

Ken Tomlinson, President
Falls Community Hospital & Clinic
322 Coleman Street
Marlin, Texas 76661

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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

July 20, 2023

Ken Tomlinson
President
Falls Community Hospital & Clinic
322 Coleman Street
Marlin, Texas 76661

Reference Number: 20762021

Unique Case Number (UCN): 2023HPT005

Via Certified Mail

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

Dear Ken Tomlinson,

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 Falls Community Hospital & Clinic meets the definition of a hospital specified in 45 C.F.R. §180.20 and that as of the date of this notice, Falls Community Hospital & Clinic is noncompliant with the price transparency requirements under 45 C.F.R. Part 180 (<https://www.govinfo.gov/content/pkg/FR-2019-11-27/pdf/2019-24931.pdf>). CMS has documented that your hospital has been noncompliant since January 6, 2023.

CMS initially completed a review of Falls Community Hospital & Clinic's website <http://www.fallshospital.com/> on January 6, 2023. Pursuant to 45 C.F.R. §180.70(b), CMS issued a Warning Notice dated January 9, 2023. The Warning Notice notified the hospital of the following material violations:

Violations- Comprehensive Machine-Readable File

1. Failure to update the standard charge information described in 45 CFR §180.50(b) at least once annually as required at 45 CFR §180.50(e).
2. Failure to make public a machine-readable file containing a list of all standard charges for all items and services as required at 45 CFR §180.40(a). Specifically, items and services as defined at 45 CFR §180.20 such as room and board were not found in the online machine-readable file.

3. Failure to follow the naming convention specified by CMS, specifically: `<ein>_<hospital-name>_standardcharges.[json|xml|csv]` as required at 45 CFR §180.50(d)(5).
4. Failure to include all corresponding data elements in the list of standard charges, as applicable, as provided in 45 CFR §180.50(b). Specifically, not all payer specific negotiated rates were posted in the online machine-readable file as required at 45 CFR §180.50(b)(3).
5. Failure to include all corresponding data elements in the list of standard charges, as applicable, as provided in 45 CFR §180.50(b). Specifically, not all de-identified minimum negotiated charges were posted in the online machine-readable file as required at 45 CFR §180.50(b)(4).
6. Failure to include all corresponding data elements in the list of standard charges, as applicable, as provided in 45 CFR §180.50(b). Specifically, not all de-identified maximum negotiated charges were posted in the online machine-readable file as required at 45 CFR §180.50(b)(5).

CMS completed a review of <http://www.fallshospital.com/> on April 18, 2023. Based upon this review, it was determined that Falls Community Hospital & Clinic remained in material violation of the requirements to make public its list of standard charges. On April 19, 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 update the standard charge information described in 45 CFR §180.50(b) at least once annually as required at 45 CFR §180.50(e).
2. Failure to make public a machine-readable file containing a list of all standard charges for all items and services as required at 45 CFR §180.40(a). Specifically, items and services as defined at 45 CFR §180.20 such as room and board were not found in the online machine-readable file.
3. Failure to follow the naming convention specified by CMS, specifically: `<ein>_<hospital-name>_standardcharges.[json|xml|csv]` as required at 45 CFR §180.50(d)(5).
4. Failure to include all corresponding data elements in the list of standard charges, as applicable, as provided in 45 CFR §180.50(b). Specifically, not all payer specific negotiated rates were posted in the online machine-readable file as required at 45 CFR §180.50(b)(3).

5. Failure to include all corresponding data elements in the list of standard charges, as applicable, as provided in 45 CFR §180.50(b). Specifically, not all de-identified minimum negotiated charges were posted in the online machine-readable file as required at 45 CFR §180.50(b)(4).
6. Failure to include all corresponding data elements in the list of standard charges, as applicable, as provided in 45 CFR §180.50(b). Specifically, not all de-identified maximum negotiated charges were posted in the online machine-readable file as required at 45 CFR §180.50(b)(5).

The Notice of Violation and Request for CAP provided details on how to contact CMS with questions regarding your hospital's noncompliance, and stated that Falls Community Hospital & Clinic must submit a CAP within 45 calendar days, or June 3, 2023. Falls Community Hospital & Clinic did not respond to submit a CAP. After no CAP was received, CMS attempted to contact the hospital on June 6, 2023, regarding the compliance actions sent to the hospital, including the requirement that the hospital submit a CAP to CMS. The compliance team was directed to an extension (2103) which was a general administrative mailbox with no name assigned to it. A detailed message was left asking the hospital to return the call and confirm receipt of the CAP request. CMS did not receive a response to its June 6, 2023 inquiry. To date, no CAP has been received.

CMS completed a review of <http://www.fallshospital.com/> on June 13, 2023. The following material violations were identified:

Violations- Comprehensive Machine-Readable File

1. Failure to update the standard charge information described in 45 CFR §180.50(b) at least once annually as required at 45 CFR §180.50(e).
2. Failure to make public a machine-readable file containing a list of all standard charges for all items and services as required at 45 CFR §180.40(a). Specifically, items and services as defined at 45 CFR §180.20 such as room and board were not found in the online machine-readable file.
3. Failure to follow the naming convention specified by CMS, specifically: `<ein>_<hospital-name>_standardcharges.[json|xml|csv]` as required at 45 CFR §180.50(d)(5).
4. Failure to include all corresponding data elements in the list of standard charges, as applicable, as provided in 45 CFR §180.50(b). Specifically, not all payer specific negotiated rates were posted in the online machine-readable file as required at 45 CFR §180.50(b)(3).
5. Failure to include all corresponding data elements in the list of standard charges, as applicable, as provided in 45 CFR §180.50(b). Specifically, not all de-identified

minimum negotiated charges were posted in the online machine-readable file as required at 45 CFR §180.50(b)(4).

6. Failure to include all corresponding data elements in the list of standard charges, as applicable, as provided in 45 CFR §180.50(b). Specifically, not all de-identified maximum negotiated charges were posted in the online machine-readable file as required at 45 CFR §180.50(b)(5).

Therefore, CMS is imposing the CMP set forth below.

I. Amount of the CMP

Based on the foregoing findings of noncompliance with the hospital price transparency requirements, CMS is imposing a total CMP of \$70,560.00, pursuant to 45 C.F.R. §180.90. The CMP is calculated as follows:

\$10.00 per bed per day for hospitals with a bed count greater than 30 but not more than 550 = \$10.00 x (36 beds¹) x (196 days) = \$70,560.00. This CMP is calculated from January 6, 2023 to and including July 20, 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 sections 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, then your hospital must pay the CMP amount in full within 60 calendar days from the date of a final and binding decision to uphold the CMP, in whole or in part, 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

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.

Subtype/Type Code:	10 00
Amount:	\$70,560
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] 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. Your 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.

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.

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 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:

Centers for Medicare & Medicaid Services
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, 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
Digitally signed by John C. Pilotte
Date: 2023.07.20 09:52:31 -04'00'

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