



HOSPITALS AND HEALTH SYSTEMS

GENERAL COUNSEL'S CORNER

CMS WILL FINALIZE HEIGHTENED PENALTIES, ADDITIONAL REQUIREMENTS UNDER HOSPITAL PRICE TRANSPARENCY RULE

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On November 2, 2021, the Centers for Medicare and Medicaid Services (CMS) announced that it will implement increased penalties for hospitals that do not comply with the Hospital Price Transparency Rule, effective January 1, 2022. CMS will also finalize several additional requirements for hospitals, including a requirement that hospitals ensure standard charge information is accessible to automated searches and direct downloads.

- CMS will implement a sliding penalty scale based on the hospital's number of beds. Hospitals with 30 or fewer beds will face a maximum daily penalty of \$300, while hospitals with between 31 and 550 beds will face a maximum daily penalty of \$10 per bed. Hospitals with more than 550 beds will face a maximum daily penalty of \$5,500.
- CMS will also require hospitals to ensure that their standard charge information is easily accessible, without barriers, including but not limited to ensuring that the information is accessible to automated searches and direct file downloads through a link posted on a publicly available website. This requirement will prohibit a single hospital from using multiple machine-readable files, using "blocking codes" or CAPTCHA, or requiring users to agree to terms and conditions or submit other information prior to access.
- CMS also clarified that price estimator tools must allow healthcare consumers, at the time they use the tool, to obtain an estimate of the amount they will be obligated to pay the hospital for a shoppable service. Such estimator tools must be "tailored to individuals' circumstances (whether an individual is paying out of pocket or using insurance) and provide real-time individualized out of pocket estimates that combine hospital standard charge information with the individual's benefit information . . . or provide the self-pay amount." The estimated amount must be "personalized" and reflect a single out-of-pocket dollar amount. An estimated range, by itself, would not meet the regulation's requirements.

For more information on these proposed changes, [click here](#).

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