

# Hospital Price Transparency - CMS Rule

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# Speakers



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# Hospital Pricing Transparency Agenda

- Why Transparency
- What Is It (CMS)
- Consequences



# Hospital Pricing Transparency Why

- **Healthcare transparency** can allow for increased trust in the patient- physician relationship and **health** care systems.
- **Transparency** can also improve quality, safety and efficiency throughout the **healthcare** system due to competition and/or the availability of clinical benchmarks.
- American College of Physicians Policy Paper 2010



# Hospital Pricing Transparency What

- **Effective January 1, 2020**
- **Most institutions in the United States that are licensed as hospitals or otherwise approved as meeting applicable licensing requirements must post their standard charges prominently on a publicly available website.**
- **Machine Readable File**
  - 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
- **Consumer-friendly Display of 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 and group them with ancillary services, and provide the discounted cash prices, payer-specific negotiated charges, and de-identified minimum and maximum negotiated charges.



Consequences  
Just Ahead

## Hospital Pricing Transparency Consequences?

- Prices for some hospital services will become more competitive.
- Prices will increase for other hospital services.
- Some regions may see higher prices overall.
- The new dynamics of negotiation will accelerate consolidation.
- Some rural and safety-net hospitals will not be able to survive.
- Adoption of new technology will slow unless it has a very strong value proposition.
- Payers will experiment with new benefit designs and reimbursement models.
- Price transparency will add a new dimension to antitrust compliance.
- The rule will not affect the majority of consumers, who are insulated from the true cost of health care.
- The rule could complicate efforts to advance value-based payment.
  
- Source Health Affairs (March 6,2020)



# Hospital Price Transparency Final Rule

March 2021

**Presenter:**

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# Disclaimer

This presentation was current at the time it was published or uploaded onto the web. Medicare policy changes frequently so links to the source documents have been provided within the document for your reference.

This presentation was prepared as a service to the public and is not intended to grant rights or impose obligations. This presentation may contain references or links to statutes, regulations, or other policy materials. The information provided is only intended to be a general summary. It is not intended to take the place of either the written law or regulations. We encourage readers to review the specific statutes, regulations, and other interpretive materials for a full and accurate statement of their contents.



# Hospital Price Transparency

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# Hospital Price Transparency Final Rule Introduction

- 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



# Hospital Price Transparency Final Rule Introduction

- On June 24, 2019, the President signed an [Executive Order](#) (EO) on Improving Price and Quality Transparency in American Healthcare to Put Patients First:
  - It is the policy of the Federal Government to increase the availability of meaningful price and quality information for patients
  - The EO directed the Secretary of HHS to propose a regulation, consistent with applicable law, to require hospitals to publicly post standard charge information
- The final rule implements Section 2718(e) of the [Public Health Service Act](#) and improves upon prior agency guidance that required hospitals to make public their standard charges (defined as the hospital's chargemaster charges) upon request starting in 2015 (79 FR 50146) and subsequently online in a machine-readable format starting in 2019 (83 FR 41144)
- Section 2718(e) requires each hospital operating within the United States to establish (and update) and make public a yearly list of the hospital's standard charges for items and services provided by the hospital, including for diagnosis-related groups established under section 1886(d)(4) of the Social Security Act



# Increasing Price Transparency of Hospital Standard Charges

- Starting on January 1, 2021, each hospital operating in the United States are 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



# 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



# 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.



# Requirements for Making Public All Standard Charges for All Items and Services in a Machine-Readable Format

- Each hospital location operating under a single hospital license that has a different set of standard charges must separately make public the standard charges that are applicable to that location
- Required **Data Elements**
  - A description of each item or service
  - All standard charges (gross charges, payer-specific negotiated charges, discounted cash prices, minimum and maximum negotiated charges) that apply to each item or service when provided in, as applicable, the hospital inpatient and outpatient department setting
  - Any code used by the hospital for purposes of accounting or billing for the item or service, for example, HCPCS codes, DRG codes, or other common payer identifier



# Requirements for Making Public All Standard Charges for All Items and Services in a Machine-Readable Format

- **Format**

- The information must be published in a single digital file that is in a machine-readable format
- **Machine-readable format** means a digital representation of data or information in a file that can be imported or read into a computer system for further processing
  - Examples of machine-readable formats include, but are not limited to, the following formats: .XML, .JSON, and
  - .CSV

- **Location and Accessibility**

- The file must be displayed prominently and clearly identify the hospital location with which the standard charges information is associated on a publicly available website using a CMS-specified naming convention
- The hospital must ensure the data is easily accessible, without barriers, including ensuring the data is accessible free of charge, does not require a user to establish an account or password or submit Personal Identifying Information (PII), and is digitally searchable

- **Updates**

- Data must be updated at least annually and clearly indicate the date of the last update (either within the file or otherwise clearly associated with the file)



