



STATE OF OREGON
LEGISLATIVE COUNSEL COMMITTEE

April 22, 2015

From the Desk of
Representative
Cedric Hayden

A handwritten signature in black ink, appearing to read "Cedric Hayden", written over the blue stamp.

Representative Cedric Hayden
900 Court Street NE H379
Salem OR 97301

Re: House Bill 2758

Dear Representative Hayden:

You requested a legal opinion regarding House Bill 2758 as amended by the -4 and the -7 amendments adopted by the House Committee on Health Care. You asked, "If this passed is there any minimum age requirement for a minor to opt out of an [explanation of benefits] being sent to the insurance policy holder?" You also suggested a hypothetical situation of a nine-year-old child who receives a health service that is paid for by insurance, and you queried whether the child could request that the explanation of benefits be sent to a location other than the insurance policyholder's address. **The short answer is that there is no minimum age requirement in House Bill 2758, as amended, for an enrollee to make a confidential communications request, and a hypothetical nine-year-old could make a request to have information sent to a location other than the policyholder's address.**

House Bill 2758, as amended, allows any enrollee in a health benefit plan, other than a person in the custody of the Department of Corrections, to make a confidential communications request. The confidential communications request requires the insurer to send any communications containing protected health information directly to the enrollee, and not to the policyholder, using whatever means the insurer makes available for communicating with enrollees. In your hypothetical situation, if the insurer communicated with enrollees by electronic mail or telephone and the child had a separate electronic mail account or phone, the communication would be directed to the electronic mail account or phone designated by the child. If the insurer communicated only by mail, the child would have to have an address separate from the policyholder in order for the communication by mail to not be sent to the policyholder's address. In short, the hypothetical child could have communications sent to a location other than the policyholder's address if such a location is available.

It is important to note that the health practitioner providing the service to the child would be subject to the laws that require parental consent to the provision of medical treatment. Therefore, although the insurer would be required to send the explanation of benefits to a location other than the policyholder's address, the health practitioner would need parental consent to provide the service to the hypothetical nine-year-old child, unless it was a birth

control service, which ORS 109.640 allows a minor of any age to obtain without parental consent.¹

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Very truly yours,

DEXTER A. JOHNSON
Legislative Counsel



By
Lorey H. Freeman
Senior Deputy Legislative Counsel

¹ While ORS 109.640 allows a minor of any age to obtain birth control information and services without parental consent, ORS 109.650 allows a health practitioner to disclose to a parent or legal guardian the minor's receipt of the information or service without the consent of the minor.