

CMS ANNOUNCES STRICTER HOSPITAL PRICE TRANSPARENCY ENFORCEMENT UPDATES

April 28, 2023

The Centers for Medicare and Medicaid (CMS) have kept true to their commitment to focus on hospital price transparency in 2023 again yesterday announcing plans to strengthen enforcement with stricter timelines and swifter penalties in response to continued lack of effort by some hospitals to come into compliance. The following enforcement changes are to take place:

- 1. Required 90-day corrective action window.** CMS will now require hospitals to be in full compliance with the hospital price transparency regulation within 90 days from when CMS issues the Corrective Action Plan (CAP) request, rather than allowing hospitals to propose varying completion dates for CMS approval. Note, CMS will continue to require hospitals that are out of compliance with the hospital price transparency regulation to submit a CAP within 45 days from when CMS issues the CAP request.
- 2. Automatic Civil Monetary Penalties (CMP) for failure to submit CAP.** CMS will now automatically impose CMPs on hospitals that fail to submit a CAP at the end of the 45-day CAP submission deadline. Before imposing the CMP, CMS will re-review the hospital's files to determine whether any of the violations cited in the CAP request continue to exist and, if violations are found, impose a CMP. For hospitals that submit a CAP by the 45-day CAP submission deadline but fail to comply with the terms of that CAP by the end of the 90-day deadline, CMS will re-review the hospital's files to determine whether any of the violations cited in the CAP request continue to exist and, if so, impose an automatic CMP. Previously, CMS did not impose automatic CMPs for failure to submit a requested CAP or failure to come into compliance within 90 days from when a CAP request is issued.
- 3. Elimination of Waning Notice for no-effort hospitals.** CMS will no longer issue a warning notice to hospitals that have made no attempt to satisfy the requirements and will instead immediately request that the hospital submit a CAP. Currently, CMS does not issue CAP requests without first issuing a warning notice. Examples of no-effort means those that have not posted any machine-readable file or shoppable services list/price estimator tool.

CMS reminded that enforcement changes do not need to go through the rule-making process, although the announcement did not indicate if the changes are effective immediately. CMS hopes these enforcement updates will

shorten the average time by which hospitals will come into compliance with the hospital price transparency requirements after a deficiency is identified to no more than 180 days, or 90 days for cases with no warning notice.

For further background and reasoning for the enforcement updates, please read the [announcement](#) in its entirety.

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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