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# Report on Medicare Compliance Volume 28, Number 42. November 25, 2019
# Hospitals May Consider Defying Price Transparency Rule in Light of Compliance Challenges

By Nina Youngstrom

In the compliance world, it's anathema to contemplate intentionally not complying with a regulation, but attorneys say that's something hospitals might be considering with the new hospital price transparency requirements,[1] which CMS finalized Nov. 15, at least while hospital associations challenge them in court. The regulation requires hospitals to post a lot of information about charges, payer-specific and otherwise, and because it will be expensive to comply with and in some cases impossible, the $300-a-day civil monetary penalty for noncompliance may be an acceptable loss, they speculate. But hospitals have to carefully weigh the pros and cons, because there are risks to noncompliance besides the fines.

The regulation, Price Transparency Requirements for Hospitals to Make Standard Charges Public, has some noteworthy changes from the proposal.[2] When it takes effect Jan. 1, 2021, hospitals have to reveal to the world five sets of charges for all items and services: gross charges, payer-specific negotiated charges, the discounted cash price, and the minimum and maximum payment amount they accept from payers for every item and service without identifying the payers. They also will have to post a "shoppable" list of 300 payer-specific negotiated charges for common services in a consumer-friendly way, or they can develop an internet-based price estimator tool for patients to ballpark their cost.

"We believe there's a direct connection between transparency in hospital standard charge information and having more affordable healthcare and lower healthcare coverage costs," CMS said. The regulation applies to all hospitals, whether or not they're enrolled in Medicare, including general acute-care hospitals, critical access hospitals (CAHs) and inpatient psychiatric hospitals—6,002 of them.

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