

NIHB CLIENT CONSENT

September 2001

Stakeholder Presentations

LEGAL REQUIREMENTS FOR CONSENT

- Personal information such as medical condition is used by the NIHB Program for establishing medical or dental need.
- Personal information under federal government control is subject to the right of privacy
- Right to privacy is protected under the *Privacy Act* which states how the federal government may use and disclose personal information
- The right to privacy is a fundamental civil liberty which is guaranteed under the *Charter of Rights and Freedoms*.

LEGAL REQUIREMENT FOR CONSENT

- The NIHB Program has no specific statutory authority - relies on spending authority obtained under various Appropriation Acts
- In the absence of either specific statutory authority or consent of the clients, use of personal information may violate Section 8 as well as Section 7 of the *Charter*
- The NIHB Program must either obtain client consent or clear statutory authority for the use of personal information for all benefit areas

WHAT PERSONAL INFORMATION IS COLLECTED

- Client Information (name, date of birth)
- Medical condition
- Lab or test results
- Types of treatment tried
- Current treatment
- Benefit history

HOW DOES NIHB USE PERSONAL INFORMATION

- Used to maintain benefit utilization record for all eligible clients
- To process benefit claims
- Review and contact of client's prescriber, provider, by consultants in cases requiring additional information to support the provision of benefits.

HOW DOES NIHB USE PERSONAL INFORMATION con't

- Benefit utilization review (drug and dental predetermination)
- Determine provision of benefits once maximum allowable has been reached (drugs)
- Trend utilization, and analysis for program planning to better target benefits
- Provider/program audit

OPTIONS IDENTIFIED

- Legislation
 - legislation could still require consent for the use of information
 - policy of devolution would not support legislation
 - time required to put legislation in place
 - client is not given opportunity to provide consent

OPTIONS IDENTIFIED

- Status Quo
 - violation of *Privacy* and *Charter* would continue
 - does not recognize client's right to privacy and protection of personal information
 - does not meet legal requirement
 - program can't operate in most areas without client consent.
- Client Consent
 - client directly provides one time consent
 - recognizes federal responsibility to protect information
 - transparent and accountable
 - recognizes clients right to privacy of personal information.

OPTIONS IDENTIFIED con't

- Client Consent con't
 - Option used in public and private sector health plans which do not operate under health plan legislation.

INFORMED CLIENT CONSENT

- Involves the client understanding:
 - What personal information is collected for the NIHB Program
 - How the personal information is used by the NIHB Program
 - How the NIHB Program protects the personal information of clients

CONSENT ACTIVITIES TO DATE:

- May 2000
 - Presentation on Consent to NJSC
- June 2000
 - Presentation of Options to Joint Technical Working Group
 - Establishment of a Consent subgroup
- July 2000
 - Meeting of Consent subgroup and decisions for AFN/HC lawyers to meet

CONSENT ACTIVITIES TO DATE con't

- July 2000 con't
 - AFN/HC lawyers met to discuss legal opinion
- July 2000 – Jan 2001
 - AFN Review by AFN Privacy Consultants
- January 2001
 - JTWG Subgroup on Consent met
- June 2001
 - NJSC – decision to have consent at Chiefs level
establishment of Joint Consent Advisory Committee

CONSENT ACTIVITIES TO DATE con't

- August 2001
 - Meeting between AFN, ITC and FNIHB to discuss consent process
 - Agreement on test sites for October 2001

PROCESS UNDERWAY

- First Nations and Inuit AFN/ITC/FNIHB Joint Consent Advisory Committee
- Comprehensive communications and marketing strategy with Spirit Creative
- Toll-free information center for stakeholders to assist with Consent and other NIHB program information
- Testing of consent materials in 3 Regions at community level