

**Statement
of the
American Hospital Association
for the
Committee on Ways and Means
of the
U.S. House of Representatives
“Health Care Price Transparency: A Patient’s Right to Know”
May 16, 2023**

On behalf of our nearly 5,000 member hospitals, health systems and other health care organizations, our clinician partners — including more than 270,000 affiliated physicians, 2 million nurses and other caregivers — and the 43,000 health care leaders who belong to our professional membership groups, the American Hospital Association (AHA) appreciates the opportunity to submit this statement for the record as the House Ways and Means Committee examines issues related to health care price transparency.

The AHA appreciates the Committee’s interest in the implementation of price transparency regulations. Hospitals and health systems are committed to empowering patients with all the information they need to live their healthiest lives. This includes ensuring they have access to accurate price information when seeking care. Our members are working to comply with both state and federal price transparency policies.

Over the past several years, the AHA has engaged in substantial member education and engagement on the patient financial experience, including for the Hospital Price Transparency Rule and No Surprises Act transparency provisions. This includes:

- Establishing a CEO-level Price Transparency Task Force that helped guide the AHA in developing policies and sharing best practices with respect to price transparency and patient billing;



- Conducting member education through multiple member webinars, bi-weekly “office hours” with AHA and Healthcare Financial Management Association technical experts, issue briefs, member case studies and podcasts;
- Providing an implementation guide for members, including implementation checklists and FAQs;
- Conducting a three-part member webinar series on health care consumer expectations and experiences with the consulting firm Kauffman Hall;
- Hosting a multi-stakeholder intensive design process, which included providers, payers, patient advocates, technology vendors and others, to develop solutions to improve the patient financial experience of care;
- Supporting Centers for Medicare & Medicaid Services’ (CMS) efforts to establish voluntary sample formats that hospitals may use to meet the federal requirement to make certain standard charges publicly available through a machine-readable file by connecting the agency with experts from the hospital field; and
- Updating the AHA’s Patient Billing Guidelines, which include a focus on helping patients access information on financial assistance.

HOSPITAL PRICE TRANSPARENCY RULE

Under the federal Hospital Price Transparency Rule, starting Jan. 1, 2021, hospitals are required to publicly post via machine-readable files for five different “standard charges”: gross charges; payer-specific negotiated rates; de-identified minimum and maximum negotiated rates; and discounted cash prices. The rule also requires hospitals to provide patients with an out-of-pocket cost estimator tool or payer-specific negotiated rates for at least 300 shoppable services.

Enforcement and Compliance

CMS has in place procedures to ensure hospital compliance with the Hospital Price Transparency Rule through an internal audit process and by responding to public complaints and reviewing third-party compliance assessments. When these reviews identify potential violations, CMS engages in a multi-step enforcement process, prioritizing their actions based on the size and scope of the potential violation. Until recently, CMS issued a warning letter first, which required hospitals to respond to and/or correct the violation within 90 days. If the violation remained, CMS then required the hospital to submit a corrective action plan (CAP) within 45 days and complete the CAP within 30-90 days. If the CAP was not submitted or completed, CMS could then issue a civil monetary penalty (CMP). CMS can fine hospitals up to \$2 million per facility for violations and publishes online a list of hospitals that receive CMPs. To date, CMS has issued 730 warning letters and required 269 CAPs. CMS has imposed CMPs on four hospitals; the remainder of the hospitals under review have worked with CMS to correct any issues raised or are in the process of doing so.

Under this review process, CMS found that in [2022](#), 70% of hospitals complied with both components of the Hospital Price Transparency Rule, including the consumer-friendly display of shoppable services information, as well as the machine-readable file

requirements. This is an increase from 27% in 2021. Moreover, when looking at each individual component of the rule, 82% of hospitals met the consumer-friendly display of shoppable services information requirement in 2022 (up from 66% in 2021) and 82% met the machine-readable file requirement (up from 30% in 2021).

These numbers show significant progress on the part of hospitals and health systems — while acknowledging the work that remains — in implementing these requirements. The lower compliance rate in 2021, however, should not be interpreted as a lack of hospital commitment to transparency. Instead, it reflects the incredible challenges hospitals were experiencing in 2020 and 2021 in addressing the most acute phases of the COVID-19 public health emergency, which strained hospitals' staff and required the diversion of personnel and financial resources. As the pandemic phase of COVID-19 winds down and hospitals have been able to resume more standard operations, they are able to dedicate the resources necessary to build the full suite of price transparency tools.

In addition to the CMS report on compliance, we would draw your attention to a recent [report](#) from Turquoise Health that found about 84% of hospitals had posted a machine-readable file containing rate information by the end of first-quarter 2023, up from 65% the previous quarter.

Unfortunately, several third-party organizations repeatedly have claimed various rates of hospital compliance with federal price transparency policies that simply are not based on the facts. One such third-party — Patient Rights Advocate — released a [paper](#) that misconstrues, ignores and mischaracterizes hospitals' compliance with federal regulations. These groups ignore CMS' guidance on aspects of the rule, such as how to fill in an individual negotiated rate when such a rate does not exist due to patient services being bundled and billed together. In this instance, CMS has said a blank cell would be appropriate since there is no negotiated rate to include. In spite of this, some outside groups still count any file with blank cells as "noncompliant." This is a fundamental misrepresentation of the rules and creates a stream of misinformation that is inaccurate and distracting to these important discussions and work.

Recent Updates to the Oversight Process

CMS recently released updated guidance on its process for monitoring and enforcing the Hospital Price Transparency Rule. The new guidance makes three changes to the enforcement process:

- 1) **CMS will no longer issue warning letters to hospitals that do not appear to have made any attempt to comply with the rule and instead will go straight to requesting a CAP.** In other words, if CMS cannot find a machine-readable file or a shoppable service file/price estimator tool on a hospital's website, CMS will request a CAP as the first enforcement step, significantly shortening the timeline for the hospital to come into compliance.

- 2) **CAPs will now need to be completed within 45 days.** Previously, CMS allowed hospitals to propose a completion deadline (typically between 30-90 days) in their CAP.
- 3) **CMS will automatically impose CMPs if CAPs are not submitted or completed by their deadlines.** Going forward, CMS will impose a CMP if the agency has not received a requested CAP within 45 days. In addition, CMS will actively review hospital compliance at the 45-day deadline following CAP submission and, if the violation(s) cited in the CAP request still exists, will impose a CMP.

Recommendations

Hospitals and health systems are eager to continue working toward providing the best possible price estimates for their patients. We ask Congress and the Administration to take the following steps to support these efforts, including:

- Review and streamline the existing transparency policies — including the Hospital Price Transparency Rule and the No Surprises Act — with a priority objective of reducing potential patient confusion and unnecessary regulatory burden on providers;
- Continue to convene patients, providers and payers to seek input on how to make federal price transparency policies as patient-centered as possible; and
- Refrain from advancing additional legislation or regulations that may further confuse or complicate providers' ability to provide meaningful price estimates while adding unnecessary costs to the health care system. We would encourage the Committee to review the recent modifications CMS made to the compliance process before making additional legislative changes to the Hospital Price Transparency Rule.

CONCLUSION

Thank you for the opportunity to share the hospital and health system field's perspective on health care price transparency with the Committee. We look forward to continuing to work with you to address these important issues.