

The Issue

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. Most hospitals use cost estimate tools to provide patient-specific price information because every course of care is unique.

Hospitals and health systems are working to comply with both state and federal price transparency policies, which include the federal Hospital Price Transparency Rule and provisions in the No Surprises Act. The Centers for Medicare & Medicaid Services (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 in implementing these requirements.

AHA Position

The AHA supports price transparency efforts that help patients access clear, accurate cost estimates when preparing for hospital care. The AHA also supports aligning federal price transparency requirements to avoid patient confusion and duplication of effort that adds unnecessary cost and burden to the health care system. Despite hospitals' increasingly successful efforts to provide transparency to patients, third parties continue to issue reports mischaracterizing compliance with the Hospital Price Transparency Rule.

Key Facts

Hospitals and health systems are subject to several different federal price transparency policies, often in addition to similar policies at the state level. These include:

- **Hospital Price Transparency Rule.** As of Jan. 1, 2021, hospitals are required to publicly post via machine-readable files 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.

- **Good Faith Estimates.** The No Surprises Act requires hospitals and other providers to share Good Faith Estimates with uninsured/self-pay patients for most scheduled services. Future regulations will require unaffiliated providers to combine their estimates for an uninsured/self-pay patient into a single, comprehensive Good Faith Estimate for an episode of care.
- **Advanced Explanation of Benefits.** The No Surprises Act requires insurers to share advanced explanations of benefits with their enrollees, though implementation is currently on hold pending rulemaking. Hospitals will need to provide Good Faith Estimates to health insurers to operationalize this policy.

Implementation Considerations

- **Patients face numerous and potentially conflicting sources of pricing information.** The Hospital Price Transparency Rule, the health insurer Transparency in Coverage Rule and the No Surprises Act’s price transparency policies each feature one or more ways in which patients can access pricing information in advance of care. A patient who seeks price information may do so through the following mechanisms: the hospital’s machine-readable files; the hospital’s online patient cost estimator; the health insurer’s machine-readable files; the health insurer’s online cost estimator; the advanced explanation of benefits created by the health plan; or a Good Faith Estimate created by the provider in the event they want to consider their self-pay options. Separately, state-level policies may direct patients to a variety of other price estimating options from private sector vendors.

Unfortunately, none of these resources have been designed to complement one another, and the information provided to patients is calculated in different ways. As a result, the reported rate information may be inconsistent, and patients do not have a clear indicator as to which source should be relied upon. As a result, the overabundance of tools may create patient confusion rather than provide value.



- **Hospitals are working to provide the most accurate estimates for what a patient may need to pay.** In response to the growing desire from patients for digital tools to support their health care, many hospitals and health systems have embraced new technologies that enable patients to obtain tailored out-of-pocket cost estimates through online tools.
- **While hospitals are working to comply with the requirement to post machine-readable files, the nature of hospital pricing and rate negotiations does not translate easily into a single, fixed rate per service.** Hospitals' contracts with health plans are complex and the actual rate that may apply to a service (or bundle of services) can vary dramatically based on a patient's specific scenario (e.g., how many services are being delivered during an episode of care or how sick is the patient). In addition, there is almost no way for a patient to use the machine-readable files to calculate the cost of any episode of care in which more than one item or service is provided. Not all of a patient's required services may be known at the time of treatment scheduling. Subsequently, the patient's health insurer may cover only a portion of the services and/or bundle some of the services in ways that do not simply "add up" to all the underlying negotiated rates. Finally, in most instances, the patient will only owe a portion of the final negotiated amount due to their health plan's cost-sharing rules.
- **Price transparency tools require large investments of staff time and hospital resources.** Hospitals' commitment to compliance is led by their desire to provide the most accessible and useful information to patients. To do this requires extensive investments of personnel and finances, which have been impacted over the last few years by the COVID-19 pandemic. Price transparency tools, including patient-specific cost estimator tools and the machine-readable files, require the adoption of new technologies that can pull relevant data from multiple sources and present it to patients in the most easy-to-navigate manner. With respect to the machine-readable files, the resulting output can often be too large to be housed on existing hospital websites, and the data must be refreshed frequently. In addition, these requirements went into effect at the height of the COVID-19 pandemic, which delayed some hospitals' efforts as they had to prioritize responding to COVID-19 surges and vaccine administration.
- **CMS has been working closely with hospitals on compliance.** CMS began auditing hospital compliance with the Hospital Price Transparency Rule as early as spring of 2021 and to-date has reviewed more than 835 hospitals' websites. Despite engaging many hospitals on these policies, the agency has only issued two fines for non-compliance. Hospitals and health systems report that the agency has worked with them to understand the contractual complexities and navigate the regulatory guidance to identify and resolve any compliance issues.

- **Third party “compliance” reports miss the mark.** Some third parties continue to issue reports mischaracterizing whether hospitals are complying with the Hospital Price Transparency Rule. These reports fail to acknowledge CMS’ requirements, 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. Despite this, some outside groups still count any file with blank cells as “noncompliant.” This fundamental misrepresentation of the rules has only served to advance misinformation and confusion on the issue and distract from genuine productive discussions and efforts around what patients want in terms of transparency data and how best to provide that information.

Recommendations

Hospitals and health systems are eager to continue working towards 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 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.