

What Has Changed in Price Transparency?

The Rule

As of January 1, 2021, all U.S. hospitals are required to provide clear, accessible pricing information regarding their provided items and services. While there have been updates surrounding the rule since then, the core requirements have remained unchanged. Hospital pricing information must be provided in 2 ways:

1. Publish a comprehensive machine-readable file with standard charges, including negotiated rate information at the individual charge level and by service package.
2. Display 300 shoppable services in a consumer-friendly format with standard charge information for the primary service and common ancillary charges. Requirements can be met by offering an internet-based price estimator.

The Centers for Medicare and Medicaid Services (CMS) has implemented additional measures to attempt to drive standardization of implementation. In particular, CMS has:

- Required that the machine-readable file is accessible to automated searches and for direct downloads.
- Created an optional template with a standardized set of data elements for machine-readable files.

Compliance Updates

CMS estimates that in 2022, 70% of hospitals were in compliance with the regulations. To drive an increase in the compliance rate, CMS has recently implemented several updates to the enforcement process:

- **Increased the fines for noncompliance:** The maximum penalty for hospitals with 30 or fewer beds is \$300 per day. For hospitals with more than 30 beds, CMS increased the penalty in 2022 to a maximum penalty of \$5,500 per day, up from an annual maximum of \$100,000 to just over \$2 million.
 - CMS will automatically fine hospitals that do not submit a corrective action plan within 45 days. CMS will review the hospital's transparency efforts to determine whether any of the violations cited continue to exist and, if so, impose a fine.
 - For hospitals that submit a corrective action plan but fail to implement the plan by the end of the 90-day deadline, CMS will conduct an additional review of the hospital's transparency efforts to determine whether any violations cited continue to exist and, if so, impose an automatic fine.
 - CMS will no longer issue warning notices to hospitals that do not make any attempt at compliance. It will immediately request a corrective action plan.
- **Standardized timelines for corrective action plans:** CMS has maintained the requirement for noncompliant hospitals to submit a corrective action plan within 45 days. However, CMS will no longer allow hospitals to offer their own timeline for compliance and will require hospitals to be in compliance within 90 days.

Additional Legislation

In addition to the CMS regulations, the House Energy and Commerce Committee is seeking to address the lack of standardization and further drive compliance through the "Transparent PRICE Act." If passed, the act would take effect in 2024 and would expand the current scope of the Price Transparency Rule by:

- Mandating the implementation of a standard, uniform, plain language, and consumer-friendly method and format in which hospitals must post the required information.
- Automatically increasing the fine for a facility with more than 30 beds to \$5 million for a full year of noncompliance and removing the maximum daily penalty of \$5,500.
- Expanding public disclosures. Currently, CMS only publicly names hospitals that have received fines related to the Price Transparency Rule. The act would require also naming those hospitals for which CMS has conducted a compliance review and state whether they received a warning notice, submitted a corrective action plan, or were issued a fine.
- Including a public request for information on the best method to publish quality data alongside prices.

What Providers Need to Do Now

- Actively review your compliance with all requirements—do not wait for CMS to come to you.
 - Build the required file with standard charge data by developing a machine-readable charge description master (CDM).
 - Create an independent file containing the 300 identified shoppable services within a consumer-friendly format or make a compliant price estimation tool available.
 - Evaluate and consider price estimation tools and capabilities.
- Ensure you maintain your compliance and operationalize the update process to occur no less than annually. Do you have any mid-year pricing changes that will need to be incorporated?
- Publish files within your organization's website in an appropriate, accessible format, assessing use of available CMS templates in anticipation of further legislation.
- Review and update your CDM and associated pricing strategy, as needed. Do you have an established CDM maintenance plan?
- Assess and modify impacted processes, policies, and procedures (e.g., patient estimates and liability collection). How have you chosen to operationalize shopper estimate requests? How have these requests, along with estimate requirements tied to the No Surprises Act, impacted your staffing and productivity?

We Can Help.

We can guide your organization through the considerations, decisions, and actions to comply with the Price Transparency Rule and related requirements so you can avoid the risks and capture the benefits. Drawing on our deep expertise, we'll also provide a comprehensive view of how you can use compliance as an opportunity to advance your organization. Without a significantly greater effort than basic compliance, you can elevate the patient experience—from estimates through billing and collections—while introducing greater speed and cost efficiency to your revenue cycle.

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