



SPECIAL REPORT

CMS Finalizes Rule to Require Online Posting of Hospital Charges

August 13, 2018

Overview

On August 2, 2018, the Centers for Medicare and Medicaid Services (CMS) issued its FY 2019 Inpatient Prospective Payment System (IPPS) and Long-Term Acute Care Hospital (LTCH) Prospective Payment System Final Rule ([CMS-1694-F](#)). In the rule, CMS finalized a proposal that that will, beginning January 1, 2019, require hospitals to publicize a list of their standard charges online in a *machine-readable* format. This information will have to be updated at least annually, according to the rule. CMS has not yet established enforcement mechanisms to ensure compliance with these guidelines, and indicated in the final rule that enforcement would be addressed in future rulemaking.

This document discusses the background, specific requirements, and CMS' response to comments on the finalized proposal. It also discusses notable existing initiatives to increase hospital transparency by the federal government, state governments, payers, and providers.

Background

Affordable Care Act and Subsequent Rulemaking

Section 2718(e) of the Public Health Service Act, which was enacted as part of the Affordable Care Act, requires that each hospital operating within the United States, for each year, establish (and update) and make public (in accordance with guidelines developed by the Secretary) a list of the hospital's standard charges for items and services provided by the hospital, including for diagnosis-related groups (DRGs) established under section 1886(d)(4) of the Social Security Act.

CMS first implemented the ACA requirements in its FY 2015 IPPS/LTCH final rule (79 FR 50146), reminding hospitals of their obligation to comply with the transparency requirement and providing guidelines for its implementation. At the time, CMS stated that hospitals are required to either make public a list of their standard charges (whether that be the chargemaster itself or in another form of their choice) or their policies for allowing the public to view a list of those charges in response to an inquiry.



2019 Request for Information

In the FY 2019 IPPS proposed rule, CMS indicated that they are concerned that challenges continue to exist for patients due to insufficient price transparency. Such challenges include patients being surprised by out-of-network bills for physicians, such as anesthesiologists and radiologists, who provide services at in-network hospitals, and patients being surprised by facility fees and physician fees for emergency department visits. CMS also said that they were concerned that chargemaster data are not helpful to patients for determining what they are likely to pay for a particular service or hospital stay.

In order to promote greater price transparency for patients, CMS stated that they are considering ways to improve the accessibility and usability of the charge information that hospitals are required to disclose. The agency therefore sought information from the public in the proposed rule regarding barriers preventing providers from informing patients of their out of pocket costs: what changes are needed to support greater transparency around patient obligations for their out-of-pocket costs; what can be done to better inform patients of these obligations; and what role providers should play in this initiative.

The agency noted that it was sometimes difficult to determine when certain commenters who submitted comments on the FY 2019 IPPS/LTCH PPS proposed rule were responding to the broader price transparency request for information (RFI) and when they were responding specifically to the updated guidelines. CMS also noted that comments on the broader price transparency initiative and suggestions for additional future actions that the agency may take with the guidelines, including enforcement actions, will be addressed in future rulemaking.

FY 2019 IPPS/LTCH Final Rule

Overview

Under the FY 2019 IPPS final rule, effective January 1, 2019, CMS is requiring that hospitals make available a list of their current standard charges via the Internet in a machine-readable format and to update this information at least annually, or more often as appropriate. This could be in the form of the chargemaster itself or another form of the hospital's choice, as long as the information is in machine readable format.

Negotiated Rates

To the extent that such information would be published in a payer-specific manner, some commenters stated that such information is proprietary and confidential, and that publishing this



information could undermine competition. In response, the agency notes that they are not requiring at this time that any information be published in a payer-specific manner, and disagrees that transparent charge information undermines competition.

Machine Readable Format

The Office of Management and Budget (OMB) defines "machine readable" as follows: "Format in a standard computer language (not English text) that can be read automatically by a web browser or computer system. (e.g.: XML). Traditional word processing documents and portable document format (PDF) files are easily read by humans but typically are difficult for machines to interpret. Other formats such as extensible markup language (XML), (JSON), or spreadsheets with header columns that can be exported as comma separated values (CSV) are machine readable formats."

Note that *machine readable* is not synonymous with *digitally accessible*. A digitally accessible document may be online, making it easier for humans to access via computers, but its content is much harder to extract, transform and process via computer programming logic if it is not in machine-readable format.

Conflicts with State Requirements

Several commenters expressed concern about the updated guidelines conflicting with State requirements and increasing administrative burden if hospitals are required to report charge information in multiple incongruent ways. Commenters stated that CMS should not require hospitals to duplicate or replace existing publicly available resources and that the updated requirement would significantly increase provider burden to provide information that is not useful to patients.

In response, CMS noted that, whether state charge transparency laws are mandatory or voluntary, the disclosure of standard charges under the agency's updated guidelines can exist in a complementary manner with state regulatory initiatives.

Existing Price Transparency Efforts

In the FY 2019 final rule, the agency noted that many hospitals already make their standard charges publicly available either voluntarily or under applicable State law. For example, the [2014 American Hospital Association State Transparency Survey](#) data indicated that 35 States required hospitals to release information on some charges and 7 States relied on voluntary disclosure of charge data. The information below, adapted from the AHA report, describes some of the federal, state, payer, and provider price transparency initiatives currently in place throughout the country.

