Wynne Health Group

Memorandum

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HOSPITAL PRICE TRANSPARENCY PROPOSALS IN THE CY 2020 HOSPITAL OPPS PROPOSED RULE

INTRODUCTION

This memorandum provides an overview of the proposed price transparency requirements included in the Calendar Year (CY) 2020 hospital outpatient prospective payment system (OPPS) proposed rule. Pursuant to a recent Executive Order, the Centers for Medicare & Medicaid Services (CMS) used the rule as a vehicle to advance regulatory changes designed to drive down hospital costs by making price information publicly available and accessible for consumers. In short, if the rule is finalized as proposed, hospitals will be required to provide payer-specific negotiated cost data for all items and services through two separate but related transparency requirements. Details follow.

BACKGROUND

In the fiscal year (FY) 2019 inpatient prospective payment system (IPPS) final rule, CMS updated guidelines prompting hospitals to comply with previously unenforced requirements that they make publicly available a list of their current "standard charges" for *all* "items and services" (i.e. chargemaster data) via the Internet in a machine-readable format and to update this information at least annually.[1] This requirement went into effect on January 1, 2019.

Prompted both by the President's Executive Order on Improving Price and Quality Transparency[2] and by stakeholder feedback calling for more useful, consumer-friendly cost information, CMS seeks in the CY 2020 OPPS proposed rule to move forward this transparency effort by expanding the prior requirements for hospitals to publicly post price information.

There are two distinct and newly defined proposed requirements in the CY 2020 OPPS proposed rule:

1) Existing hospital charge display requirements for all items and services must now encompass charges and information based on payer-specific negotiated rates; and
2) For up to 300 self-selected common "shoppable" items and services, hospitals must display payer-specific negotiated charges in a manner that is consumer-friendly and that includes costs for associated ancillary items and services that the hospital provides with the shoppable service.[3]

[1] See Sec. X. of the final rule here: https://www.federalregister.gov/documents/2018/08/17/2018-16766/medicare-program-hospital-inpatient-prospective-payment-systems-for-acute-care-hospitals-and-the
[2] https://www.whitehouse.gov/presidential-actions/executive-order-improving-price-quality-transparency-american-healthcare-put-patients-first/
[3] See Sec. XVI. of the proposed rule here: https://s3.amazonaws.com/public-inspection.federalregister.gov/2019-16107.pdf

DEFINITIONS

The following newly proposed definitions are key to understanding the price disclosure requirements that follow in the next sections:

"Hospital" – CMS proposes to broadly define a "hospital" as an institution in any State or territory that (1) is licensed as a hospital pursuant to State or applicable local law, or (2) is approved, by the agency of such State or locality responsible for licensing hospitals, as meeting the standards established for such licensing. Institutions that meet this definition include critical access hospitals, inpatient psychiatric facilities, sole community hospitals, and inpatient rehabilitation facilities. CMS notes that the proposed definition of hospital excludes ambulatory surgical centers (ASCs) or other non-hospital sites of care, such as those that provide ambulatory surgical services or laboratory/imaging services.[4]

"Standard Charge" – CMS proposes to refine the definition of "standard charge" such that hospitals will be required to post both "gross charges" and "payer-specific negotiated charges." A "gross charge" is proposed to mean "the charge for an individual item or service that is reflected on a hospital's chargemaster, absent any discounts," and a "payer-specific negotiated charge" to mean "the charge that the hospital has negotiated with a third-party payer for an item or service."[5]

"Items and Services" – CMS proposes to define "items and services" furnished by hospitals as "all items and services, including individual items and services and service packages, that could be provided by a hospital to a patient in connection with an inpatient admission or an outpatient department visit for which the hospital has established a standard charge." CMS cites examples including but not limited to "supplies, procedures, room and board, use of the facility and other items (generally described as facility fees), services of employed physicians and non-physician practitioners (generally reflected as professional charges), and any other items or services for which the hospital has established a charge." CMS notes further that the proposed definition includes both individual items and services as well as "service packages," defined as "an aggregation of individual items and services into a single service with a single charge." [6]

PROPOSED REQUIREMENTS FOR PUBLIC DISCLOSURE OF ALL HOSPITAL STANDARD CHARGES FOR ALL ITEMS AND SERVICES

In the pending rule, CMS is newly proposing that hospitals make public their standard charges in two ways: (1) a comprehensive machine-readable file that makes public all standard charge information for all hospital items and services; and (2) a consumer-friendly display of common "shoppable" services derived from the machine-readable file. Given the proposed revision to the definition of "standard charges" to now include

[4] See p. 581 of the public inspection copy of the proposed rule here: https://s3.amazonaws.com/public-inspection.federalregister.gov/2019-16107.pdf
[5] See p. 591 of the public inspection copy of the proposed rule here: https://s3.amazonaws.com/public-inspection.federalregister.gov/2019-16107.pdf
[6] See p. 586 of the public inspection copy of the proposed rule here: https://s3.amazonaws.com/public-inspection.federalregister.gov/2019-16107.pdf

negotiated rates, CMS outlines in the proposed rule how hospitals can comply with posting the newly expanded chargemaster information, including specified data content, file format, and public accessibility.

