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Push Continues for Health Care Cost Transparency

Last November President Trump followed through on his vow to bring transparency to medical costs, releasing [two new rules](#) aimed at hospitals, group health plans, and health insurers in the individual and group markets.

The first rule requires hospitals, beginning January 21, 2021, to make available to patients public charges for 300 shoppable services in a “consumer-friendly” manner. The Centers for Medicare & Medicaid Services (CMS) will identify 70 services and the hospital will choose the other 230. The other rule, if finalized, would give patients access to their insurers’ cost-sharing liability and disclose the insurers’ negotiated rates for in-network providers as well as the allowed amounts paid for out-of-network physicians.¹

Soon after the president’s announcement, healthcare industry groups filed a lawsuit challenging the rules, saying, “Mandating the public disclosure of negotiated charges would create confusion about patients’ out-of-pocket costs, not prevent it.” The American Hospital Association, the Association of American Medical Colleges, Children’s Hospital Association, and Federation of American Hospitals are among the organizations participating in the lawsuit.

The plaintiffs claim the administration exceeded its legal authority in issuing the rule and contends the requirement to disclose their private negotiations with insurers violates their First Amendment rights. They further argue that the rule would not accomplish the

administration’s aim of helping consumers avoid surprise bills and will be onerous to implement.

“The sheer volume of data that the government is proposing health plans disclose is staggering — dollar amounts for every single item or service, for every single provider and facility, for every single individual and employer plan,” said executives from America’s Health Insurance Plans and the Blue Cross Blue Shield Association.²

responsibility for using a Network Provider	TOTAL BILLED
TYPE OF SERVICE	
Medical Visit	
Testing X-ray Lab	
Surgery	

According to [a recent study by health economists in Health Affairs](#), rising hospital costs have far outpaced the increase in physician prices. The economists estimated that hospital inpatient prices increased 42% from 2007 to 2014.

CMS Chief Seema Verma, defended the administration’s actions saying, “The decades-long norm of price obscurity is just fine for those who get to set the prices with little accountability and reap the profits, but that stale and broken status quo is bleeding patients dry. The price transparency delivered by these rules will put downward pressure on prices and restore patients to their rightful place at the center of American health care.”

This is not the first time that the industry has challenged President Donald Trump’s efforts to create price

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transparency. Earlier last year, a federal judge sided with drug makers by striking down a rule that would have forced pharmaceutical companies to include the wholesale prices of their drugs in television advertisements.

Meanwhile, last year's momentum in Congress to address surprise medical bills stalled out last December. Draft legislation, known as the Lower Health Care Costs Act, included provisions pushing price transparency, promoting competition and attempting to rein in drug costs.³ Speaker Nancy Pelosi has said she hopes surprise billing legislation will be included in a health care package before a May 22 deadline for renewing certain expiring health programs.

1. "Trump Administration Releases Healthcare Price Transparency Requirements," Keith A. Reynolds, Medical Economics, November 19, 2019.
2. "Hospitals Sue Trump to Keep Negotiated Prices Secret," Reed Abelson, The New York Times, December 4, 2019
3. "Surprise Billing Ban Draft: Middle Ground Leaves Few Pleased," Shannon Muchmore, Healthcare Dive, December 10, 2019.

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