sources of funding.

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All agencies that house a Missouri WIC local agency must protect WIC participant confidentiality. Protecting the confidentiality of WIC participant records when billing and when responding to requests for additional participant information (e.g., for audits or other clarification) can be achieved through multiple methods. Below are two general descriptions of methods for protecting confidentiality when maintaining WIC participant records for billing:

- 1) **DOUBLE RECORDKEEPING:** Following the same billing procedures as those used for non-WIC participants, billing information for WIC participants can be maintained outside of the Missouri WIC Information System (MOWINS). This method does not eliminate the requirement to maintain complete WIC participant records by fully utilizing MOWINS. Using this “double recordkeeping” method, WIC participants’ medical billing records maintained outside of MOWINS must not be distinguishable from the medical billing records of non-WIC clients for whom services are being billed. Notations that identify a client as a WIC participant (e.g., “WIC appointment”) should not be noted on the billing record, as this would identify WIC participation. WIC participant billing records stored outside of MOWINS are the property of the agency and billing record release would follow the same agency billing procedures completed for non-WIC clients. Per CFR 246.26(d)(4), the WIC local agency must permit WIC applicants and participants to refuse to sign a record release form for billing. The applicant or participant must be informed that signing the form is not a condition of eligibility and refusing to sign the form will not affect application to or participation in the WIC program. A WIC applicant or participant who refuses to sign a billing record release must still be provided comprehensive WIC services.

- 2) **WIC RECORD RELEASE PERMISSION FROM APPLICANT OR PARTICIPANT:** WIC participant records stored within MOWINS, or other records that identify an individual as a WIC participant, may be shared by obtaining the WIC participant’s signature on a form or statement that indicates that they give permission to share their WIC record with Medicaid or private insurance company and with any companies associated with audits on these claims for billing purposes. Per CFR 246.26(d)(4), the agency may disclose confidential applicant and participant information if the WIC applicant or participant signs a release form authorizing the disclosure and specifying the parties to which the information may be disclosed. The WIC local agency must permit applicants and participants to refuse to sign the record release form for billing. The participant must be informed that signing the form is not a condition of eligibility and refusing to sign the form will not affect the applicant’s or participant’s application or participation in the WIC program. A WIC applicant or participant who refuses to sign a billing record release must still be provided comprehensive WIC services.

The United States Department of Agriculture (USDA) Mountain Plains Regional Office has indicated that an applicant’s or participant’s signature agreeing to the statement below provides adequate permission to allow the WIC participant’s information necessary for billing to be shared with insurance companies and organizations responsible for billing-related audits, such as the Healthcare Effectiveness Data and Information Set (HEDIS®) audit:

“I acknowledge receipt of medical services and authorize the release of the information necessary to process this claim for health care service payment and for the purpose of any audits related to payment of this claim.”

The general examples provided above are not inclusive of all methods that agencies could use to meet confidentiality requirements when billing for WIC services. Agencies should consult with their legal counsel to ensure compliance with federal regulations and other requirements regarding WIC participant confidentiality and Medicaid billing. Additionally, for audit purposes, agencies must have an accounting system in place that can demonstrate excess WIC program cost if billing for WIC services. It is also important to note that time spent for billing and responding to associated inquiries (e.g., HEDIS or other audit) shall not be invoiced to the WIC program.

Please direct any questions regarding WIC participant confidentiality to your district technical assistance staff.

AB:dc

Attachment

c: D. Adam Crumbliss, Chief Division Director
Ken Palermo, Deputy Division Director
Lori Brenneke, Deputy Division Director