Data elements: CMS proposes the following standardized data elements to ensure uniformity and meaningful use by consumers. Hospitals must publish a list that contains: a description of each item or service; the corresponding gross charge; the corresponding payer-specific negotiated charge; the accounting or billing code (e.g. CPT, HCPCS, DRG, NDC codes etc.); and revenue code, as applicable. In keeping with previous requirements, these would need to be updated once annually.

File format: This information should be posted in a single digital file that is machine-readable (.XML, JSON, .CSV), though CMS is accepting comment on whether to limit this to a single .XML format. Additionally, CMS seeks comment on file naming convention and the potential use of openly published application programming interface (API) technology to enable public access to real-time updates to such charge information (rather than once-annually updated data).

Location: CMS proposes that hospitals would have discretion to choose the Internet location of files containing standard charges, "so long as the file is displayed on a publicly-available webpage, it is displayed prominently and clearly identifies the hospital location with which the standard charges information is associated, and the standard charge data are easily accessible, without barriers, and the data can be digitally searched." The agency is seeking comment on an alternative proposal that would require hospitals to link their standard charge files to a CMS-specified central website. [7]

PROPOSED REQUIREMENTS FOR CONSUMER-FRIENDLY DISPLAY OF THE PAYER-SPECIFIC NEGOTIATED CHARGES FOR SELECTED SHOPPABLE SERVICES

Recognizing that the online chargemaster information may not be immediately or directly useful for many health care consumers, CMS additionally proposes to require hospitals to make negotiated charges for at least 300 "shoppable services" publicly available in a consumer-friendly format (i.e., in plain language). CMS defines a "shoppable services" to mean a service package that is typically routine and non-urgent and can be scheduled by a health care consumer in advance.

The agency explains that information is considered consumer friendly if "the shoppable service charge is displayed along with charges for ancillary services the hospital customarily provides with the primary shoppable service, and that the consumer can easily search for and find charges for the shoppable services based on the service description, by the code associated with the shoppable service, or by payer."[8]

An "ancillary service" is defined as "an item or service a hospital customarily provides as part of or in conjunction with a shoppable primary service." CMS states they may include laboratory, radiology, drugs,

[7] See p. 617 of the public inspection copy of the proposed rule here: https://s3.amazonaws.com/public-inspection.federalregister.gov/2019-16107.pdf
[8] See p. 621 of the public inspection copy of the proposed rule here: https://s3.amazonaws.com/public-inspection.federalregister.gov/2019-16107.pdf

delivery room, operating room, therapy services, hospital fees, room and board charges, and charges for employed professional services.

In the proposed rule, CMS provides a list of 70-specified examples of such shoppable services (see Table 37 on pp. 627-629). Hospitals must list as many of these 70 specified services as they are able, as well as at least 230 additional self-identified services to reach a total of at least 300. The examples provided by CMS in Table 37 include common services in the categories of Evaluation & Management, Laboratory & Pathology, Radiology, and Medicine & Surgery.

Data elements: CMS proposes that hospitals must publish: a plain-language description of each shoppable service; the corresponding payer-specific negotiated charge; a list of all the associated ancillary items and services that the hospital provides with the shoppable service, including the payer-specific negotiated charge for each; the name of the location at which each shoppable services is provided by the hospital, identifying whether it is an inpatient or outpatient setting; and the accounting or billing code (e.g. CPT, HCPCS, DRG, codes etc.). This data would need to be updated once annually.

File format: Unlike the proposal for the machine-readable list of standard charges, CMS is not proposing to require that hospitals make available payer-specific charge data for shoppable services in a single digital file posted online. The proposal allows hospitals flexibility on how best to display this data, "so long as the website is easily accessible to the public." This is intended to allow hospitals flexibility to integrate such data into existing price estimate tools. However, the use of an API is again considered and posed for comment.

Location: Again, CMS proposes that hospitals would have discretion to choose the Internet location of files containing shoppable service charges; however, an additional proposal requires that hospitals make available a paper copy (brochure, booklet) of the information to consumers upon request, in recognition that not all consumers have access to the internet.

CONCLUSION

Overall, CMS estimates that these requirements will impose a "minimal" total annual burden for hospitals. To review and make public all gross and payer-specific negotiated charges for all items and services in a machine-readable format, and payer-specific negotiated charges for at least 300 shoppable services in a consumer-friendly format, CMS estimates each hospital will spend 12 hours at a cost of $1,017.24, or a total cost of $6,105,474 across all 6,002 impacted U.S. hospitals. Public comments on the CY 2020 hospital OPPS proposed rule are due by September 27, 2019.