# Requirements for Displaying Shoppable Services in a Consumer-Friendly Manner

- **Data Elements:** For each shoppable service displayed, the hospital must:
  - Include a plain-language description of each shoppable service and any primary code used by the hospital for purposes of accounting or billing
  - Group the primary shoppable service with the ancillary services that the hospital customarily provides in conjunction with the primary shoppable service
  - Indicate the location at which the shoppable service is provided, and whether the standard charge for the shoppable service applies at that location to the provision of that shoppable service in the inpatient setting, the outpatient department setting, or both
- **Format**
  - Hospitals have discretion to choose a format for making public the consumer-friendly information
- **Location and Accessibility**
  - The information must be displayed prominently on a publicly available Internet location that clearly identifies the hospital location with which the information is associated
  - The information must be easily accessible, without barriers, including ensuring the data is accessible free of charge, does not require a user to register, establish an account or password or submit PII, and is searchable by service description, billing code, and payer
- **Updates**
  - Information must be updated at least annually and clearly indicate the date of the last update



# Requirements for Displaying Shoppable Services in a Consumer-Friendly Manner

- CMS will deem a hospital as having met the requirements for making public standard charges for 300 shoppable services in a consumer friendly manner if the hospital maintains an **internet-based price estimator tool** that meets the following requirements:
  - 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 health care consumers to, at the time they use the tool, obtain an estimate of the amount they will be obligated to pay 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



# 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.



# Effective Date

- In response to comments, CMS extended the effective date to January 1, 2021 to ensure hospital compliance with these regulations



# Hospital Price Transparency Webpage

Resources available at:

[www.cms.gov/hospital-price-transparency](http://www.cms.gov/hospital-price-transparency)

The screenshot shows the 'Resources' page of the CMS 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 is a 'Regulations' section with two entries:

- Regulations**
  - Effective Date: DECEMBER 2020 31**  
[FY 2019 Requirements for Hospitals To Make Public a List of Their Standard Charges](#)  
Current Guidance requiring hospitals to post their chargemaster. Effective until 12/31/2020.
  - Effective On: JANUARY 2021 1**  
[FY 2020 Price Transparency Requirements for Hospitals To Make Standard Charges Public](#)  
Hospital Price Transparency final rule published 11/27/2019. Effective on 1/1/2021.

Below the regulations, there is a 'Resources' section with four items, each with an icon and a brief description:

- Resources**
  - Frequently Asked Questions (PDF)**  
Frequently asked questions about hospital price transparency.
  - 8 Steps to a Machine-readable File (PDF)**  
A step-by-step guide to understand and implement the requirements for the machine-readable file of all items and services.
  - 10 Steps to a Consumer-Friendly Display (PDF)**  
A step-by-step guide to understand and implement the requirements for the consumer-friendly display of shoppable services.
  - Quick Reference Checklist (PDF)**  
Quick overview to assist your hospital's review of the Hospital Price Transparency Final Rule.



# 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.



# Contact Us

<https://www.cms.gov/hospital-price-transparency/contact-us>



## Submit a Complaint

Can't find a hospital's standard charges online?

You may [submit a complaint](#) to CMS if it appears that a hospital has not posted information online.



## Email a Question

Have a question about price transparency? Send an email to the [hospital price transparency team](#).

# How do the CMS Hospital Transparency Rules Impact Health Plan Sponsor Fiduciary Obligations?

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Health plan sponsors have a fiduciary obligation to disperse plan assets in a prudent manner for the exclusive benefit of plan participants and beneficiaries.

Since CMS regulations on hospital transparency represent an opportunity for the plan and its participants to reduce spending...obligation triggered!

The plan sponsors “inherits” the “co-obligation” of the hospital, to facilitate the opportunity afforded by the transparency regulations.

The standard to carry out such obligation is simply  
a “good faith compliance effort”

Like all fiduciary obligations of plan sponsors as they relate to “health plans”, there are not hard and fast “safe harbors” as to what constitutes a “good faith compliance effort” so plan sponsors are left to exercise their responsibilities in a “prudent” manner.

So what might a potentially prudent “road map” for plan sponsor fiduciary compliance with the hospital transparency include?

1. Ensure that the hospitals within the plan's contracted network are complying with the requirements for comprehensive machine-readable files with all items and services, as well as the requirements to the display of shoppable services in a consumer-friendly format.
2. Perform periodic testing and auditing of the required data to be furnished by network hospitals against CMS requirements.
3. Provide information to plan participants as to how to access the information in 1) above, and provide examples similar to those in a standard Summary of Benefit Coverages (SBC)
4. Document the steps taken in 1), 2), and 3) above

# Questions?



**Peter Hayes**

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## Upcoming Webinars

### **Addressing Communities at High Risk: The Impact of COVID-19 on Mental Health**

April 1, 2021, 1 p.m.-2 p.m. (EST)

### **Pandemic Planning – Medical Director Advisory Council**

April 8, 2021, 12:00 p.m.-1:00 p.m. (EST)

### **Fiduciary Check-In on Pharmacy Benefit Management**

April 15, 2021, 1:00 p.m.-1:30 p.m. (EST)

### **Mental Health Index**

April 21, 2021, 12:00 p.m.-12:30 p.m. (EST)

