



## The new price transparency rule: Are you ready?

January 31, 2020

On November 27, 2019, the Centers for Medicare and Medicaid Services (CMS) published its [final rule](#) outlining new price transparency requirements as part of the 2020 update to the Outpatient Prospective Payment System. These hotly debated changes, which require hospitals to reveal, among other things, the prices they have negotiated with private insurers, become effective January 1, 2021.

The basic mandate is that all hospitals must make public a yearly list of their standard charges for items and services provided by the hospital.

### What are considered “standard charges”?

The term “standard charges” encompasses a broad spectrum of charges, including gross charges, discounted cash prices, payer-specific negotiated charges, and de-identified minimum and maximum negotiated charges. The price transparency final rule requires hospitals to publicly disclose all categories of standard charges.

### What items and services are covered by the price transparency requirements?

The requirements cover all items and services that could be provided by a hospital to a patient in connection with an inpatient admission or an outpatient department visit for which the hospital has established a standard charge. This includes supplies, room and board costs, facility fees, and services of employed physicians and other practitioners.

### How must hospitals make this information public?

Hospitals are required to make the standard charge information public in *two* different ways. First, the hospital must create an

easily accessible, comprehensive, machine-readable file that contains all five types of standard charges for all of the items and services provided by the hospital. Second, the hospital must create a consumer-friendly list of standard charges for a limited set of 300 “shoppable services,” which are services that a health care consumer can schedule in advance, such as colonoscopies or office visits. These 300 services must include 70 services that are specified by CMS and another 230 that are selected by the hospital. The “shoppable services” obligation can be satisfied if a hospital maintains an internet-based price estimator tool that meets certain CMS requirements.

**What happens if hospitals don't comply?**

Failure to comply with the requirements can result in a civil monetary penalty of \$300 per day, in addition to publication of the penalty on the CMS website.

**What challenges has the price transparency rule faced?**

A group of hospital organizations led by the American Hospital Association (AHA) sued the Department of Health and Human Services (HHS) in late 2019, stating that HHS lacks the authority to require the hospitals to publicly disclose prices negotiated with private insurers. Given that the new requirements are slated to go into effect in less than one year, the AHA has requested an expedited decision in the case. If the AHA's lawsuit is successful, changes to the requirements of the price transparency rule are possible.

