

CMS Plans to Implement Stricter Enforcement Efforts to Boost Hospital Price Transparency Compliance

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In January 2021, the Centers of Medicare and Medicaid Services (“CMS”) implemented the Price Transparency Regulations (“PTR”) which required hospitals to publish prices for all their services on their websites in a user-friendly format — improving consumer access to pricing information when shopping for health services. Since implementing the PTR, CMS has seen a significant increase in hospital price reporting. However, CMS is pushing more hospitals to become fully compliant by implementing stricter enforcement efforts.

How must hospitals comply with the PTR?

Under the PTR, hospitals are considered fully compliant by publishing:

1. a machine-readable digital file that includes gross charges, discounted cash prices, payer-specific negotiated charges, and de-identified minimum and maximum negotiated charges (collectively “Standard Charges”) for all their items and services; **and**
2. a consumer-friendly formatted file of the Standard Charges of at least 300 shoppable services offered by the hospital with a plain language description of each service. Of these 300 shoppable services, all 70 CMS-specified shoppable services must be included. Hospitals may choose to display this information through a shoppable services file or price estimator tool that provides consumers with an estimated costs for any service. The price estimator tool must be made available on the hospital’s website for free and accessible without creating a user account.

Both files must be published by the hospital to be found compliant. Hospitals are commonly found non-compliant with the PTR by posting files with missing or incomplete Standard Charges, publishing a price estimator tool with incomplete pricing data, publishing files that are not consumer-friendly, and failing to post both a machine-readable file of Standard Charges and a consumer-friendly formatted file of at least 300 shoppable services offered by the hospital.

CMS’s Current Enforcement Efforts

CMS enforces compliance by evaluating complaints made by individuals or entities, auditing hospital websites, and conducting review analyses to identify hospitals that are potentially noncompliant. Hospitals deemed potentially noncompliant are then subjected to a comprehensive, time-consuming compliance review by CMS. Hospitals determined to be noncompliant are issued warning letters and required to remedy the deficiencies. If the deficiencies are not remedied, hospitals must submit a corrective action plan and may face additional penalties of up to \$2 million annually per hospital. In 2022, CMS issued approximately 500 warning letters and over 230 requests for corrective action plans; however, only two hospitals were penalized for noncompliance.

Expected Future Changes by CMS

Approximately 30% of hospitals remain noncompliant with the PTR. While compliance has improved over the past two years — from approximately 27% during the first year to 70% during the second year — CMS has no intention to see these improvements stagnate or regress. As a result, CMS has prioritized its efforts to take “more aggressive additional steps” to identify noncompliance and implement stricter enforcement efforts. Based on feedback received from interested parties on improving reporting requirements and enforcement efforts, CMS has shared several changes that are being explored for future implementation:

1. **Standardized Reporting.** Currently, hospitals are allowed some flexibility related to formatting machine-readable files with certain data requirements but may elect to use the standardized machine-readable file template published by CMS. However, CMS intends to implement stricter standardized formatting requirements to improve hospital compliance and allow third parties to develop tools to improve consumers’ accessibility to pricing information.
2. **Conspicuous Link Placement.** CMS intends to implement stricter regulations that will mandate the placements of file links on the hospitals’ website — making it easier for public to find hospital machine-readable files.
3. **Streamlined Enforcement Efforts.** CMS also intends to take more aggressive steps to identify hospitals that are noncompliant, prioritize enforcement actions against hospitals that have failed to post files entirely, and expedite the time given to hospitals to become fully compliant after submitting its corrective action plan.

We will continue to closely monitor any additional guideline changes and enforcement efforts considered by CMS.

Stephanie Darville also contributed to this article.

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