



REACHING COMPLIANCE: THE CMS PRICE TRANSPARENCY RULE

INSIGHTS FROM THE BDO CENTER FOR HEALTHCARE EXCELLENCE & INNOVATION

As we head into 2021, healthcare providers must confront the new CMS rule on price transparency. This rule, while intended to help consumers better compare prices across providers, will require significant resources for healthcare organizations to reach compliance at a time when COVID-19 is already straining the system.

Despite the challenges, the rule also presents providers with an opportunity to differentiate themselves from competitors and capture more market share. Before providers can capitalize on strategic advantages, it's crucial to understand what's required.

UNDERSTANDING THE RULE

Background

Price transparency has been a topic of debate for decades. With the passage of the Affordable Care Act, price transparency took its first step forward, with hospitals required to post list prices for all services provided. The current iteration of the CMS rule originated from President Trump's [Executive Order on Improving Price and Quality Transparency in American Healthcare to Put Patients First](#), issued on June 24, 2019.

Requirements

The CMS rule applies to most licensed hospitals, which must fulfill the following requirements:

- ▶ Providers must be compliant with the CMS rule by January 1, 2021
- ▶ Providers must release all privately negotiated reimbursement rates
- ▶ The charges must be published in two formats:
 1. A machine-readable file that includes all standard charges for all items and services by physician and non-physician practitioners employed by the hospital
 2. A "consumer-friendly" display of all standard charges, except gross charges, for at least 300 "shoppable" services
 - 70 of these shoppable services will be determined by CMS
 - 230 of these shoppable services will be determined by the provider
- ▶ Providers must disclose five types of "standard charges":
 1. Gross charges
 2. Payer-specific negotiated charges
 3. Discounted cash prices
 4. De-identified minimum negotiated charges
 5. De-identified maximum negotiated charges



Exemptions

Hospitals that have a price estimator tool may be exempt from the requirement to publish a consumer-friendly list of shoppable services.

Penalty

The maximum fine for noncompliance is \$300 per day. Additionally, [noncompliant entities could lose their Medicare accreditation](#)—this may prove to be a much stronger deterrent for noncompliance than a fine.

RESPONSE TO THE RULE

The American Hospital Association (AHA) filed a suit challenging the rule on the basis that the Department of Health and Human Services (HHS) does not have the authority to implement it. Although the rule was upheld in the U.S. District Court for the District of Columbia, the AHA has already filed an appeal.

Providers and health systems have levied a number of criticisms against the rule. First, providers believe that the negotiated prices are proprietary information in the industry—the government mandating their reveal could have negative implications beyond the healthcare industry. Second, past studies have demonstrated that consumers rarely access pricing information to choose their provider or services, even when it is readily available. Third, the rule could complicate payer-provider relationships and managed care contracts, which provide financial stability and increased revenue for providers. Finally, providers claim that compliance with the rule is overly burdensome given the strain many health systems and hospitals are already feeling due to COVID-19.

It is unlikely that the result of the appeal will be revealed prior to the January deadline. It is similarly unlikely that there will be a delay in implementation of the rule—although the AHA has asked for a delay, the slow transition process to a new presidential administration and the necessity of prioritizing a pandemic response mean the issue is unlikely to receive attention in the near future.

As such, it is prudent for providers to assume the ruling will remain in place in its current iteration and begin preparing for compliance immediately.

COMPLIANCE AND BEYOND

Complying with the rule will take significant time, energy and resources. For providers, it may be prudent to seek help from an external firm that specializes in the healthcare industry and technology. Providers can leverage their expertise and access to resources to reach compliance as efficiently as possible.

Providers can go beyond compliance with the rule to differentiate themselves from their competitors by creating a holistic digital shopping experience for their consumers. By taking lessons from industries like retail, banking and hospitality, providers can design an experience that improves patient satisfaction, leading to increases in HCAHPS scores and STAR ratings. Creating a platform that provides consumers with clear and useful information will keep them coming back and build consumer loyalty.

Complying with the CMS rule will be a difficult lift for providers, especially in the COVID-19 context. However, there are opportunities to leverage this rule to improve the patient experience and capture more market share. Providers should consider their wider goals beyond price transparency compliance before choosing how to design their online experience in order to optimize the ROI of their tool.

BDO CAN HELP

BDO is partnering with ARXchange to convert price transparency into a strategic asset and competitive advantage. BDO and ARXchange's tool not only helps providers reach compliance, but also assists in designing a personalized pricing & finance experience for consumers.

Need help creating a tool that leverages price transparency to the fullest? Reach out for details on how BDO can help.

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