



CY24 Hospital Price Transparency Alert

July 2023

Proposed Changes to the Hospital Price Transparency Rule Includes New Operational Challenges and Required Attestation

The CMS CY2024 Proposed Rule introduces new requirements for the publication, attestation of an authorized hospital official, and reporting of hospital and payer-negotiated charges in the machine-readable file that pose an additional administrative burden to maintain compliance into the new year, beginning as soon as March 1, 2024.

We provide this alert to support hospitals in their efforts to align to new requirements, reporting, and avoid penalties.

Our summary of the key takeaways continues on the following page.

CMS' Fact Sheet of the proposed changes can be found [here](#).

Key Takeaways of the CY24 Proposed Rule

- CMS is proposing that an authorized hospital official affirm that the charges published are both accurate and complete
- CMS is proposing a template to standardize how hospitals publicize their charges
- CMS' efforts towards standardization are indicative of CMS' move towards more comprehensive assessments through automation – *digging deeper into the quality and completeness of that published*

Hospital Impact

All hospitals will be impacted by the new CMS template. Meeting compliance requirements will likely challenge resources' knowledge of the Rule and their skill sets to implement. Hospitals that are at the most risk are those that:

- have leveraged claims data to aggregate charge levels at an average amount,
- have limited data to those items and services with historical volume, leaving gaps where payer-negotiated charges are applicable,
- have not displayed all of their payer-negotiated charges at the plan and payer level,
- have not provided detail on unit-based charges such as drugs; and/or,
- have not provided detail for all items with a negotiated charge and focused only on those with pre-determined gross charges

Review of the CY24 OPPTS Proposed Rule for Hospital Price Transparency

Access the full OPPTS CY24 Proposed Rule referenced below and in the following pages [here](#)

CMS' proposed changes to the Hospital Price Transparency Rule include those below, in summary:

- 1) add definitions for “CMS template,” “consumer-friendly expected allowed charges,” “encode,” and “machine-readable file” (MRF);
- 2) require hospitals to affirm the accuracy and completeness of data in their MRF;
- 3) revise and expand the data elements hospitals must include in the MRF;
- 4) require hospitals to conform to a CMS template layout and other technical specifications for encoding standard charge information in the MRF;
- 5) require hospitals to establish and maintain a .txt file and footer as specified by CMS; and
- 6) revise our [CMS] enforcement process by updating our methods to assess hospital compliance, requiring hospitals to acknowledge receipt of warning notices, working with health system officials to address noncompliance issues in one or more hospitals that are part of a health system, and publicizing more information about CMS enforcement activities related to individual hospital compliance.

CMS continues to make it apparent that they will be taking additional steps to improve transparency for consumers by driving competition across providers.

“... we stated that our policies requiring public release of hospital standard charge information are a necessary and important first step in ensuring transparency in healthcare prices for consumers. We also recognize that the release of hospital standard charge information is not itself sufficient to achieve our ultimate price transparency goals. The regulations are, therefore, designed to begin to address some of the barriers that limit price transparency, with a goal of increasing competition among healthcare providers to bring down costs.”

The efforts to align current machine-readable files (MRFs) to the CMS template will be time-consuming, require additional data extracts and analysis, as well as further interpretation, understanding and summary in the MRF itself. The details of the six items listed in summary above are further discussed below and on the following pages.

- (1) add definitions for “CMS template,” “consumer-friendly expected allowed charges,” “encode,” and “machine-readable file” (MRF)**
 - “CMS template” means a CSV format or JSON schema that CMS makes available
 - “Consumer-friendly expected allowed amount” means the average dollar amount that the hospital estimates it will be paid by a third-party for an item or service
 - “Encode” means to enter data items into the fields of the CMS template
 - “Machine-readable file” means a single digital file that is in a machine-readable format. CMS also proposes to replace references to “the file” and “the digital file” in the CFR with the proposed defined term “machine-readable file”

(2) require hospitals to affirm the accuracy and completeness of data in their MRF

This requirement was largely brought about due to findings in enforcement activities, and questions from the public, when data cells were left blank or indicated with “N/A”. For example, with the cash prices. CMS proposes that each hospital affirm directly in its MRF (using a CMS template) that it has included all applicable standard charge information in its MRF as of the date in the MRF. The affirmation will be required to be completed by an authorized hospital official. It will not be enough to simply make note on the webpage or have other explanatory language in the MRF. The affirmation statement will include language that to the best of its knowledge and belief, the hospital has included all applicable standard charge information in its MRF, in accordance with requirements of the CFR and that the information displayed is true, accurate, and complete as of the date indicated in the file.

(3) revise and expand the data elements hospitals must include in the MRF

Feedback from the public and interested parties indicates that additional standardization of the files is needed to improve the public's use and understanding of, and ability to make comparisons among, hospital standard charge information. CMS specifically cites that requests of providers to clarify how best to publicly display their payer-specific negotiated charges was a driver of this proposal. CMS has also encountered enforcement challenges and costs due to the lack of standardization.

(3) revise and expand the data elements hospitals must include in the MRF (continued)

In concert with proposing a CMS template, CMS is revising and expanding on the data elements that will need to be included.

