

Gerald Wallman

Administrator

West Covina Medical Center

725 S Orange Avenue

West Covina, CA 91790

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DEPARTMENT OF HEALTH & HUMAN SERVICES

Centers for Medicare & Medicaid Services
7500 Security Boulevard, Mail Stop C5-15-12
Baltimore, Maryland 21244-1850



Center for Medicare

September 27, 2023

Reference Number: 74002022

Unique Case Number (UCN): 2023HPT013

Via Certified Mail

Gerald Wallman
Administrator
West Covina Medical Center
725 S Orange Avenue
West Covina, CA 91790

RE: Hospital Price Transparency Notice of Imposition of a Civil Monetary Penalty (CMP)

Dear Gerald Wallman:

The Centers for Medicare & Medicaid Services (CMS) is imposing a civil monetary penalty (CMP) as described in 45 C.F.R. § 180.90. CMS has determined that West Covina Medical Center meets the definition of a hospital specified in 45 C.F.R. § 180.20 and that as of the date of this notice, West Covina Medical Center is noncompliant with the price transparency requirements under Section 2718(e) of the Public Health Service Act, 42 U.S.C. § 300gg-18(e), and 45 C.F.R. Part 180 (<https://www.govinfo.gov/content/pkg/FR-2019-11-27/pdf/2019-24931.pdf>). CMS has determined that your hospital has been noncompliant since at least March 15, 2023.

CMS initially completed a review of West Covina Medical Center's website <https://westcovinamc.com/> on March 15, 2023. Pursuant to 45 C.F.R. § 180.70(b), CMS issued a Warning Notice dated March 16, 2023. The Warning Notice notified the hospital of the following material violations:

Violations- Comprehensive Machine-Readable File

1. Failure to make public a machine-readable file containing a list of all standard charges for all items and services online as required at 45 C.F.R. § 180.40(a) and 45 C.F.R. § 180.50(a). Specifically, no online machine-readable file was found.

Violations - Displaying Shoppable Services in a Consumer-Friendly Manner

1. Failure to maintain an Internet-based price estimator tool that allows healthcare consumers to, at the time they use the tool, obtain an estimate of the amount they will be obligated to pay the hospital for the shoppable service, as required at 45 C.F.R. § 180.60(a)(2)(ii). Specifically, consumers with insurance are not able to obtain an out-of-pocket estimate specific to their payer and plan.

In the March 16, 2023 Warning Notice, CMS explained that West Covina Medical Center “must take action to correct the deficiency or deficiencies identified by CMS within 90 calendar days of this notice” and that failure to comply “may result in further compliance actions as specified in 45 C.F.R. part 180 subpart C.” West Covina Medical Center did not respond to CMS’ Warning Notice.

On June 27, 2023, CMS completed a second review of West Covina Medical Center’s website, <https://westcovinamc.com/>. Based upon this review, it was determined West Covina Medical Center remained in material violation of the requirements under 45 C.F.R. §§ 180.40-180.60 to make public its list of standard charges. On June 28, 2023, CMS issued a Notice of Violation and Request for Corrective Action Plan (CAP) notifying the hospital of the following material violations:

Violations- Comprehensive Machine-Readable File

1. Failure to make public a machine-readable file containing a list of all standard charges for all items and services online as required at 45 C.F.R. § 180.40(a) and 45 C.F.R. § 180.50(a). Specifically, no online machine-readable file was found.

Violations - Displaying Shoppable Services in a Consumer-Friendly Manner

1. Failure to maintain an Internet-based price estimator tool that allows healthcare consumers to, at the time they use the tool, obtain an estimate of the amount they will be obligated to pay the hospital for the shoppable service, as required at 45 C.F.R. § 180.60(a)(2)(ii). Specifically, consumers with insurance are not able to obtain an out-of-pocket estimate specific to their payer and plan.

