



**THA Federal Priority: Price/Cost Transparency**  
*Updated November 2021*

**Why this is important**

Price transparency is a good thing for patients and their advocates. People should know what their healthcare is going to cost them out of pocket.

**Key talking points**

- In reality it is very complex and difficult for hospitals and other providers to offer an accurate price estimate to patients. Ultimately, insurers know much more than hospitals about how much the patient will have to pay because they have access to all negotiated rates, co-pays, and how much has been spent towards deductibles. The insurers need to be a major part of the final plan.
- Meeting the new requirements has been a significant investment in time and money for hospitals. This was especially problematic in the midst of a global pandemic that has affected every aspect of hospital operations.
- Publishing these prices and allowing them to be scrutinized could result in insurance companies have new leverage over providers because they can see what other insurers are paying.
- CMS is conducting compliance audits (as of Fall 2021) to confirm compliance. The audits appear to be random but there have been hospitals across the country that have received letters stating they are not in compliance. At this time, we are not aware of any organizations being fined.

**Key provisions for hospitals in the final price transparency rule, required as of 1/1/2021**

- The rule expands hospital charge display requirements to include charges and information based on negotiated rates and for “shoppable” items and services.
- It seeks to establish a mechanism for monitoring and applying penalties for noncompliance.
- Hospitals are required to publicly display “standard charges” as well as the rates for shoppable items and services.

**Background**

Price transparency had circulated in public discussions for over a decade prior to passage of the Affordable Care Act, but while the goal was clear the appropriate steps to reach such a goal were not. To provide meaningful price transparency involves helping patients and consumers better understand their financial obligation for an episode of care, and as a strategy for healthcare providers to reflect their costs.

- **March 2010** - The Affordable Care Act, Section 2718 (e) required rulemaking on price transparency
- **January 1, 2019** - Medicare CY2019 rule required hospitals to publicly post their chargemaster

- **June 2019** - President Trump released his Executive Order requiring the posting of negotiated rates between providers and payors. The requirements for providers were released in a separate rule from those for the insurers, but both stakeholder groups strongly opposed the requirements, and both sought to block through litigation.
- **July 2019** - Medicare CY2020 OPPS proposed rule would expand the hospital charge data display requirements to include information on negotiated rates and “shoppable” items and services.
- **November 2019** - CMS publishes final OPPS on price transparency
- **December 4, 2019** - AHA, AAMC, Federal of American Hospitals, the Children’s Hospital Assn, and 3 health systems filed lawsuit to block the rule set to take effect on January 2, 2021
- **May 2020** - Despite pending litigation, CMS released its CY2021 proposed IPPS rule containing requirements to require hospitals to release pricing information for the next year, including private payor reimbursement rates. It requires hospitals to report on their cost reports the median payor-specific negotiated rates for inpatient services for Medicare Advantage and 3<sup>rd</sup> party payers. According to the rule this would be in effect for cost reporting periods ending January 2, 2021 or after.
- **June 2020** - Federal judge rejects the AHA/coalition lawsuit, upholding the price transparency rule
- **July 2020** – AHA urged federal appeals court to overturn HHS rule
- **October 2020** – Appeals court sides again with HHS, upholding the rule.
- **October 2020** – CMS releases the [Insurance Transparency Final Rule](#). The rule requires health plans to tell their customers upon request what they will owe in copays or co-insurance before they go to the hospital. Insurers would also have to publish these costs online or tell patients directly if asked, potentially enabling patients to shop to find the most affordable hospital or doctor.
- **January 2021** – New hospital rule went into effect
- **November 2021** – CMS released a [final rule](#) entitled, *Hospital Outpatient Prospective Payment and Ambulatory Surgical Center Payment Systems (OPPS, ASC) and Quality Reporting Programs (QRP); Price Transparency of Hospital Standard Charges; Radiation Oncology Model*. This final rule increases the Civil Monetary Penalties (CMP) for noncompliance with the price transparency requirements to:
  - a maximum daily dollar CMP amount of \$300 for hospitals with a number of beds equal to or less than 30;
  - a maximum daily dollar CMP amount calculated as number of beds times \$10 for hospitals with at least 31 beds up to and including 550 beds; and
  - a maximum daily dollar CMP amount of \$5,500 for hospitals with a number of beds greater than 550;