

First Enforcement Actions on Price Transparency

Key Points:

- **CMS levies penalties against two hospitals**
- **Penalties ranging from \$300 to \$5,500 per day for non-compliance**
- **Most hospitals may not be fully following the rule**
- **A compliance risk area warranting attention**

Regulations implementing Section 2718(e) of the Public Health Service Act, enacted as part of the Affordable Care Act, require hospitals to make public their standard charges to ensure transparency in health care prices for consumers while addressing some of the barriers that limit price transparency. Since January 1, 2021, the Centers for Medicare and Medicaid Services (CMS) has required hospitals to post a comprehensive machine-readable list of their services and prices as well as a patient-friendly tool that allows consumers to search and view the prices of 300 shoppable medical services. Noncompliance with those rules can result in hospitals facing Civil Monetary Penalties (CMPs) ranging from \$300 to \$5,500 per day.

Under the rules, hospitals are required to make public standard charges for an item or service provided to a specific group of paying patients. There are five types of standard charges:

1. Gross charge (the charge for an individual item or service reflected on a hospital's chargemaster, absent any discounts);
2. Discounted cash price (the charge that applies to an individual who pays cash, or cash equivalent, for a hospital item or service);
3. Payer-specific negotiated charge (the charge a hospital has negotiated with a third-party payer for an item or service);
4. De-identified minimum negotiated charge (the lowest charge a hospital has negotiated with all third-party payers for an item or service);
5. De-identified maximum negotiated charge (the highest charge a hospital has negotiated with all third-party payers for an item or service).

[CMS](#) began investigating complaints received and auditing hospital websites earlier this year. Hospitals found to be out of compliance with the requirements have been receiving warning letters from CMS that they had conducted reviews of the hospital's website and had 90 days to address the identified shortcomings. There have been hundreds of warning letters issued to hospitals.

CMS levied its first CMPs of \$883,000 and \$214,000 against Georgia's [Northside Hospital Atlanta](#) and [Northside Hospital Cherokee](#) , respectively. The penalties were calculated based on the hospitals' size and the number of days their websites were non-compliant. The hospitals may submit a request for a hearing to have their penalties appealed.

It is not clear how many of the [6,000 hospitals](#) across the U.S. are fully following the rules, however, it is likely most are not in full compliance. Providing the mandated information is not something that hospitals happily embrace as it goes against their financial interest to disclose the data and may explain why so many have been dragging their feet on the requirements.

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