CMS Issues Price Transparency Rules for Health Plans and Hospitals

November 2019

The Centers for Medicaid and Medicare Services (CMS) issued proposed and final rules requiring price transparency from health plans and hospitals on November 15, 2019.

The proposed rules issued by CMS would, if finalized, require group health plans and health insurance issuers to provide out-of-pocket cost estimates for covered individuals and publicly post online in-network contracted rates and out-of-network allowed amounts for medical services. CMS also issued final rules, effective in 2021, requiring hospitals to disclose their prices to the public.

The CMS rules are likely to face a court challenge. Earlier this year, a federal district court blocked a proposal requiring drug companies to show drug list prices in television ads.

The effective date for the proposed rules would be plan years beginning one year after the publication date of the final rule. Calendar year plans would not need to comply until 2022 at the earliest. The proposed rule applies to medical and prescription drug plans but excludes grandfathered plans, dental, vision, health flexible spending account, health reimbursement account, and employee assistance program benefits. The proposed rules recognize that employer-sponsored group health plans likely will not have this information. Group health plans may contract with insurers and third-party administrators to provide the information and take on direct responsibility for its provision and upkeep. The effective date for the final rule on hospital prices is January 1, 2021.

Required Disclosures to Covered Individuals

The proposed rules require group health plans and health insurance issuers to disclose cost-estimate information to covered individuals and their personal representatives without a fee via paper or an internet-based self-service tool. A group health plan must disclose upon request:

- An estimate of the individual's cost-sharing liability for a requested covered item or service, based on:
  - Accumulated amounts that the individual has incurred to date;
  - The negotiated rate with the specified provider or, if not specified, an in-network provider; and
  - Out-of-network allowed amounts if the individual requests an item or service furnished by an out-of-network provider.
- If the individual requests information regarding an item or service subject to a bundled payment arrangement, a list of the items and services for which cost-sharing information is being disclosed;
- If applicable, notice that an item or service is subject to a prerequisite such as prior authorization, step-therapy, or fail-first protocols, but not medical necessity; and
- A notice stating the limits of the cost estimate with respect to balance billing by out-of-network providers, that actual charges may vary depending on actual services provided, and that the estimate does not guarantee benefits under the plan.

AON
Empower Results®

When provided the internet tool, covered individuals and their personal representatives must be able to search the tool for price estimates by the items or services they are seeking and by specific providers. When provided the information on paper, the individual must be able to request information by item or service and by specific provider, and the plan or insurer must provide the information within two days via mail.

Required Public Disclosure From Group Health Plans

The proposed rules require group health plans and health insurance issuers to publish information regarding the plan's negotiated rates and allowed amounts on a website accessible to the public and to update the information monthly. The information must be machine-readable and provided in one file for in-network rates and one file for out-of-network allowed amounts. The files must list the providers by National Provider Identifier, the billing code and plain language description for the items or services, and, for out-of-network allowed amounts, the unique allowed amounts paid during the 90-day period 3–6 months prior to the monthly updated file.

Hospital Price Transparency Final Rule

CMS also published a final rule requiring hospitals to disclose their prices to the public. Hospitals must post online, in a machine-readable format, the "standard charges" for all items and services available at the hospital, as well as more accessible information for 300 "shoppable" services that patients can schedule in advance. The standard charges include:

- The gross charge, i.e., the charge on the hospital's chargemaster, absent any discounts;
- The discounted cash price;
- The payer-specific negotiated charge;
- The de-identified lowest negotiated charge that the hospital has negotiated with a payer; and
- The de-identified highest negotiated charge that the hospital has negotiated with a payer.

The effective date for the final rule is January 1, 2021, but hospital organizations have already announced their intent to challenge the rule in court and delay implementation.

Resources

The news release is available here.

A "Fact Sheet on the Transparency in Coverage Proposed Rule" is available here.

The proposed health plan price transparency rule is temporarily available here.

A "Fact Sheet on the CY 2020 Hospital Outpatient Prospective Payment System (OPPS) Policy Changes: Hospital Price Transparency Requirements" is available here.

The final hospital price transparency rule is temporarily available here.

About Aon

Aon plc (NYSE:AON) is a leading global professional services firm providing a broad range of risk, retirement and health solutions. Our 50,000 colleagues in 120 countries empower results for clients by using proprietary data and analytics to deliver insights that reduce volatility and improve performance.

The information contained herein and the statements expressed are of a general nature and are not intended to address the circumstances of any particular individual or entity. Although we endeavor to provide accurate and timely information and use sources we consider reliable, there can be no guarantee that such information is accurate as of the date it is received or that it will continue to be accurate in the future. No one should act on such information without appropriate professional advice after a thorough examination of the particular situation.

Copyright 2019 Aon plc