



September 27, 2019

Seema Verma  
Administrator  
Centers for Medicare & Medicaid Services  
U.S. Department of Health and Human Services  
7500 Security Boulevard  
Baltimore, MD 21244

Re: Calendar Year 2020 Medicare Hospital Outpatient Prospective Payment System and Ambulatory Surgical Center Payment System Proposed Rule [CMS-1717-P]

Dear Administrator Verma:

Thank you for the opportunity to comment on the proposed rule, *Calendar Year 2020 Medicare Hospital Outpatient Prospective Payment System and Ambulatory Surgical Center Payment System Proposed Rule*,<sup>1</sup> issued on July 29, 2019. Aimed Alliance is a 501(c)(3) non-profit health policy organization that seeks to protect and enhance the rights of health care consumers and providers. As such, we thank the Centers for Medicare and Medicaid Services (CMS) for its dedication to lowering health care costs through increased transparency for health care consumers.<sup>2</sup> However, we caution CMS in imposing overly broad transparency requirements on hospitals that may confuse consumers and provide them with misleading information.

#### **A. Burden on Consumer Literacy**

The proposed rule requires that hospitals post their standard charges online in a machine-readable file so that Medicare beneficiaries will be able to understand their expected out-of-pocket costs prior to seeking care. The proposed rule includes payer-specific negotiated charges for all items and services that the hospital provides, in addition to gross charges, in its definition of standard charges.

Aimed Alliance supports the disclosure of payer-specific negotiated charges, to the extent that they represent the out-of-pocket expenses for which consumers will be responsible. This requirement would provide consumers with valuable information about the prices that they can expect to pay based on their own health plan and enable them to make meaningful comparisons about health care costs. Moreover, standardizing the data that hospitals make publicly available will help consumers to compare charges for like items and services from different hospitals.

However, it may be counterproductive for hospitals to include too much data, especially data that is not meaningful or relevant to consumers in determining their out-of-pocket costs. Consequently, we recommend against requiring hospitals to post their gross charge information. While the gross charge represents the charge for an individual item or service that is reflected on a

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<sup>1</sup> <https://www.govinfo.gov/content/pkg/FR-2019-08-09/pdf/2019-16107.pdf>

<sup>2</sup> <https://www.cms.gov/newsroom/press-releases/cms-takes-bold-action-implement-key-elements-president-trumps-executive-order-empower-patients-price>

hospital's chargemaster, absent any discounts, this charge does not reflect what a consumer can expect to pay for an item or service. Its inclusion may be confusing for consumers and deter them from seeking care if prices appear to be too high. This may be especially problematic in rural areas where there may only be one local hospital or health system. If a patient fears that care may be too expensive, the patient may choose to forego treatment altogether.

Additionally, CMS has requested comments about the inclusion of other types of third-party payer charge information, including the modal negotiated charge and the minimum, median, and maximum negotiated charges. This information also may not accurately reflect the prices patients can expect to pay. Consequently, the inclusion of this information would likely not be helpful for the average health care consumer. As noted, such over-broad transparency may confuse patients and deter them from utilizing these tools, which does not align with CMS's stated goal of lowering health care costs.<sup>3</sup> Therefore, we do not recommend including it.

However, the inclusion of non-negotiated charges may be helpful for Medicare and Medicaid enrollees, individuals who are uninsured, and individuals seeking care out-of-network. Hospitals will need to clearly denote that these non-negotiated charges are only applicable to such individuals. While the non-negotiated charge may provide an accurate representation of price for these individuals, such information represents the pre-discount charge for others, which could be confusing for the average health care consumer.

## **B. Increased Hospital Administrative Burden**

It is likely that the proposed transparency requirements will result in an increased administrative burden on hospitals by requiring them to track and post additional data on pricing. Therefore, if increased transparency does not, in fact, result in higher rates of consumer literacy, price comparison, and utilization, it is unclear how these requirements will be cost effective. Increased administrative costs could result in hospitals increasing their prices. As such, to minimize unnecessary administrative costs, only the transparency requirements that serve to provide meaningful information to consumers should be implemented, namely payer-specific negotiated charges and non-negotiated rates to the extent that such information is useful to uninsured consumers.

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<sup>3</sup> <https://www.cms.gov/newsroom/press-releases/cms-takes-bold-action-implement-key-elements-president-trumps-executive-order-empower-patients-price>

### **C. Conclusion**

Thank you again for providing us with an opportunity to comment on this proposed rule. If you have any questions or comments, you can reach me at [jwylam@aimedalliance.org](mailto:jwylam@aimedalliance.org) or 202-559-0380.

Sincerely,

A handwritten signature in black ink that reads "John Wylam". The signature is written in a cursive style with a large, looping initial "J".

John Wylam  
Staff Attorney