On August 18, 2023 CMS again reviewed West Covina Medical Center’s website, <https://westcovinamc.com/>. The following material violations were identified:

Violations- Comprehensive Machine-Readable File

1. Failure to make public a machine-readable file containing a list of all standard charges for all items and services online as required at 45 C.F.R. § 180.40(a) and 45 C.F.R. § 180.50(a). Specifically, no online machine-readable file was found.

Violations - Displaying Shoppable Services in a Consumer-Friendly Manner

1. Failure to maintain an Internet-based price estimator tool that allows healthcare consumers to, at the time they use the tool, obtain an estimate of the amount they

will be obligated to pay the hospital for the shoppable service, as required at 45 C.F.R. § 180.60(a)(2)(ii). Specifically, consumers with insurance are not able to obtain an out-of-pocket estimate specific to their payer and plan.

West Covina Medical Center continues to be out of compliance with 45 C.F.R. §§ 180.40 – 180.60. Therefore, CMS is imposing the CMP set forth below.

I. Amount of the CMP

Based on the foregoing findings of noncompliance with requirements for standard hospital charges and displaying shoppable services in a consumer-friendly manner, CMS is imposing a total CMP of \$59,100.00 pursuant to 45 C.F.R. § 180.90. The CMP is calculated as follows:

\$300.00 per day for hospitals with a bed count¹ of 30 or fewer = \$300.00 x (197 days) = \$59,100.00. This CMP is calculated from March 15, 2023 to and including September 27, 2023, the date of this notice.

CMS may issue subsequent notices imposing additional CMPs for continuing violation(s) as described at 45 C.F.R. § 180.90(b)(2)(iv), (f). **CMS may impose additional CMPs until CMS determines your hospital is in full compliance with 45 C.F.R. §§ 180.40 – 180.60 as appropriate. It is suggested that your hospital notify CMS via email at HPTCompliance@cms.hhs.gov when it makes any necessary corrections to be compliant with the relevant sections of 45 C.F.R. §§ 180.40 – 180.60, as indicated above.**

II. Payment of CMP

Pursuant to 45 C.F.R. § 180.90(d), your hospital must pay the CMP in full within 60 calendar days² from the date of this notice of imposition of CMP.

If your hospital decides to request a hearing, and a final and binding decision upholds the CMP in whole or in part as described in 45 C.F.R. Part 180, Subpart D, then your hospital must pay the CMP amount that was upheld within 60 calendar days from the date of the final and binding decision, as specified in 45 C.F.R. § 180.90(d)(2). More information regarding Appeal Rights can be found in Section III.

The CMP may be paid by federal ACH wire transfer.

To Pay via Federal ACH Wire Transfer

| | |
|--------------------|-------------|
| Subtype/Type Code: | 10 00 |
| Amount: | \$59,100.00 |

¹ Pursuant to 45 C.F.R. § 180.90(c)(2)(ii)(D)(1), CMS used the most recently available, finalized Medicare hospital cost report to determine the number of beds.

² Pursuant to 45 C.F.R. § 180.90(d)(3), if the 60th calendar day is a weekend or a Federal holiday, then the timeframe is extended until the end of the next business day.

| | |
|---|--|
| Sending Bank Routing Number: | [REDACTED] |
| ABA Number of Receiving Institution: | [REDACTED] |
| Receiver Name: | Treasury NYC |
| Receiving Institution Name: | Federal Reserve Bank of New York |
| Receiving Institution Address: | 33 Liberty Street, New York, NY 10045 |
| Beneficiary Account Number: | [REDACTED] |
| Beneficiary Name: | Centers for Medicare & Medicaid Services (CMS) |
| Beneficiary Physical Address: | 7500 Security Blvd., Baltimore, MD 21244 |
| CMS Tax ID Number: | [REDACTED] |
| Credit Gateway Customer Care Number | 1-877-815-1206 |
| Re: Unique Case Number (UCN) 2023HPT013 and Hospital Price Transparency CMP | [REDACTED] |

III. Appeal Rights

Pursuant to 45 C.F.R. Part 180, Subpart D, your hospital may appeal CMS' CMP determination by requesting a hearing before an Administrative Law Judge (ALJ) of the U.S. Department of Health and Human Services' Departmental Appeals Board (DAB). To request a hearing, your hospital must submit its hearing request within 30 calendar days³ of the issuance of the notice of imposition of CMP in accordance with the procedures outlined in 45 C.F.R. § 150.401, *et. seq.* The request for a hearing must comply with the requirements described in 45 C.F.R. § 150.407.

