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How the new price transparency rules are affecting stakeholders

Providers are moving toward acceptance; the rules are here to stay. Payers recognize that people need to know prices.

by **DEBORAH ABRAMS KAPLAN**

“I think the industry is starting to accept it because they realize the rules are here to stay.”



— CHRIS SEVERN, CEO OF
TURQUOISE HEALTH

Although the hospital price transparency final rule took effect in January, it will take time for it to get its sea legs, whether that means 100% hospital compliance, inspiring patients to use it for their own healthcare decisions or for hospitals to reevaluate their pricing based on their competition. Eventually, though, “I think it will open up the market and, hopefully, reduce the cost of healthcare,” says Sally Pipes, president of the Pacific Research Institute.

The rule requires hospitals and those meeting applicable licensing requirements to post standard charges and negotiated insurance rates for 300 “shoppable” services in a prominent place on a publicly available website. The format should be machine readable and contain plain language descriptions. Hospitals with existing price comparison tools can use those instead of creating all new files. Although the American Hospital Association sued, citing First Amendment issues, the federal courts have upheld the rule as constitutional.

The price transparency rule affects hospitals, payers and patients differently. But one thing is clear from gaining access to the numbers: Healthcare rates for the same services diverge wildly not only across the country but also sometimes in the same or similar

markets. An analysis of Crowe Revenue Cycle Analytics data of pricing for 100 common outpatient procedures (each listed at \$500-plus in gross charges) re-



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vealed a 297% average price differential between the lowest and highest gross charges per procedure. It also showed an average 236% differential nationally in allowable

expected payment.

A review of Atlantic Health System’s data for its New Jersey hospitals by *Managed Healthcare Executive*® showed large differentials. For example, here are some prices for cesarean section without sterilization, without major complication or comorbidity:

- Morristown Medical Center: \$24,927
- Overlook Medical Center: \$27,806
- Chilton Medical Center: \$38,013
- Newton Medical Center: \$66,091

Morristown Medical Center and Newton Medical Center are 37 miles apart, and the drive time between them is about 45 minutes.

Compliance

Determining whether hospitals are complying depends on what data and analysis you’re looking at. According to a Guidehouse analysis published in early February, 60% of providers pub-

lished a consumer-friendly file and 48% provided a machine-readable file, but about 30% of hospitals did not comply with either. Guidehouse noted that larger health systems and hospitals were more likely to comply. The problem, however, is that those using machine-readable files do not provide consistent formats and content, so it is harder for others to easily gain insights without transforming the data.

An article published in *Health Affairs* analyzed compliance of 100 hospitals from late January to early February. Of the 65 that were “unambiguously noncompliant,” 18% posted no files or links to searchable databases. The researchers also found that 82% of those hospitals didn’t include payer-specific negotiated rates with the payer/plan identified, or they were noncompliant in another way. Of the other 35 hospitals, 22 met or exceeded compliance requirements.

ADVI Health, a consulting firm, reviewed 20 of the largest hospitals, finding that they all posted at least some pricing information. However, they did not all include procedural codes, making cross-facility comparisons difficult.

Price comparison site Turquoise Health reviewed more than 6,000 hospital websites and awarded four or five stars to 2,000 hospitals for their compliance levels. Those levels included hospitals with a shoppable file or service tool including negotiated rates for cash and commercial plans (five stars), or those with a shoppable service tool/file but without a key element like codes, cash rates or key services the hospital offers (four stars).

When MHE looked at Atlantic Health System, its “shoppable services” document included 771 lab tests with procedure codes, and

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charges were broken down by payer and plan. However, the “standard listing of charges” showed procedure names (e.g., “CESAREAN SECTION W/O CC/MCC MS”) and list prices for up to 8,838 procedures per hospital, but no breakdown of negotiated rates or procedure codes.

Even if hospitals comply by providing the files, some are making it difficult to find them on a web search. *The Wall Street Journal* noted that hundreds of hospitals use “no indexing” coding that prevents search engines from finding and displaying their price transparency pages.

The government can fine hospitals up to \$300 a day for noncompliance. According to management consultant Guidehouse, some hospitals say they’re not complying because of lack of resources due to the pandemic or lack of compliance understanding, or they’re waiting to see what other hospitals do.