Other changes and reminders hospitals need to be aware are specific to completing the CMS template:

- Inclusion of hospital identifying information in the CMS template itself, including name, location and license number; not indicated solely in part of wholly on the website
- Inclusion of the file version and date of the most recent update in the MRF, not indicated solely on the website
- Hospitals will be able to categorize payer-negotiated charges, at the plan level, when the established charges are applicable to each plan in the indicated category. The hospital would still provide the payer name, but can indicate the plans at the category level (e.g., “Payer A” for “all PPO plans”)
- Addition of the contracting method (e.g., case rate, fee schedule, percent of total billed charges), used to establish the payer-specific negotiated charge, and indication of how the payer-negotiated charge is expressed (e.g., percentage, dollar figure or algorithm)
- Addition of a new data element called the “expected allowed amount” that requires a hospital to display an amount in situations where the payer-specific negotiated charge cannot be expressed as a dollar figure. This would be appropriate when the allowed amount cannot be known in advance or displayed as a rate that applies to each member of the group. For example, when an inpatient stay may be reimbursed as a percent of charges
- Reminder to hospitals to include the description of the item or service and whether the standard charge is for an item or service provided in connection with an inpatient admission or an outpatient department visit. The “setting” can be inpatient, outpatient or both
- Inclusion of detailed drug information separate from the description (e.g., Aspirin 81 mg chewable tablet) including the applicable drug unit (e.g., 1) and type of measurement (e.g., UN)
- Addition of code type that describes the code (billable identifier) and whether the code is based on HCPCS, CPT, APC, DRG, NDC, revenue center, or other type of code
- Addition of a free text field to add generic notes to add clarification to their charge methodology, utilize for non-standard charges just as average reimbursement amounts that are derived from claims data, provide quality information, describe the hospital’s financial aid policy, or any other category of information that may be helpful to the public
- CMS is seeking comment on whether a filler should be utilized when a data element is not applicable. Prior recommendations from CMS’ sample layouts included the use of “-1” and other instruction directed hospitals to utilize “N/A”. CMS will rely on the affirmation of the hospital to make the conclusion that information is provided as applicable

(4) require hospitals to conform to a CMS template layout and other technical specifications for encoding standard charge information in the MRF

CMS intends to enforce compliance with the use of the CMS template 60 days after the effective date of the CY2024 OPPS/ASC PPS final rule (i.e., January 1, 2024). Each hospital must conform to the CMS template layout, data specifications (e.g., CSV, JSON), and data dictionary. Not conforming could result in compliance action. The sample template can be found [here](#).

(5) require hospitals to establish and maintain a txt file and footer as specified by CMS

CMS is proposing that each hospital include a link in the footer on its website, including but not limited to the homepage, that is labeled “Hospital Price Transparency” and links directly to the publicly available webpage that hosts the link to the MRF. The reasoning behind this proposal is to ease accessibility to automated services and data aggregation for third parties that further assist the public in understanding this information and capturing it in a meaningful way.

CMS is seeking public comment on whether there is a better or more efficient standardized label for the link in the footer on the website, including but not limited to the homepage, that links directly to the publicly available website that hosts the link to the MRF.

(6) revise our [CMS] enforcement process by updating our methods to assess hospital compliance, requiring hospitals to acknowledge receipt of warning notices, working with health system officials to address noncompliance issues in one or more hospitals that are part of a health system, and publicizing more information about CMS enforcement activities related to individual hospital compliance

CMS notes that their enforcement activities to date are more aligned with monitoring and not assessment, indicating “while monitoring activities can be used (by anyone, including CMS) to evaluate alleged noncompliance, only a formal CMS assessment can determine a hospital’s compliance with the HPT requirements”. The move toward standardization and use of the CMS template is further intended to support more comprehensive assessments through automation as well as provide the authority to request additional information in the assessment.

CMS in their proposed rulemaking is proposing to require that an authorized hospital official submit a CMS certification to the accuracy and completeness of the standard charge information posted in the MRF at any stage of the monitoring, assessment, or compliance phase. This certification authority is necessary because CMS may need a formal certification to resolve any specific questions related to the standard charges displayed and the items and services for which the hospital has established a standard charge, which might not be answered by the proposed affirmation statement.

When warning notices, or other price transparency compliance-related communications are sent to the hospital, CMS is proposing a written acknowledgement of receipt at the individual hospital. Furthermore, CMS is seeking the authority to disclose compliance actions to health system leadership when an individual hospital is found to be noncompliant. CMS is proposing to publicize on its website information related to CMS’ assessment of a hospital’s compliance, any compliance actions taken against a hospital, the status of such compliance action(s), and the outcome of such compliance actions(s). Additionally, it is proposed that CMS may publicize on its website information related to notifications that CMS may send to health system leadership. The information would apply uniformly to all hospitals and only be relevant as of the date indicated.

We understand the frustration hospitals have experienced with the ambiguity of the Hospital Price Transparency Rule, and the resource time and costs involved with maintaining pace with the evolving changes. Our team has stayed close to the Rule and have audited and advised many hospital clients. Regardless of your compliance status with the Rule, every hospital will need to revisit their MRF and make changes. We can assist to identify, prioritize and implement those changes to reduce the burden internally within your organization and at a value less than our competitors.

HOW PROTIVITI CAN HELP:

[READ our latest price transparency compliance whitepaper](#)

Our clients are more prepared and confident in complying with hospital price transparency requirements. We perform independent assessments and use our proprietary tools and present our findings and recommendations in an easy-to-understand actionable format. We not only advise on the requirements, but the latest trends, risks and best practices. Our core hospital price transparency services include:

- Building your compliance and operational strategy
- Testing compliance with federal and state requirements
- Performing CMS and State mock readiness reviews
- Designing your audit work program
- Creating/updating your machine-readable and shoppable services display files/list
- Assessing your pricing strategy to align to market and payor contracts, improve net revenue and simplify maintenance
- Evaluating your services with high transparency risk
- Developing a patient engagement strategy
- Training management and staff

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