CMS Issues New Rules for Inpatient Hospital Payment System

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On August 17, 2018, the Centers for Medicare and Medicaid Services (CMS) published its final rule for the Hospital Inpatient Prospective Payment System (IPPS) for fiscal year 2019.[1] The final rule revises certain aspects of the Hospital IPPS and adds new requirements for hospitals that participate in the Medicare program. Among the new requirements that are effective January 1, 2019, hospitals must make a list of their current standard charges available on the internet in a machine readable format and update this information at least annually.[2] CMS stated that it views the new rule as an extension of its current guidance designed to promote public accessibility of charge information.

The rule implements Section 2718(e) of the Public Health Service Act which was enacted as part of the Affordable Care Act and requires that hospitals operating in the United States, for each year, establish, update, and make public a list of the hospital's standard charges for items and services provided by the hospital. In order to comply with Section 2718(e), CMS issued guidelines instructing hospitals that they must make their list of standard charges, or their policies for allowing the public to view their list of charges in response to an inquiry, available to the public. Despite hospital compliance with the guidelines, CMS remained concerned that patients faced challenges in determining the price of health care items and services. One of CMS's cited concerns was so-called "surprise billing" which can occur when a patient receives an out-of-network bill from a provider practicing at an in-network hospital or when a patient receives a bill with unexpected facility fees.

One way hospitals are already complying with the rule is by posting their chargemaster rates on their websites. During the proposed rule's comment period, several commenters stated that chargemaster information, without context, would be more confusing to patients since chargemaster rates do not reflect a patient's out-of-pocket costs because most charges are negotiated down through insurance contracts or otherwise decreased prior to billing the patient. CMS disagreed that the chargemaster was not helpful to patients and encourages, but does not require, hospitals to provide the context necessary to make the information understandable to the patient.

Several other commenters explained that commercial payors would be a better source of pricing information and should, therefore, be the primary source of information. CMS rejected this suggestion, recommending instead that hospitals and payors work together to provide pricing information to patients. Other commenters indicated that their state legislatures had passed price transparency laws and that complying with state and federal laws that may contain different requirements would increase hospitals' costs and administrative burden. CMS responded that they believe that the final rule may coexist with state transparency laws. Commenters also raised concerns that if patients are informed of the cost of care in advance, they may forgo necessary care. Rejecting this notion, CMS reiterated the need for context of the pricing in the list so that patients may understand the likely cost of their care.

1 83 Fed. Reg. 20164.
2 83 Fed. Reg. 41686.

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