Iowa Department of
INSPECTIONS, APPEALS, & LICENSING

The Pulse
Hospital Education

April 2024

Attend May 1 lunch and learn on price transparency

The Department of Inspections, Appeals, and Licensing (DIAL) is hosting an educational presentation on hospital price transparency on May 1 at noon. At the event, Senior Advisor/Medical Officer Terri Postma, who is the policy lead for the hospital price transparency initiative at Centers for Medicare & Medicaid Services (CMS), will address enforcement regulations and updates that go into effect July 1, 2024.

Join us at the Zoom link below on Wednesday, May 1, 2024 from Noon to 1 p.m.

Join ZoomGov Meeting
Meeting ID: 161 942 5067
Password: 582950

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Please note that guests won't appear in the guest list.

Review the resources below before attending:

CMS hospital price transparency web page

CMS hospital price transparency enforcement activities and outcomes

CMS hospital price transparency tool (online validator)

CMS expects compliance with price transparency

Hospital price transparency enforcement updates

Centers for Medicare & Medicaid Services (CMS) is committed to ensuring that consumers have the information they need to make fully informed decisions regarding their health care. CMS expects hospitals to comply with hospital price transparency requirements and is enforcing these rules to ensure that people are easily able to learn what a hospital charges for items and services. This article discusses process updates CMS is making to increase compliance with the hospital price transparency requirements. CMS continues to explore additional ways to ensure that hospitals fully comply with the hospital price transparency requirements, including whether to propose additional changes through rulemaking.*

Hospital price transparency background and standard charges

- Gross charges (as found in hospital chargemasters, which is the list of all individual items and services maintained by a hospital for which the hospital has established a charge, absent any discounts);
- Discounted cash prices (the charge that applies to an individual who pays cash or cash equivalent for a hospital item or service); and
- Charges negotiated between the hospital and third-party payers.

Hospitals are required to make these standard charges public in two ways:

1. A single comprehensive machine-readable file with all standard charges established by the hospital for all the items and services it provides.
2. A consumer-friendly display of standard charges for as many of the 70 CMS-specified shoppable services that are provided by the hospital, and as many additional hospital-selected shoppable services as is necessary for a combined total of at least 300 shoppable services. This requirement can be satisfied through the release of a shoppable services file or by offering a price estimator that generates a personalized

out-of-pocket estimate that takes into account the individual's insurance information.

Comprehensive review process

CMS has three main avenues for monitoring and assessing hospitals' noncompliance:

1. Evaluating complaints made by the public;
2. CMS's review of individuals' or entities' analysis of noncompliance; and
3. Internal audits of hospitals' websites.

CMS prioritizes hospitals for comprehensive reviews based on the degree to which the hospital appears to be out of compliance with the hospital price transparency regulation. When initially evaluating complaints, if a hospital has alleged egregious violations, such as failure to publish any machine-readable file, that case is prioritized.

Under the current enforcement process, the case cycle consists first of a warning notice with instructions to correct the deficiencies within 90 days. If a hospital has not come into compliance after 90 days, CMS issues a corrective action plan (CAP) request with a 45-day deadline for hospitals to submit a CAP. Hospitals are then required to propose a completion date for CMS approval, which has ranged from 30 to 90 days on average. For hospitals that have not completed the necessary steps and come into compliance, CMS issues a civil monetary penalty (CMP). To date, the average time to complete a case cycle is 195 to 220 days.

Enforcement actions to date

CMS is leveraging automation to complete hospital reviews quickly, accurately, and consistently. By using automation to group complaints based on file types and hospital systems, CMS has increased the number of comprehensive reviews conducted from 30-40 per month to over 200 comprehensive reviews per month.

As of April 2023, CMS has issued more than 730 warning notices and 269 requests for CAPs. CMS has imposed CMPs on four hospitals for noncompliance, which are posted and made publicly available on the CMS website. Every other hospital that was reviewed through a comprehensive compliance review has corrected its deficiencies or is in the process of doing so, and CMS helps hospitals come into compliance by conducting extensive technical assistance with hospitals throughout the compliance process.

