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## SPECIAL EDITION

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### CMS Proposes Rule to Increase Price Transparency, Access to Care, Safety & Health Equity

CMS is proposing actions to address the health equity gap, ensure consumers have the information they need to make fully informed decisions regarding their health care, improve emergency care access in rural communities, and use lessons learned from the COVID-19 pandemic to inform patient care and quality measurements.

In accordance with President Biden's [Competition Executive Order](#), CMS is further strengthening its efforts to increase price transparency, holding hospitals accountable and ensuring consumers have the information they need to make fully informed decisions regarding their health care.

"As President Biden made clear in his executive order promoting competition, a key to price fairness is price transparency," said HHS Secretary Xavier Becerra. "No medical entity should be able to throttle competition at the expense of patients. I have fought anti-competitive practices before, and strongly believe health care must be in reach for everyone. With today's proposed rule, we are simply showing hospitals through stiffer penalties: concealing the costs of services and procedures will not be tolerated by this Administration."

"CMS is committed to addressing significant and persistent inequities in health outcomes in the United States and today's proposed rule helps us achieve that by improving data collection to better measure and analyze disparities across programs and policies," said CMS Administrator Chiquita Brooks-LaSure. "We are committed to finding opportunities to meet the health needs of patients and consumers where they are, whether it's by expanding access to onsite care in their communities, ensuring they have access to clear information about health care costs, or enhancing patient safety."

The proposed rule includes the following actions:

#### Price Transparency:

Hospital price transparency helps Americans know what a hospital charges for the items and services they provide. CMS takes seriously concerns it has heard from consumers that hospitals are not making clear, accessible pricing information available online, as they have been required to do since January 1, 2021.

CMS proposes to increase the penalty for some hospitals that do not comply with Hospital Price Transparency final rule. Specifically, CMS is proposing to set a minimum civil monetary penalty of \$300/day that would apply to smaller hospitals with a bed count of 30 or fewer and apply a penalty of \$10/bed/day for hospitals with a bed count greater than 30, not to exceed a maximum daily dollar amount of \$5,500. Under this proposed approach, for a full calendar year of noncompliance, the minimum total penalty amount would be \$109,500 per hospital, and the maximum total penalty amount would be \$2,007,500 per hospital.

Based on information that hospitals have made public this year, there is wide variation in prices – even within the same hospital or the same system, depending on what each insurance plan has negotiated with that hospital. CMS is committed to ensuring consumers have the information they need to make fully informed

decisions regarding their health care, since health care prices can cause significant financial burdens for consumers.

#### Health Equity:

CMS is seeking input on ways to make reporting of health disparities based on social risk factors and race and ethnicity more comprehensive and actionable. This includes soliciting comments on potential collection of data and analysis and reporting of quality measure results by a variety of demographic data points including, but not limited to, race, Medicare/Medicaid dual eligible status, disability status, LGBTQ+, and socioeconomic status.

#### Access to Emergency Care in Rural Areas:

Since 2010, 138 rural hospitals have closed – disproportionately within communities with a higher proportion of people of color and communities with higher poverty rates. Rural communities experience shorter life expectancy, higher mortality, and have fewer local providers, leading to worse health outcomes than in other communities.

Rural hospital closures deprive people living in rural areas of crucial services, including access to emergency care. To address these concerns, Congress enacted Section 125 of the Consolidated Appropriations Act of 2021 (CAA), which establishes a new provider type for Rural Emergency Hospitals (REHs). REHs will be required to furnish emergency department services and observation care and may provide other outpatient medical and health services as specified by the Secretary through rulemaking. In this proposed rule, CMS is requesting information to inform the development of requirements that would apply to REHs. This new provider designation will apply to items and services furnished on or after January 1, 2023.

CMS is seeking feedback on a wide-range of issues to help inform policy proposals for the CY 2023 rulemaking cycle, including feedback on the potential services to be provided by REHs; health and safety standards and quality measures to be established for REHs; and payment provisions for this provider type.

#### COVID-19 Lessons:

To incorporate lessons learned from the COVID-19 pandemic, CMS is seeking comment on the extent to which hospitals are using flexibilities offered during the COVID-19 public health emergency to provide mental health services remotely and whether CMS should consider changes to account for shifting practice patterns. In addition, CMS is proposing changes to measure how many of our nation's front-line healthcare workers in hospital outpatient departments and Ambulatory Surgical Centers (ASCs) are vaccinated against COVID-19 and to make this information available to the public so consumers know how many workers are vaccinated in different health care settings.

#### Improving Patient Experience and Outcomes:

The Radiation Oncology (RO) Model aims to improve the quality of care for cancer patients receiving radiotherapy and move toward a simplified and predictable payment system. The RO Model tests whether prospective, site neutral, modality agnostic, episode-based payments to physician group practices, hospital outpatient departments, and freestanding radiation therapy centers for radiotherapy episodes of care reduces Medicare expenditures while preserving or enhancing the quality of care for Medicare beneficiaries.

CMS is proposing changes to the RO Model, which aim to improve the experience of patients receiving radiation treatment, while incorporating evidence-based best practices to help providers improve patient outcomes.

#### Patient Safety:

CMS is increasing Medicare beneficiary safety by reversing changes made for 2021 regarding the care setting for which Medicare will pay for surgical procedures that may pose risk to patients.

Specifically, the agency is proposing to halt the phased elimination of the Inpatient-Only (IPO) list—procedures that Medicare will only make payment for when provided in the inpatient setting. There are some services

designated as inpatient only that, given their clinical intensity, would not be expected to be performed in the outpatient setting. CMS adopted a policy for 2021 to eliminate this list over a phased period and removed musculoskeletal procedures from the list in 2021.

This change happened without individually evaluating whether the procedures met the long-standing criteria previously used to determine if a procedure could be safely removed. Some of the musculoskeletal services removed includes services like limb amputations and invasive spinal procedures.

CMS reviewed each procedure code of services that were removed and found none met criteria for removal, with insufficient supporting evidence that the service can be safely performed on the Medicare population in the outpatient setting.

CMS is proposing to add them back on to the list in 2022, and is seeking comment on whether to maintain the longer-term objective of eliminating the IPO list, maintaining the IPO list, or maintaining the list but continue to streamline the list of services. The latter would continue systematic scaling of the list back to ensure inpatient-only designations are consistent with current standards of practice.

CMS is also proposing to reinstate the patient safety criteria it uses to evaluate whether a procedure should be payable in the ASC setting that were removed in 2021. CMS is proposing to adopt a nomination process whereby the publicly can formally nominate procedures it believes are safe to perform for the Medicare population in the ASC setting.

More Information:

- [Proposed rule](#)
- [Fact sheet](#)

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