The DAB no longer accepts requests for a hearing submitted by U.S. Mail or commercial carrier unless your hospital is unable to file electronically. Otherwise, the hospital must use the DAB's Electronic Filing System ("DAB E-File") located at <https://dab.efile.hhs.gov> within the time frame described above to electronically submit an appeal. Further instructions are located at https://dab.efile.hhs.gov/appeals/to_crd_instructions. The DAB's Civil Remedies Division (CRD) requires all hearing requests to be signed and accompanied by this notice letter from CMS that addresses the action taken and the respective appeal rights. Submitted documents are accepted in Portable Document Format (PDF), image, audio, or video files. All electronic documents must be formatted so that they will print on standard 8.5 x 11 inch paper. The ALJ will consider documents uploaded to the DAB E-File on any day on or before 11:59 p.m. Eastern Time, to have been received on that day. Your hospital must accept electronic service of any appeal-related documents filed by CMS or that the CRD issues on behalf of the ALJ via DAB E-File.

Please contact the CRD at (202) 565-9462 for questions regarding the DAB E-File. If your hospital experiences technical issues with the DAB E-File, please contact the E-File System Support at OSDABImmediateOffice@hhs.gov or at (202) 565-0146 before 4 p.m. Eastern Time. If your hospital is unable to file electronically, your hospital may request a waiver from e-filing

³ Pursuant to 45 C.F.R. § 180.110(a), if the 30th calendar day is a weekend or a Federal holiday, then the timeframe is extended until the end of the next business day.

by contacting the CRD at (202) 565-9462 and providing an explanation as to why your hospital cannot file electronically.

Should your hospital file an appeal, CMS requests that copies of the appeal documents be emailed to HPTCompliance@cms.hhs.gov and also mailed to the address listed below. Documents or first-class mail replies may be sent to:

Hospital Price Transparency
ATTN: John Pilotte
7500 Security Blvd, Mail Stop C5-15-12
Baltimore, MD 21244-1850

Pursuant to 45 C.F.R. § 180.110, failure to request a hearing in the manner and timeframe described above permits CMS to impose the CMP indicated in this notice and CMS may impose any subsequent penalties pursuant to continuing violations without right of appeal. The hospital has no right to appeal a penalty to which it has not requested a hearing in accordance with 45 C.F.R. § 150.405, unless the hospital can show good cause, as determined at 45 C.F.R. § 150.405(b), for failing to timely exercise its right to a hearing. If the CMP is upheld, in part, by a final and binding decision as described in 45 C.F.R. Part 180, Subpart D, CMS will issue a modified notice of imposition of CMP to conform to the adjudicated finding as described in 45 C.F.R. § 180.90(b)(3).

IV. Publication of CMP

In accordance with 45 C.F.R. § 180.90(e), CMS will post this notice on a CMS website. If your hospital elects to request a hearing, CMS will indicate in its posting that the CMP is under review. If the CMP is upheld, in whole, by a final and binding decision, CMS will maintain this notice on a CMS website. If the CMP is upheld, in part, by a final and binding decision, CMS will issue a modified CMP notice to conform to the adjudicated finding and post the modified notice publicly on a CMS website. If the CMP is overturned, in full, by a final and binding decision, CMS will remove this notice from the CMS website.

If you have questions, please contact us at HPTCompliance@cms.hhs.gov. We appreciate your prompt attention to this matter.

Sincerely,

John C. Pilotte
-S

A digital signature block for John C. Pilotte. It includes the text "Digitally signed by John C. Pilotte-S" and a date and time stamp: "Date: 2023.09.27 11:53:09 -04'00'".

John Pilotte
Director
Performance-based Payment Policy Group
Center for Medicare