Updates to enforcement processes

As recently noted, CMS is engaged in continued efforts to ensure every hospital complies with the hospital price transparency requirements. As part of these efforts, CMS is

updating its enforcement process, with respect to areas that do not require rulemaking, with the following changes:

1. **Requiring CAP completion deadlines.** CMS will continue to require hospitals that are out of compliance with the hospital price transparency regulation to submit a CAP within 45 days from when CMS issues the CAP request. CMS will also now require hospitals to be in full compliance with the hospital price transparency regulation within 90 days from when CMS issues the CAP request, rather than allowing hospitals to propose a completion date for CMS approval which can vary. This change will standardize and streamline the timeframe and promote compliance at earlier dates.
2. **Imposing CMPs earlier and automatically**. Currently, CMS does not impose automatic CMPs for failure to submit a requested CAP or failure to come into compliance within 90 days from when a CAP request is issued. CMS will now automatically impose a CMP on hospitals that fail to submit a CAP at the end of the 45-day CAP submission deadline. Before imposing the CMP, CMS will re-review the hospital's files to determine whether any of the violations cited in the CAP request continue to exist and, if violations are found, impose a CMP. For hospitals that submit a CAP by the 45-day CAP submission deadline but fail to comply with the terms of that CAP by the end of the 90-day deadline, CMS will re-review the hospital's files to determine whether any of the violations cited in the CAP request continue to exist and, if so, impose an automatic CMP.
3. **Streamlining the compliance process.** For hospitals that have not made any attempt to satisfy the requirements (i.e., those that have not posted any machine-readable file or shoppable services list/price estimator tool), CMS will no longer issue a warning notice to the hospital and instead will immediately request that the hospital submit a CAP. Currently, CMS does not issue CAP requests without first issuing a warning notice.

These enforcement updates will shorten the average time by which hospitals must come into compliance with the hospital price transparency requirements after a deficiency is identified to no more than 180 days, or 90 days for cases with no warning notice, and will complement future efforts. CMS is continuing to engage interested parties, including patients, consumer advocates, researchers and other experts, as well as hospitals, to obtain their feedback on the most useful and meaningful ways to display hospital standard charge information and exploring how to further drive standardized reporting of price transparency information.

(*Source: CMS Quarterly 4, 2023)

Recent EMTALA deficiencies cited

Recently a hospital was cited for Emergency Medical Treatment & Labor Act (EMTALA) violations at C2400 policy, C2405 emergency department (ED) log, C2406 medical screening examination (MSE), C2407 stabilizing treatment, and C2409 appropriate transfer.

The EMTALA violations demonstrated a scenario where a patient arrived at the hospital's ED with a physician's order for outpatient laboratory (lab) testing to address their dialysis needs. Hospital staff placed the patient in an ED exam room, but registered the patient for outpatient testing only.

The lab results showed a critically high potassium level. The physician at the dialysis center who ordered the lab testing spoke with the hospital's ED physician regarding the abnormal results and requested immediate treatment of the patient's urgent condition. The hospital staff didn't register the patient in their ED log. The patient did not receive an MSE or stabilizing treatment.

According to the ED physician, the patient refused treatment at their hospital (Hospital A) and requested to go to a different hospital (Hospital B). The patient was not asked to sign any type of refusal for treatment, or to sign a form to indicate the patient understood the risks of not receiving treatment and chose to leave against medical advice (AMA). The ED physician reported being aware the patient left to go to another hospital via a taxi since the patient lived out of town. Actually, the patient took the taxi to the dialysis center, which is a half-hour away. The dialysis center assisted with getting the patient to the closest ED, which was located at Hospital B.

Hospital B provided an appropriate MSE, stabilizing treatment and transferred the patient to an acute care hospital. The acute care hospital admitted the patient for further treatment.

The hospital was cited for failure to maintain a complete emergency department (ED) log for all patients who presented to the ED seeking medical care, failure to provide an MSE, failure to provide stabilizing treatment for a patient with an emergency medical condition (EMC) and failure to provide an appropriate transfer of a patient with an EMC.

Iowa Department of Inspections, Appeals, & Licensing

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Click here to access the Health Facilities Database and the Iowa Direct Care Worker Registry.

Click here to access DIAL's main website.