

A progress check on hospital price transparency

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For decades, U.S. hospitals have generally stonewalled patients who wanted to know ahead of time how much their care would cost. Now that's changing—but there's a vigorous debate over what hospitals are

disclosing.

Under a federal rule in effect since 2021, hospitals nationwide have been laboring to post a mountain of data online that spells out their prices for every service, drug, and item they provide, including the actual prices they've negotiated with insurers and the amounts that cash-paying patients would be charged. They've done so begrudgingly and only after losing a lawsuit that challenged the federal rule.

How well they're doing depends on whom you ask.

The rule aims to pull back the curtain on opaque [hospital](#) prices that may vary widely by hospital for the same service or even within the same hospital. The expectation is that price transparency will boost competition, giving consumers and employers a way to compare prices and make informed choices, ultimately driving down the cost of care. Whether that will happen is not yet clear.

Insurers and large employers are also required to post their negotiated prices with all their providers, under separate rules that took effect last summer.

Hospitals have made "[substantial progress](#)," according to an analysis by the federal Centers for Medicare & Medicaid Services of 600 randomly selected hospitals that was published in the journal *Health Affairs* last month. The agency looked at whether hospitals had met their obligation to post price information online in two key formats: a "shoppable" list of at least 300 services for consumers, and a comprehensive machine-readable file that incorporates all the services for which the hospital has standard charges. This file should be in a format that allows researchers, regulators, and others to analyze the data.

CMS found that 70% of hospitals published both lists in 2022. An

additional 12% published one or the other. By contrast, the agency's previous progress assessment in 2021 found that just 27% of 235 hospitals had both types of lists.

The 2022 analysis "represents a marked improvement," said Dr. Meena Seshamani, deputy administrator and director of the Center for Medicare at CMS, in a statement. But she also said the advances are still "not sufficient" and CMS will continue to use "technical assistance and enforcement activity" so that all hospitals "fully comply with the law."

The American Hospital Association said the CMS assessment demonstrated the progress hospitals had made under very challenging circumstances as they grappled with the COVID-19 pandemic.

"These are complicated policies that went into effect in the most complicated time in hospitals' history," said Molly Smith, group vice president for policy at the trade association. "And we have seen increases in compliance over the past 18 months."

Some groups that have looked at the hospitals' posted price data, though, were less upbeat. In an analysis published last month, Patient Rights Advocate examined 2,000 hospitals' listings and found that only 489 of them, 24.5% of the total, were compliant with all the requirements of the rule. An earlier analysis in August 2022 found that 16% met all the requirements.

The advocacy group's analysis covered not only the two types of lists that CMS looked for but also checked whether the hospitals included required data on specific types of standard charges for every service offered, such as the gross or "chargemaster" charge before any discounts are applied, the discounted cash price, and the negotiated charge by insurer.

Although most hospitals have published files online, too often the data is incomplete, illegible, or not clearly associated with specific health plans or insurers, said Cynthia Fisher, founder and chair of Patient Rights Advocate, which promotes health care price transparency.

"As hospitals continue to post incomplete files with swaths of missing prices, patients are unable to accurately compare prices across hospitals and across plans to make the best health care decisions and protect themselves from overcharges," Fisher said. Such hospitals were considered noncompliant in the PRA analysis.

The hospital association faulted PRA's analysis. The contracts that hospitals have with [health plans](#) vary substantially from one to the next, and prices are not always based on a simple dollar amount, said Terry Cunningham, AHA's director of policy. They might be based on a bundle of services or on volume, for example, he said.

"It's both frustrating and problematic for these other organizations to be weighing in, saying, 'This cell shouldn't be blank,'" Cunningham said.

In their 2020 lawsuit, hospitals argued that they should not be required to disclose privately negotiated prices, and maintained that doing so would confuse patients and lead to anti-competitive behavior by insurers.

Last summer, price transparency requirements took effect in the health insurance industry as well, complementing and providing a cross-reference tool for what hospitals have posted. The insurer transparency requirements are even broader than those for hospitals: Insurers and self-funded employers must list every negotiated rate they have with every doctor, hospital, and other [health](#) care providers.

Some critics charge that data isn't user-friendly either. Sens. Maggie Hassan, D-N.H., and Mike Braun, R-Ind., sent a letter March 6 to CMS

Administrator Chiquita Brooks-LaSure encouraging the agency to take steps to close "technical loopholes" such as large files and a lack of standardization that make it difficult to use the data they're reporting.

That's where pricing platforms like Turquoise Health come in. The data becoming available from hospitals and insurers is a vast treasure trove the company is mining to devise user-friendly tools that consumers and businesses can use to discover and compare prices.

In its own analysis of how effective hospital price transparency efforts were in 2022's third quarter, Turquoise Health found that 55% of the more than 4,900 acute care hospitals that posted machine-readable files were "complete," meaning they posted the cash, list, and negotiated rates for a "significant quantity" of items and services. Twenty-four percent of hospitals were judged to be "mostly complete." (The analysis didn't evaluate the second type of posting, the list of shoppable services.)

According to Chris Severn, Turquoise Health co-founder and CEO, the company uses a scoring algorithm of 60 variables to assess how complete a hospital's file is.

"What you end up with is a more nuanced look at these files that hopefully takes into consideration shades of gray," Severn said, rather than a simple pass-fail rating.

Regardless of the differences in how the hospital disclosures are evaluated, experts generally agree that CMS should require data be reported in a standardized format for ease of comparison and enforcement. CMS has developed a template, but hospitals aren't required to use it.

For [price transparency](#) to work, enforcement also needs consistent attention, experts say. The Biden administration increased the maximum

potential penalty to more than \$2 million annually per hospital for 2022. Still, last year CMS penalized just two hospitals for noncompliance even though 30% of hospitals didn't meet the requirement to post both a machine-readable file of [prices](#) as well as a shoppable list.

CMS provided technical assistance to many hospitals to help them come into compliance, said Seshamani, and it also plans stronger enforcement actions.

She said the agency will "continue to expedite" the time frame hospitals have to reach full compliance after submitting a corrective action plan, which indicates they have fallen short on some posting requirements. "CMS also plans to take aggressive additional steps to identify and prioritize action against hospitals that have failed entirely to post files," she said.

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