CMS issues hospital price transparency rules

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As part of the 2019 Medicare annual inpatient prospective payment system (PPS) fee schedule update, the Centers for Medicare & Medicaid Services (CMS) has added a "rule" requiring hospitals to publish a list of standard charges beginning January 2019. CMS announced this initiative as follows:

"Transparency

Under current law, hospitals are required to establish and make public a list of their standard charges. In an effort to encourage price transparency by improving public accessibility of charge information, effective CY 2019 CMS updated its guidelines to specifically require hospitals to make public a list of their standard charges via the Internet in a machine readable format, and to update this information at least annually, or more often as appropriate.

Request for Information

Additionally, CMS is concerned that challenges continue to exist for patients due to insufficient price transparency, including patients being surprised by out-of-network bills for physicians, such as anesthesiologists and radiologists, who provide services at in-network hospitals, and by facility fees and physician fees for emergency room visits. We therefore sought information from the public in the proposed rule regarding barriers preventing providers from informing patients of their out of pocket costs: what changes are needed to support greater transparency around patient obligations for their out-of-pocket costs; what can be done to better inform patients of these obligations; and what role providers should play in this initiative. We appreciate the comments received and will consider the information and suggestions for future rulemaking."

CMS subsequently issued two sets of Frequently Asked Questions (FAQs) regarding this rule. Those releases are too long to repeat in this article, but you can view them in their entirety on the ACMS website, www.acms.org.

Essentially, the guidance states as follows:

- Hospitals are free to choose whatever format they prefer as long as the information represents the hospitals' current standard charges as reflected in their charge masters in a machine readable format.
- The transparency requirements apply to all items and services provided by the hospitals, including medical services, drugs, biologicals, etc.
- The transparency requirements do not transplant, replace or restrict hospitals from posting any other quality information or additional price transparency information on their websites.
- Although CMS is fully supportive of all state online price transparency initiatives, those initiatives do not satisfy the federal requirement and do not exempt hospitals from the CMS requirements.

The American Hospital Association (AHA) weighed in on the hospital price transparency issue earlier in 2018 and, although it purports to support the idea of price transparency, it questions the effectiveness of the rule by stating that sharing meaningful information is challenging, because hospital care is specifically tailored to the needs of each patient. As with the FAQs above, that position is too lengthy to include in this article, but it also is available on the ACMS website.

The *Pittsburgh Post-Gazette* addressed this issue on Thursday, Jan. 3, 2019, but a review of that article indicates that local hospital leadership believes simply providing a list of charges will not be sufficient to provide meaningful information.

It is not difficult to envision why just a list of the charges might not be all that helpful. The "charge master" is just a collection of the hospital's list

prices or fee schedule, which is what is charged for any service or product and has little relation to what the hospital actually collects from insured individuals. Any person who has received an explanation of benefits (EOB) from a health insurance carrier indicating that the hospital or physician charges were some astronomical amount, but the payment was just a fraction thereof, knows the difference between the list prices and the actual prices. This has traditionally been a significant problem for self-pay or uninsured individuals, since the hospitals' standard position has been that the charges, or the list price, is the appropriate fee.

This excessive charge concept dates back a few decades when Highmark (Blue Cross of Western Pennsylvania and Pennsylvania Blue Shield at the time) and other third-party insurers would pay the highest "UCR", i.e. the usual, customary, or reasonable fee: Usual was what the provider usually charged; customary was what the providers in the geographic area charged; and reasonable was what the health insurance company thought should be paid. Oddly enough, the lowest of the three was almost always the insurer's "reasonable fee." However, since the insurer would never disclose its payment schedule, providers resorted to simply charging a sometimes wildly excessive amount just to make sure their charge exceeded the insurer's allowable payment, because if a provider's charge was less than the allowable payment, then the health insurer would pay the lower amount.

If the patient is reviewing the charges in order to determine what the real charge would be, how that is going to affect their deductible, etc., then the charge master won't be very helpful.

Conclusion

Price transparency is obviously a good first step. Hospitals should be required to participate in the transparency initiative, and some should recognize that as a competitive advantage. Competition and knowledge should always be helpful.

This process will become more meaningful when the "charges" are actually what hospitals realistically expect to be paid from self-insured plans, self-insured individuals, individuals with high deductibles, etc. I think everybody recognizes that paying

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Special Report

aware of their HCV and HIV status in Allegheny County. We also plan to increase our outreach throughout our broader Pennsylvania jurisdiction and to identify and communicate best practices among all of our collaborating clinics and programs. Hepatitis C is commonly referred to as the "silent epidemic" because it is so difficult to know if someone is infected. This team of dedicated professionals in Allegheny County and beyond, with help from the PA DOH and Penn State University's College of Education, is doing everything it can to put an end to the silence.

This article was provided by the Pennsylvania Expanded HIV Testing Initiative, College of Education, Penn State University. For more information, contact support-pehti@lists.psu.edu.

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existing "charges" is unreasonable.

One step that will make this more meaningful is the disclosures of the typical Medicare payments for those services. CMS has just instituted a Medicare "Procedure Price Lookup" (link available at www.acms.org) that at least provides national Medicare payment information. Disclosure by the hospital of their relative Medicare payments for procedures could be very illuminating.

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