

## Compliance Today – December 2021

# Compliance with the hospital price transparency law almost a year in: Where are we now?

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The Centers for Medicare & Medicaid Services (CMS) hospital price transparency rule<sup>[1]</sup> (the rule) has been in effect since January 1, 2021. CMS did not grant any extensions for hospitals to comply with the rule despite the ongoing pandemic. Perhaps as a result, compliance has reportedly been spotty, though CMS has yet to issue a detailed report on nationwide progress or penalties.

Price transparency in general is not a brand-new concept, and for years, consumers have expressed significant frustration over the mysterious world of healthcare costs and pricing. The Patient Protection and Affordable Care Act required each hospital to “make public (in accordance with guidelines developed by the Secretary) a list of the hospital’s standard charges for items and services provided by the hospital.”<sup>[2]</sup> Hospitals could, until January 1, satisfy this statutory requirement by publishing their chargemaster, which contains what most people would, prior to CMS’s publication of the proposed version of the rule, likely have thought of as what a hospital *charges* for items and services. This information is of little value to consumers, as hospital charges do not shed much, if any, light on what prices hospitals actually charge patients or health plans. The Trump administration sought to provide further transparency through the implementation of the rule, though industry critics argue that the rule still does not truly accomplish this goal and merely creates yet another unfunded mandate with which hospitals will struggle to comply.

Briefly recapping, the rule requires hospitals (with some exceptions, such as federally owned hospitals like those operated by the U.S. Department of Veterans Affairs or the Indian Health Service) to publicize two types of informational files:<sup>[3]</sup>

1. **Comprehensive machine-readable file:** In this file, hospitals are required to make public all hospital standard charges—including the gross charges, payer-specific negotiated charges, the amount the hospital is willing to accept in cash from a patient, and the deidentified minimum and maximum negotiated charges—for all items and services on their website. The file must include additional information such as common billing or accounting codes used by the hospital, such as Healthcare Common Procedure Coding System codes, and a description of the item or service to provide common elements for consumers to compare standard charges from hospital to hospital.
2. **Shoppable services in a consumer-friendly manner:** In this file, hospitals are required to post payer-specific negotiated charges, the amount the hospital is willing to accept in cash from a patient for an item or service, and the minimum and maximum negotiated charges for 300 common shoppable services in a

consumer-friendly manner and update the information at least annually.

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