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Hospital Price Transparency Final Rule

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Acronyms in this Presentation

- **ALJ** – Administrative Law Judge
- **PII** – Personal Identifying Information



CY 2020 Hospital Outpatient Prospective Payment System Policy Changes: Hospital Price Transparency Requirements

- On November 15, 2019, CMS finalized policies that lay the foundation for a patient-driven health care system by making prices for items and services provided by all hospitals in the United States more transparent for patients so that they can be more informed about what they might pay for hospital items and services
- [Final rule:](#)
 - Further advances the agency's commitment to increasing price transparency
 - Requirements apply to each hospital operating in the United States
 - Effective date is January 1, 2021



Increasing Price Transparency of Hospital Standard Charges

- Starting on January 1, 2021, each hospital operating in the United States will be required to provide clear, accessible pricing information online about the items and services they provide. Each hospital is required to make this information available in two ways:
 - As a comprehensive machine-readable file with all items and services

AND

- In a display of shoppable services in a consumer-friendly format
- This information will make it easier for consumers to shop and compare prices across hospitals and estimate the cost of care before going to the hospital.



Who Must Comply? Definition of 'Hospital'

- The final rule defines 'hospital' to mean an institution in any state in which state or applicable local law provides for the licensing of hospitals, that is licensed as a hospital pursuant to such law, or is approved by the agency of such state or locality responsible for licensing hospitals, as meeting the standards established for such licensing:
 - A state includes each of the several States, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Northern Mariana Islands
 - The definition includes all Medicare-enrolled institutions that are licensed as hospitals (or approved as meeting licensing requirements) as well any non-Medicare enrolled institutions that are licensed as a hospital (or approved as meeting licensing requirements)
 - Federally owned or operated hospitals (for example, hospitals operated by an Indian Health Program, the U.S. Department of Veterans Affairs, or the U.S. Department of Defense) are deemed to be in compliance with the requirements for making public standard charges



What are Hospital 'Standard Charges'?

- CMS finalized the definition of 'standard charges' to include the following:
 - Gross charge: The charge for an individual item or service that is reflected on a hospital's chargemaster, absent any discounts
 - Discounted cash price: The charge that applies to an individual who pays cash, or cash equivalent, for a hospital item or service
 - Payer-specific negotiated charge: The charge that a hospital has negotiated with a third party payer for an item or service
 - De-identified minimum negotiated charge: The lowest charge that a hospital has negotiated with all third-party payers for an item or service
 - De-identified maximum negotiated charge: The highest charge that a hospital has negotiated with all third-party payers for an item or service



True or False

Each item/service provided by the hospital must have all five types of corresponding standard charges.

True

False



Answer

- **False.** The requirement is that a hospital post the standard charge **as applicable** for each item/service the hospital provides. For example, your hospital may provide itemized services (as found in your hospital chargemaster) that only have corresponding gross charges but do not have corresponding payer-specific negotiated charges. Similarly, your hospital may provide service packages that have corresponding payer-specific negotiated charges but no corresponding gross charge.



True or False

The Hospital Price Transparency Final Rule requires hospitals to calculate the historical average reimbursement by payor in order to be able to post the payer-specific negotiated standard charges.

True

False



Answer

- **False.** The payer-specific negotiated charge is defined as the charge that a hospital has negotiated with a third-party payer for an item or service. For each third-party payer with whom your hospital has negotiated charges, you should consult your contract and rate sheets to identify and collect the data elements that are required (as applicable) for display.



Which Hospital ‘Items and Services’ Are Included?

- CMS finalized the proposal to define hospital “items and services” to mean all items and services, including individual items and services and service packages, that could be provided by a hospital to a patient in connection with an inpatient admission or an outpatient department visit for which the hospital has established a standard charge
- Examples include, but are not limited to, the following:
 - Supplies and procedures
 - Room and board
 - Use of the facility and other items (generally described as facilities fees)
 - Services of employed physicians and non-physician practitioners (generally reflected as professional charges)
 - Any other items or services for which a hospital has established a standard charge



True or False

All hospital items and services are found in the hospital chargemaster.

True

False



Answer

- **False.** Hospitals must post the standard charge (as applicable) for each item/service the hospital provides. This would include items/services that are provided as ‘service packages’. An example of a ‘service package’ could be a procedure or ‘per diem’. Such items/services are not found in the chargemaster because the chargemaster is a list of itemized items/services (not service packages).



Standard Charges Must be Posted Two Ways:

1) Comprehensive Machine-Readable File:

- A single machine-readable digital file containing the following standard charges for all items and services provided by the hospital: [gross charges](#), [discounted cash prices](#), [payer-specific negotiated charges](#), and [de-identified minimum and maximum negotiated charges](#).
- Based on public comment, we believe this information and format is most directly useful for employers, providers, and tool developers who could use these data in consumer-friendly price transparency tools or who may integrate the data into electronic medical records and shared decision making tools at the point of care.

