

CY 2020 Medicare Hospital Outpatient Prospective Payment System Proposed Rule: Price Transparency



Increasing Price Transparency of Hospital Standard Charges

- On June 24, the President signed an [Executive Order](#) on Improving Price and Quality Transparency in American Healthcare to Put Patients First:
 - Policy of the Federal Government to increase the availability of meaningful price and quality information for patients
 - Directed the Secretary of HHS to propose a regulation, consistent with applicable law, to require hospitals to publicly post standard charge information
- Proposed 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 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



Proposed Definition of 'Hospital'

- Propose to define 'hospital' as an institution in any State in which State or applicable local law provides for the licensing of hospitals and which 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 would include each of the several States, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Northern Mariana Islands
 - Includes all Medicare-enrolled institutions that are licensed as hospitals (or approved as meeting licensing requirements) as well as any non-Medicare enrolled institutions that are licensed as a hospital (or approved as meeting licensing requirements)
 - Federally owned or operated institutions (for example, hospitals operated by an Indian Health Program, the US Department of Veterans Affairs, or the US Defense Department) which are not accessible to the general public, except in emergency situations, and already make their charges publicly available are deemed to have met the requirements of Section 2718(e)



Proposed Definition of Hospital ‘Items and Services’

- Propose to define hospital “items and services” to include **all** items and services (including individual items and services and service packages) 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 charge

Examples include: Supplies, procedures, room and board, use of the facility and other items (generally described as facilities fees), services of employed practitioners (generally described as professional charges), and any other items or services for which the hospital has established a charge



Proposed Definition of ‘Standard Charges’

- Proposing to define “standard charges” to mean the hospital’s gross charge and payer-specific negotiated charge for an item or service
- Hospitals would be required to make their standard charges public in two ways:
 - 1) Machine-readable file posted online containing all hospital standard charge information (both gross charges and payer-specific negotiated charges) for all items and services provided by the hospital
 - 2) Consumer-friendly format that displays and packages payer-specific negotiated charges for a limited set of ‘shoppable’ services



Proposed Requirements for Making Public All Standard Charges for All Items and Services

- Proposing that hospitals make public their standard charges (both gross charges and payer-specific negotiated charges) for all items and services online in a single file that is machine-readable
- Propose the hospital must include the following corresponding data elements:
 - Description of each item or service provided by the hospital
 - Gross charge that applies to each individual item or service
 - Payer-specific negotiated charge that applies to each item or service; each list of payer-specific charges must be clearly associated with the name of the third party payer
 - Any code used by the hospital for purposes of accounting or billing for the service (e.g. CPT, HCPCS, DRG)
 - Revenue codes, as applicable
- Propose the following location and accessibility requirements:
 - Hospital may select an appropriate publicly available website for making the file public
 - File must be displayed in a prominent manner and clearly identified with the hospital location
 - Hospital must ensure the data is easily accessible and without barriers



Proposed Requirements for Making Public Consumer-Friendly Standard Charges for a Limited Set of ‘Shoppable Services’

- Display payer-specific negotiated charges for at least 300 shoppable services, including 70 CMS-selected shoppable services and 230 hospital-selected shoppable services. If a hospital does not provide one or more of the 70 CMS selected shoppable services, the hospital must select additional shoppable services such that the total number of shoppable services is at least 300.
- Propose to define ‘shoppable service’ as a service that can be scheduled by a health care consumer in advance.
- In their display of shoppable services, hospitals would:
 - Include charges for services that the hospital customarily provides in conjunction with the primary service that is identified by a common billing code (e.g. CPT/HCPCS/DRG)
 - Make sure that the charge information is displayed prominently on a publicly available webpage and clearly identifies the hospital (or hospital location)
 - Information must be easily accessible and without barriers, and searchable
 - Update the information at least annually



Proposals for Monitoring and Enforcement

- Proposing regulations for monitoring and enforcement of hospitals' compliance with these requirements
- CMS would have 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 provide a warning notice to the hospital, or a corrective action plan.
 - 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 these penalties on a CMS website
 - Also propose to establish an appeals process for hospitals to request a hearing before an Administrative Law Judge (ALJ) of the civil monetary penalty



Request for Information

- CMS is soliciting feedback on the best way to capture information on the quality of hospital inpatient care so that information can be provided to patients in a way that is useful for them when comparing care options
- Specifically, we are seeking comment on:
 - Improving availability and access to existing quality of health care information for third parties and health care entities to use when developing price transparency tools and when communicating charges for health care services.
 - Improving incentives and assessing the ability of health care providers and suppliers to communicate and share charge information with patients.



Submitting Your Comments

- See the [proposed rule](#) for information on submitting formal comments by September 27, 2019
- The proposed rule includes other proposed changes not covered during this presentation; see the proposed rule for complete information
- Feedback received during this listening session is not a substitute for your formal comments on the rule



Resources

- [CY 2020 Proposed Rule](#)
- [Press Release](#)
- [Fact Sheet](#)
- [Hospital OPPS](#) website
- PriceTransparencyHospitalCharges@cms.hhs.gov



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