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Client Alert: Centers for Medicare and Medicaid Services Hospital Price Transparency Rule

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As of January 1, 2021, almost all hospitals in the United States will have to comply with the Centers for Medicare and Medicaid Services (CMS) Hospital Price Transparency Rule. Additionally, the government has been open about the fact that it will be monitoring compliance. The rule has two major elements. A hospital must make the following information available to the public:

a. A machine-readable file containing a list of all "standard charges;" and
b. A consumer-friendly list of "standard charges" for a limited set of "shoppable services."

Standard Charges

For this rule, "standard charge" means the regular rate established by the hospital for an item or service provided to a specific group of paying patients. This provision ties the charge to a specific health plan or payer. The information that must be included is as follows:

1. gross charge;
2. payer-specific negotiated charge
3. de-identified minimum and maximum negotiated charge; and
4. discounted cash (or cash equivalent) price.

The hospital is required to post this "standard charge" information online, and the hospital must update the information no less than annually. The "standard charge" information must in addition to the elements referenced above, also include: (1) an understandable description of the item or service; (2) payer-specific negotiated charges, which must be clearly linked to a particular payer; and (3) the charge must be linked to any code(s) used by the hospital (such as Current Procedural Terminology (CPT), Healthcare Common Procedure Coding System (HCPCS), etc.).

Additionally, the "standard charge" information has to be properly formatted. The format must be in a single digital file that is machine-readable, searchable, free to use, and does not require a user account or

personally identifying information.

Shoppable Services

The second major requirement of this rule is with regard to what is termed "shoppable services." "Shoppable services" are those services that can be scheduled in advance. For this item, the hospital must display as many of the 70 CMS specified "shoppable services" as it provides and an additional number of services so that there is a total of at least 300 "shoppable services" in the disclosed information.

Moreover, the "shoppable services" information must include the following elements: (1) a plain language description of the "shoppable services;" (2) an indicator if the service is not offered; (3) the payer-specific negotiated charge, which is payor-specific, and includes related ancillary services; (4) discounted cash price for "shoppable services" and related ancillary services; (5) de-identified minimum and maximum negotiated charge for "shoppable services" and ancillary services; (6) the location where the service will be provided; and (7) the primary code used by the hospital for the "shoppable services" (CPT, HCPCS, etc.).

Also, the "shoppable services" information must be appropriately publicly available, and it must identify the hospital location where the service will be provided. Most importantly, the information must be displayed prominently "without barriers," be free of charge, not require registration or user account, not require personally identifiable information, and be searchable by service, billing code, or payer.

Furthermore, it should be noted that a hospital can meet this "shoppable services" requirement if it maintains an internet-based price estimator tool which meets the conditions in 45 C.F.R. 180.60.

In addition, hospitals need to be aware that non-compliance can result in a warning, a corrective action plan, and imposition of a civil monetary penalty.

Finally, it is recommended that hospitals consider the implementation of near-term and short-term strategies regarding this rule. First, the hospital's Board Finance Committee should calendar this item on its agenda at least quarterly during 2021 and annually thereafter. Second, the finance department (or assigned executive) should convene a committee to implement and oversee this implementation and operation during 2021. Even if the hospital is able to initially comply, there will be glitches, changes in government interpretation, and other issues that arise. No battle plan ever survives the initial shots in the battle. The ability to convene and react quickly will allow the hospital to correct any issues that are related to consumer complaints or government audits, and quick action can then potentially reduce or mitigate any government action. Hospitals should prepare for a possible government audit by creating a Price Transparency policy and documenting through committee meeting minutes the actions taken to be in compliance. As a final point, any team that is to oversee this implementation and early operation must include professionals from a cross-section of the hospital, including Information Technology (IT), IT Security, Collections/Billing, Managed Care Contracting, Compliance, Risk Management, and hospital operations. All of these teams are impacted by this rule and their daily actions will impact the hospital's compliance with the rule. Given the new administration in Washington, D.C., it is advisable to acknowledge that government audits in health care may well increase, and given that this rule may be an easy item to monitor remotely without significant investigator time, early and continued compliance is recommended.

Visit cms.gov regarding the final rule.

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