2) Consumer-Friendly Shoppable Services:

- Display of at least 300 “shoppable services” (or as many as the hospital provides if less than 300) that a health care consumer can schedule in advance. Must contain plain language descriptions of the services, group them with ancillary services, and provide the [discounted cash prices](#), [payer-specific negotiated charges](#), and [de-identified minimum and maximum negotiated charges](#).
- A ‘shoppable service’ is a service that can be scheduled by a health care consumer in advance.
- We believe these requirements will allow health care consumers to directly make apples-to-apples comparisons of common shoppable hospital services across health care settings.



True or False

If my hospital chooses to use a price estimator tool as an alternative to meeting the requirements for making public the standard charges for shoppable services in a consumer-friendly manner, the price estimator tool must meet all the same requirements for posting the standard charges for shoppable services, including the requirement that no Personal Identifying Information (PII) may be requested (such as patient insurance information).

True

False



Answer

- **False.** If a hospital chooses to use a price estimator tool to meet the second of the two main requirements, the price estimator tool must meet 3 criteria:
 - Provides estimates for as many of the 70 CMS-specified shoppable services that are provided by the hospital, and as many additional hospital-selected shoppable services as is necessary for a combined total of at least 300 shoppable services.
 - 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.
 - Is prominently displayed on the hospital's website and accessible to the public without charge and without having to register or establish a user account or password.
- In the Hospital Price Transparency Final Rule, we specifically did not include a requirement that no PII be collected because we recognize that insurance or other information may be necessary to provide patients with real-time personalized out-of-pocket price estimates.



Monitoring and Enforcement

- CMS has the authority to monitor hospital compliance with Section 2718(e) of the Public Health Service Act, by evaluating complaints made by individuals or entities to CMS, reviewing individuals' or entities' analysis of noncompliance, and auditing hospitals' websites:
 - Should CMS conclude a hospital is noncompliant with one or more of the requirements to make public standard charges, CMS may issue a warning notice, request a corrective action plan, and impose a civil monetary penalty and publicize the penalty on a CMS website.
 - If the hospital fails to respond to CMS' request to submit a corrective action plan or comply with the requirements of a corrective action plan, CMS may impose a civil monetary penalty on the hospital not in excess of \$300 per day, and publicize the penalty on a CMS website.
 - The rule establishes an appeals process for hospitals to request a hearing before an Administrative Law Judge (ALJ) of the civil monetary penalty.
 - The Administrator of CMS, at his or her discretion, may review in whole or in part the ALJ's decision.



True or False

Hospitals may apply for a hardship waiver/exception to meeting the Hospital Price Transparency requirements.

True

False



Answer

- **False.** The Hospital Price Transparency Final Rule contains no provisions that address waivers or hardship exemptions, and, irrespective of circumstances, CMS does not anticipate any delay in the effective date of the Hospital Price Transparency Final Rule requirements for any hospitals with respect to which the regulation applies. In the final rule, we took into consideration and agreed with commenters' concern regarding burden with respect to a proposed January 1, 2020, effective date and, consequently, finalized a policy to delay the effective date to January 1, 2021. We believe this provided hospitals with sufficient time to collect and display the standard charge information as required under this rule.



Hospital Price Transparency Webpage

Prepare for the January 1, 2021 effective date with the resources available at:

www.cms.gov/hospital-price-transparency

The screenshot shows the 'Resources' page of the Hospital Price Transparency website. At the top, there is a navigation bar with links for Home, Hospitals, Consumers, Resources, and Contact Us. The main heading is 'Resources'. Below this, there are two sections under 'Regulations'. The first regulation is 'FY 2019 Requirements for Hospitals To Make Public a List of Their Standard Charges', with an effective date of December 31, 2020. The second regulation is 'FY 2020 Price Transparency Requirements for Hospitals To Make Standard Charges Public', with an effective date of January 1, 2021. Below the regulations, there is a section titled 'Resources' which includes four links to PDF documents: 'Frequently Asked Questions (PDF)', '8 Steps to a Machine-readable File (PDF)', '10 Steps to a Consumer-Friendly Display (PDF)', and 'Quick Reference Checklist (PDF)'. Each link is accompanied by a small icon representing the document type.



Hospital Price Transparency Resources

Step-by-Step Guides and Checklist:

- [8 Steps to a Machine-Readable File](#) explains each of the required elements of the machine readable file of all items and services. It will help you understand each step from identifying each hospital location with a list of standard charges all the way to posting your file prominently on your public website.
- [10 Steps to a Consumer-Friendly Display](#) explains each of the required elements related to the consumer-friendly display of shoppable services. It will walk you through understanding how the definitions set forth in the regulation relate to shoppable services along with the options available for posting in a consumer-friendly format, including using a price estimator tool as an alternative approach.
- [Quick Reference Checklist](#) is designed for use in conjunction with the step-by-step guides to help hospitals evaluate if all the requirements have been met. This simplistic look at all the elements together in one place is a quick way to double-check a hospital's price transparency information.

[Frequently Asked Questions](#)

In addition to these guides, CMS compiled a wide-ranging list of questions received from stakeholders since the release of the final rule. Questions cover topics, including the general provisions, public disclosure requirements, monitoring of compliance, and appeals of civil monetary penalties.



Question & Answer Session



Resources

- [Final Rule](#)
- [Webpage](#)
- [Press Release](#)
- [Fact Sheet](#)
- [PriceTransparencyHospitalCharges@cms.hhs.gov](#)



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