“If you hear a hospital saying it costs them hundreds of thousands of dollars, or COVID-19 was a barrier to complying with this, it’s untrue,” says Chris Severn, CEO of Turquoise Health. His company is offering the service for \$10,000 per hospital, and he says it has helped some hospitals comply within a few days. “We talked to a few large health systems that said it’s too difficult to comply. If that’s the case, it speaks to the underlying brokenness of their infra-

structure and revenue cycle.” CMS doesn’t expect perfection, he says.

Hospitals are accepting

Hospitals are not always used to providing rates for bundled services as a flat rate. “There’s a lot of math behind each service the patient gets at the hospital,” Severn notes. “The CMS rule forces hospitals and payers to quote rates like a case rate or flat rate” when those rates may be dependent on the amount of time the patient spends in the operating room or the type of device used.

Although hospitals may not like quoting list price and negotiated rates, “I think the industry is starting to accept it because they realize the rules are here to stay,” Severn says. If the prices are out of line with the market, or the value proposition isn’t there, it may make it tough for the hospital. “A one-star hospital with the most expensive orthopedic surgeon in town probably won’t be able to compete in the new managed care market,” he says.

Hospitals are curious to see how they compare in the market and how they drive volume to their facilities based on this rule. “Maybe you have the quality or clout in the market to demand these rates, maybe not. Maybe it’s an artifact of the old system,” Severn says. He recommends hospitals not wait until the next cycle to renegotiate rates.

Comparing apples to apples

can be difficult, whether individually looking up hospital rates or using price comparison sites. That's because CMS didn't specify what columns must be included, Severn says. "There's variance with some providing all-inclusive rates with professional fees and lab fees," he says. Rates may also vary based on location, like emergency room, inpatient or outpatient surgery. "For shoppable imaging, it's mostly apples to apples," he says.

Payers are adjusting

"Payers" can mean health plans, but it can also refer to individuals who pay for their own healthcare or employers with self-funded plans. Hospitals and insurance companies may not be excited about the price transparency rule, but Pipes says, "knowledge is a very important thing. The insurance companies need to realize that people want to know (prices)." Just as consumers know their mortgage rates when taking out a home loan, Pipes says, they want to know this information to make their healthcare decisions.

Revealing the price of care and the amounts different payers and hospitals negotiate for a service can change future negotiating strategies, says Nisha Kurani, senior policy analyst for the Program on the ACA at Kaiser Family Foundation. An insurer may see that another insurer has a higher negotiated rate and ask to adjust accordingly, she says: "It will be interesting to see how hospitals and insurers respond to the price information."

The current price transparency rule is only the tip of the iceberg for carriers, though. By Jan. 1, 2022, carriers must make standardized and updated data files available for research and healthcare innovation improvement projects. Broader

rules requiring disclosure of prices are scheduled to go into effect in 2023 and 2024, although in late April, the Biden administration CM-proposed canceling a requirement that would have made hospitals disclose the prices they negotiated with Medicare Advantage plans.

cost will be." It also may not include additional services the patient will receive on top of what they're shopping for. If they don't get estimated charges for related services, they may be surprised later at the additional costs. Plus, she says, the tools don't necessarily inform

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Whether the administration might attempt to pull back or modify other price disclosure requirements is unclear.

Consumers are learning

Consumers seem largely unaware of the price transparency rule, and price is not the only factor people consider when choosing a provider. "Uptake has been really low," Kurani says. Patients may be able to use the tool only for services they can shop for in advance, which eliminates the usefulness of the figures for many emergency services.

The price tools also may not give the patient the full financial picture. "There are so many different aspects that go into the price of care," Kurani says, including provider and hospital fees, and insurance co-pays and deductibles. "The rule requires hospitals to publish the payer-negotiated rates for a given service, but that doesn't necessarily tell the patient what their out-of-pocket

patients if their providers are in or out of network.

The disclosed hospital data includes primarily facility fees and negotiated rates for those fees, Severn says. "The facility fees are the lion's share of what patients will owe," he says, though the professional services component is often missing for most services. Therefore the negotiated price on the files should represent the minimum the patient will pay for a service, and they can at least use that as a guide.

Severn says he knows patients are using Turquoise Health's price comparison software, as he sees website traffic spikes when the company gets press, and patients email questions, asking why their provider or a specific service isn't listed. "That signals to us that patients are using this," he says. ■

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