**WHITE PAPER**

# HOSPITAL CHARGE TRANSPARENCY

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## Moving Along the Transparency Continuum – Hospitals to Publish Charges

In August 2018, CMS published the final rule concerning a requirement for hospitals to make their charges public information. This is not a new requirement, but rather a reminder that hospitals must comply with section 2718(e) of the Public Health Service Act. As part of this Act, hospitals were asked to provide their charges in response to public inquiries. The recently published rule includes additional language concerning how the data should be provided externally – "require hospitals to make available a list of their current standard charges via the Internet in a machine readable format and to update this information at least annually, or more often as appropriate."

The impetus for this additional guidance is two-fold—President Trump's desire for greater price transparency and public outcry over large patient healthcare liability (often due to out-of-network services). The following provides an overview of the final rule in relation to publishing billed charges, including considerations around releasing this information and how this data may be used in the market.

### *Billed Charge Overview*

Billed charges or hospital chargemasters represent the starting point from which contractual negotiation begins. Individuals, who seek medical services that (a) do not have any insurance, (b) do not qualify for any discounted programs or (c) seek care from an out-of-network provider, may pay the billed charge rate. Hospitals set these rates annually or more frequently throughout the year. They typically have some flexibility in their charge increases and keep this information relatively confidential.

Hospital charges can vary considerably by facility and type of service, even among facilities with close proximity and similarity in services provided. Hospitals may set their billed charges at a very high or low level because of the way their payer contracts are structured. Billed charge strategy may play a significant role in

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revenue targets and contracting approaches; therefore, providers who set their billed levels strategically may be the most impacted once the data is made readily available.

Payers negotiate with providers to establish allowed charges which can be translated into some percentage off of billed charges. These contracted rates may be considerably lower than the billed charge. It is important to note that the relativity of billed charges by facility does not translate into contracted rate relativity. In other words, a facility could have the highest billed charge for a particular service but the lowest contracted rate with a certain payer. The CMS rule only addresses the call for ***billed charge*** transparency.

For insured consumers, their liability is less as their portion of the cost is based on the contracted amount. For this reason, the CMS rule provides minimal value in the short-term for covered consumers, which CMS acknowledges. However, it represents a step forward along the price transparency continuum and acts as a sign of things yet to come.

## *Key Aspects of Billed Charge Publication Rule*

- Effective January 1, 2019
- Hospitals to publish annually, or more frequently as needed
- Must be in a "machine readable format" made available through the Internet
- Charges are to be supplied "for items and services provided by the hospital, including diagnosis-related groups"
- Regulations concerning enforcement to be published in the future

## *Concerns with Transparency Rule*

The public had the opportunity to review and submit questions/comments concerning this rule before it was finalized. Their comments provide insight into various viewpoints of impacted stakeholders.

Several respondents did not believe the information would be useful or relevant from a consumer standpoint for the reason outlined above—namely, insured individuals whose liability is not based on a starting billed charge. Respondents pointed out that consumers would be better educated if the payers provided the contracted rates rather than the hospitals providing billed charges.

Several commenters indicated other tools are already available in the marketplace that contain more applicable information. Others indicated that releasing this information publicly would be harmful as it represents proprietary and confidential information.

Some comments included acknowledgement of increased hospital administrative burden, market inconsistency in financial field definitions, lack of quality measures and the risk that consumers forego care due to the high published rates.

In the final rule, CMS addressed each of the above concerns and moved forward with the requirements as outlined herein.

## *Potential Data Uses*

Published billed charges will provide consumers with some level of price transparency. Non-covered individuals and covered members seeking out-of-network care will benefit from this information, assuming they know what type of service is needed.

Based on a recent study by the Kaiser Family Foundation, approximately 18% of insured inpatient admissions resulted in at least some portion of the cost with an out-of-network provider for large employer plans. The study found that an admission that begins in the

emergency room is a key driver for the high percentage. This reported level of out-of-network utilization indicates a definite need for transparency.

Once made available, hospitals will likely use the data to compare their charges to similar-type facilities in the same geographic region. This comparison could be challenging for services other than diagnosis-related groups (DRGs) as the basis for reporting is not standardized.

Charge transparency could impact the reinsurance market as the reimbursement terms at catastrophic levels are frequently a percentage off of billed. Reinsurers have access to some discount information on large claims and could leverage it along with billed charges to set rates.

Hospital charge levels could increase or decrease as a result of mining this data. If they rise, it would have the opposite effect of one of the key drivers for this rule—lower costs for the consumer.

As previously mentioned, the level of billed charges can vary considerably by facility; furthermore, contracted rates do not necessarily correlate with billed charge levels. If covered members were to use the information as a proxy for contracted rates and select a facility on that basis, this could unintentionally result in higher member liability.

## *The New Frontier*

Price transparency receives considerable attention in the healthcare world. Billed and allowed charges are key components for differences in payer healthcare premiums. This makes them a prime target for the administration's transparency focus.

Releasing hospital billed charges in an easy-to-use format may shake up the playing field a little; however, we still have a lengthy journey on the path to price enlightenment. What might be the next steps on the continuum? Would payers agree to release their contracted rates at some useful but aggregated level? Will insured members finally be able to price shop by provider? How will quality measures be factored into the cost comparisons?

There are many questions but currently few answers; however, pursuing these issues will certainly help us improve healthcare transparency. Wakely will continue to monitor updates on price transparency and is poised to help our clients evaluate billed charge levels once this information is released.

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Please contact Liz Myers, FSA, MAAA at Liz.Myers@wakely.com with any questions or to follow up on any of the concepts presented here.