Federal Initiatives



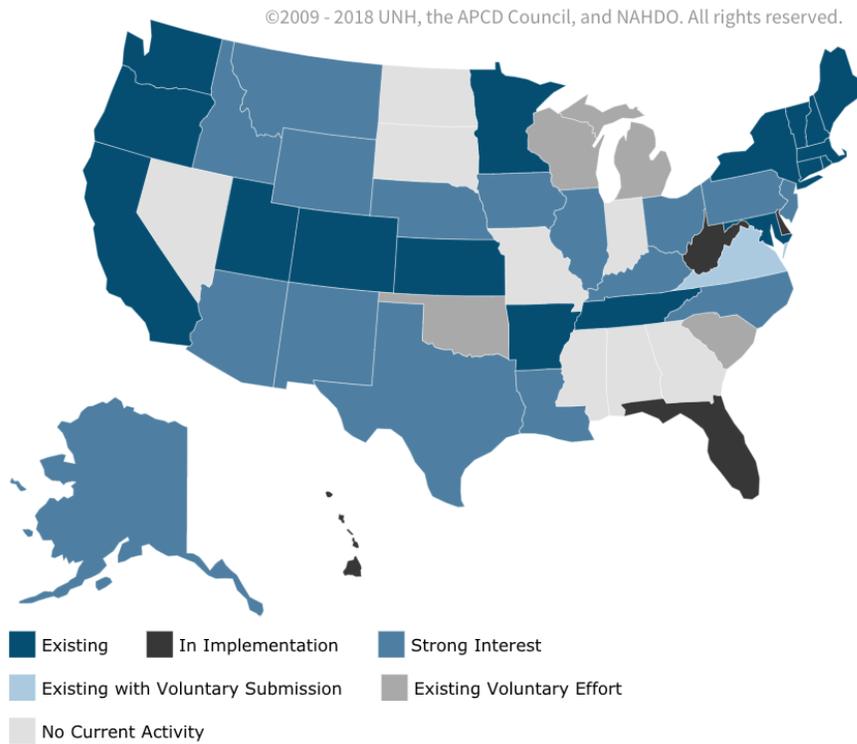
CMS	Since June 2013, the Centers for Medicare & Medicaid Services (CMS) has published hospital-specific average charges and average Medicare reimbursement rates for the 100 most common inpatient and 30 most common outpatient procedures on the CMS website. Data for physicians were released in April 2014. While available to the general public, the data has limited use to patients as they are published in an electronic format as a large spreadsheet that is difficult for consumers to navigate.
ACA	The ACA requires hospitals to establish and make public a list of their standard charges for items and services. In the fiscal year (FY) 2015 Inpatient Prospective Payment System (IPPS) proposed rule, CMS reminded hospitals of this obligation and indicated that it will provide hospitals with flexibility to determine how they make this information public.
Hospital Compare	Since 2005, the government has reported on hospital quality metrics through <i>Hospital Compare</i> . Consumers can compare hospital performance across quality measures related to heart conditions, pneumonia, surgery and other procedures. Further, consumers can evaluate hospitals along several performance domains, such as patient satisfaction and efficiency

State Initiatives

State-Directed	35 states require hospitals to release information on some charges, and seven rely on voluntary disclosure of charge data.
Federal-Directed	In recent years, bills have been introduced in Congress that would elevate further the states' role in price transparency. For example, the <i>Health Care Price Transparency Promotion Act</i> , which has been introduced – but not enacted – in multiple Congresses, would mandate that states create laws requiring the release of hospital charge data and patient-specific out-of-pocket estimates. It also would require commercial payers to respond to consumer requests for out-of-pocket estimates.

APCDs

17 states have passed legislation requiring payers to contribute data to all-payer-claims-databases (APCDs); one additional state (Virginia) relies on voluntary contributions. APCDs include provider-level price data on medical, pharmacy and dental payments from public and private payers.



Payer Initiatives

Estimation Tools

Increasingly, health plans offer cost estimation tools to assist their enrollees in determining expected out-of-pocket expenses. Today, most large national plans provide such cost estimation tools whereas payers with fewer enrollees are less likely to provide and maintain such features, largely due to associated costs. These tools incorporate beneficiary-specific copays, deductibles and coverage exclusions to provide expected out-of-pocket estimates reported in price ranges. However, while most payer tools estimate the cost of provider-specific medical



encounters, few provide consumers the ability to compare costs across providers.

Provider Initiatives

Hospital-Directed

Despite challenges related to contractual obligations restricting providers from releasing rates negotiated with payers, hospitals have launched a number of price transparency efforts. Some hospitals help patients estimate hospital out-of-pocket costs for common procedures based on their insurance status.

For example, Geisinger Health provides price estimates via telephonic or online requests, and Alegent Creighton Health maintains an online cost calculator that provides out-of-pocket estimates applicable to the prevalent types of insurances among the hospital's patient population.

Financial Assistance

Many providers help self-pay or uninsured patients evaluate treatment estimate facility costs by releasing charge data and determining patients' eligibility for hospital financial assistance. The Cleveland Clinic provides all-inclusive charge information, including room rates via a website, and Spectrum Health provides average procedure charges along with payment rates from government and private insurers.

Hospital Assoc.

Some state hospital associations gather and disseminate average and median outpatient and inpatient price data. The Wisconsin Hospital Association (WHA) was the first state to publish hospital charge and utilization data via its PricePoint website. WHA contracts with 10 other states that have developed their own PricePoint websites.
