



THE SECRETARY OF HEALTH AND HUMAN SERVICES  
WASHINGTON, D.C. 20201

September 14, 2010

The Honorable James L. Oberstar  
Chairman  
Committee on Transportation and Infrastructure  
U.S. House of Representatives  
Washington, D.C. 20515

Dear Mr. Chairman:

Thank you for your letter inquiring about alleged actions by Enbridge, Inc., to mislead or coerce individuals who live near the recent pipeline oil spill in Marshall, Michigan, to sign broad authorizations for the release of their medical records. I, too, am deeply concerned about these allegations, which, if true, are offensive to the privacy rights of these individuals.

On September 7, 2010, I called on Enbridge to cease any such practices immediately and to provide me with further information on this matter. We also are working with health care providers to inform Michigan residents of their rights under the Health Insurance Portability and Accountability Act (HIPAA) not to be coerced into signing such an authorization in exchange for treatment and, if they do sign an authorization, of their right to revoke it at any time. Moreover, we are working with other agencies and exploring every legal avenue to protect the privacy interests of these individuals.

Thank you again for alerting me to this important issue. I have enclosed a copy of my letter to Enbridge and the fact sheet we have prepared to inform affected individuals of their HIPAA privacy rights in this situation. I will also provide this response to Congressman Schauer. Please feel free to contact me with any further questions or concerns.

Sincerely,

A handwritten signature in black ink that reads "Kathleen Sebelius". The signature is written in a cursive, flowing style.

Kathleen Sebelius

Enclosures



THE SECRETARY OF HEALTH AND HUMAN SERVICES  
WASHINGTON, D.C. 20201

September 7, 2010

Mr. Patrick D. Daniel  
President and Chief Executive Officer  
Enbridge, Inc.  
3000 Fifth Avenue Place  
425 1<sup>st</sup> Street SW  
Calgary, Alberta  
T2P 3L8 Canada

Dear Mr. Daniel:

I am writing regarding reports that your company, Enbridge, Inc., has misled and/or coerced individuals whose health may have been affected by the recent oil spill in Marshall, Michigan.

Specifically, I have been advised that Enbridge may have misled or coerced individuals to sign forms authorizing the release of personal medical records to Enbridge upon referral to a local family health center; that these forms authorize the disclosure of an inappropriately broad amount of medical information, including information wholly unrelated to their current conditions or complaints; that the form could be directed to any provider, not only the one(s) to which the patient has sought treatment for the potentially oil spill-related condition; and that Enbridge has failed to adequately inform these individuals of their privacy rights under the Health Insurance Portability and Accountability Act (HIPAA). If these reports are true, the company's actions are a deplorable affront to patients' privacy rights, and I call on you to cease these practices immediately.

One way HIPAA protects the privacy and security of individuals' health information is by requiring a HIPAA-compliant authorization for health care providers and certain other entities to disclose that information. HIPAA requires that authorizations be easy to understand, and contain specific information, including the information to be disclosed, the entities disclosing and receiving the information, the expiration date of the authorization, and the individual's right to revoke the authorization.

A health care provider may not coerce an individual into signing a HIPAA-compliant authorization in exchange for treatment, and an individual may revoke an authorization in writing at any time. In addition, providers in this situation may not deny treatment to individuals because they refuse to sign a HIPAA authorization.

As you know, the U.S. House of Representatives' Committee on Transportation and Infrastructure is currently investigating this matter. Chairman Oberstar and Representative Schauer have requested that the Department of Health and Human Services (HHS) make inquiries of its own. Please provide copies of all Enbridge medical release forms used in relation to the oil spill and an explanation of their extraordinary scope. I would also appreciate learning

Mr. Patrick D. Daniel

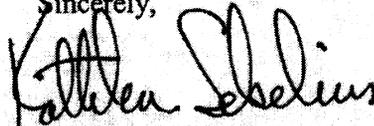
September 7, 2010

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of the means by which you are advising affected Michigan residents of their ability to receive treatment in this situation even if they do not sign a release.

HHS is prepared to work with other federal agencies as well as state and local officials to explore every legal avenue to ensure patients' privacy interests are protected. We also intend to work with health care providers to inform Michigan residents that, in this situation, their ability to receive treatment may not be made contingent on their signing a HIPAA authorization, and that, if they do sign an authorization, they may revoke it at any time. I expect your company to take immediate steps to respect the privacy rights of individuals seeking treatment.

Sincerely,



Kathleen Sebelius

Kathleen Sebelius



## **THE ENBRIDGE OIL SPILL AND YOUR RIGHT TO MEDICAL PRIVACY UNDER THE HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT (HIPAA)**

The U.S. Department of Health and Human Services has recently become aware of reports that Enbridge, Inc., may have misled or coerced individuals whose health was potentially affected by the recent oil spill in Marshall, Michigan, to sign forms authorizing the broad release of medical records to Enbridge upon referral to a local family health center.

The Health Insurance Portability and Accountability Act (HIPAA) protects the privacy and security of individuals' health information in certain ways and provides individuals with certain rights with respect to their health information. If you believe your health may have been affected by the recent oil spill, you should be aware of the following rights afforded to you by HIPAA:

- Under HIPAA, health care providers may disclose your health information so they can be paid for their services, but they may only disclose the minimum amount of information needed for this purpose.
- HIPAA also permits health care providers and certain other entities to disclose your health information for treatment and other specified purposes such as public health, but a signed, HIPAA-compliant authorization is otherwise required for use or disclosure of your information.
- HIPAA requires such authorizations be in plain language, and contain specific information regarding:
  - the information to be disclosed;
  - the entities disclosing and receiving the information;
  - the expiration date of the authorization;
  - your right to revoke the authorization;
  - the ability or inability to condition treatment on the authorization; and
  - the potential for information to be re-disclosed.
- You may not be coerced into signing a HIPAA authorization in exchange for treatment.
- You may amend a written authorization to limit its scope. (If you believe the authorization is too broad, you may strike certain portions or rewrite it.)
- You may revoke an authorization in writing at any time.
- A health care provider may not deny you treatment because you have not signed a HIPAA-compliant authorization unless the treatment is research-related, the treatment is solely to prepare a report for a third party, or a health plan needs information for enrollment purposes.

If you have any questions about your rights with respect to the release of your personal medical information, please contact Andra Wicks of the HHS Office for Civil Rights at [andra.wicks@hhs.gov](mailto:andra.wicks@hhs.gov) or 202-205-2292.