

HOSPITAL PRICE TRANSPARENCY ENFORCEMENT AND HOW TO PREPARE PRICE FILES FOR 2023

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While 2022 is winding down, the Centers for Medicare and Medicaid Services (CMS) and the Office of Inspector General (OIG) are gearing up for 2023 compliance monitoring, and both entities have signaled that hospital price transparency will be a focus.

Regulations for hospital price transparency became effective January 1, 2021, and can be found at [45 CFR Part 180](#). The regulations require that each hospital make public their standard charges online in both:

1. A comprehensive machine-readable file that includes all standard charges for all hospital items and services; and
2. A consumer-friendly display of standard charges for at least 300 'shoppable' services (or as many as the hospital provides if less than 300) that are grouped with charges for ancillary services that are customarily provided by the hospital.

Potential CMS actions for noncompliance include providing a written warning listing violations, requiring a hospital to create a corrective action plan, and imposing civil monetary penalties (CMPs).

In an effort to evaluate CMS's monitoring and enforcement of the hospital price transparency rule, OIG has announced it will be auditing the efficacy of CMS measures and controls in place by statistically sampling hospitals' pricing information and determining if it is readily available to patients as required. If OIG finds that a hospital is not in compliance, OIG will contact the hospital to inquire of the reason for noncompliance, evaluate CMS efforts to identify the noncompliance, and evaluate the imposed consequences on the hospitals. The OIG has not indicated when the evaluation report containing the results of this audit will be released other than it being issued in 2023.

CMS CMP TO DATE

Although CMS has only issued CMPs against two hospitals, we are likely to see more CMPs imposed over the next 12 months. CMPs are calculated until December 31, 2021, as \$300.00 per day of noncompliance, but as of January 1, 2022, CMPs are calculated as \$10.00 per bed per day for hospitals with a bed count greater than 30 but not more than 550. Hospitals with 30 beds or less have CMPs calculated as \$300.00 per day for noncompliance as of January 1, 2022. Although CMS has only issued CMPs against two hospitals, we are likely to see more CMPs imposed over the next 12 months.¹

CMS GUIDANCE ON HOW TO COMPLY WITH MACHINE-READABLE FILE AND CONSUMER-FRIENDLY LIST OF STANDARD CHARGES REQUIREMENTS

With CMS and OIG increasing its focus on hospital price transparency, hospitals should take special care to evaluate their own compliance efforts. To ensure your hospital's lists meet the requirements, you can find more on the CMS

¹ CMS imposed CMPs against Northside Hospital Atlanta and Northside Hospital Cherokee on June 7, 2022.

guidance, [8 Steps to a Machine-Readable File of All Items & Services](#) and [10 Steps to Making Public Standard Charges for Shoppable Services](#), at the links provided.

CONTACT US

As indicated, CMS and the OIG are continuing to focus on hospital price transparency and maintaining compliance can be complicated. For questions and assistance on hospital price transparency matters, please contact a member of Hancock Daniel's [Compliance](#) team.

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