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SYNOPSIS

Requires hospitals to publish list of standard charges for certain items and services.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



(Sponsorship Updated As Of: 5/9/2024)

1 AN ACT concerning hospital pricing and supplementing Title 26 of
2 the Revised Statutes.

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6

7 1. As used in this act:

8 “Ancillary service” means an item or service a hospital
9 customarily provides as part of or in conjunction with a shoppable
10 primary service.

11 “Chargemaster” means the list of all individual items and
12 services maintained by a hospital for which the hospital has
13 established a charge.

14 “CMS” means the federal Centers for Medicare & Medicaid
15 Services.

16 “De-identified maximum negotiated charge” means the highest
17 charge that a hospital has negotiated with all third party payers for
18 an item or service.

19 “De-identified minimum negotiated charge” means the lowest
20 charge that a hospital has negotiated with all third party payers for
21 an item or service.

22 “Department” means the New Jersey Department of Health

23 “Discounted cash price” means the charge that applies to an
24 individual who pays cash, or cash equivalent, for a hospital item or
25 service.

26 “Gross charge” means the charge for an individual item or
27 service that is reflected on a hospital's chargemaster, absent any
28 discounts.

29 "Hospital" means an acute care general hospital licensed
30 pursuant to P.L.1971, c.136 (C.26:2H-1 et seq.).

31 “Items and services” means all items and services, including
32 individual items and services and service packages that could be
33 provided by a hospital to a patient in connection with an inpatient
34 admission or an outpatient department visit for which the hospital
35 has established a standard charge, which shall include, but shall not
36 be limited to: supplies and procedures; room and board; use of the
37 facility and other items, generally described as facility fees;
38 services of employed physicians and non-physician practitioners,
39 generally reflected as professional charges; or any other items or
40 services for which a hospital has established a standard charge.

41 “Machine-readable format” means a digital representation of
42 data or information in a file that can be imported or read into a
43 computer system for further processing, which shall include, but
44 shall not be limited to: .XML, .JSON, and .CSV formats.

45 “Payer-specific negotiated charge” means the charge that a
46 hospital has negotiated with a third party payer for an item or
47 service.

1 “Service package” means an aggregation of individual items and
2 services into a single service with a single charge.

3 “Shoppable service” means a service that can be scheduled by a
4 healthcare consumer in advance.

5 “Standard charge” means the regular rate established by the
6 hospital for an item or service provided to a specific group of
7 paying patients, which shall include: gross charge, payer-specific
8 negotiated charge, de-identified minimum negotiated charge, de-
9 identified maximum negotiated charge, and discounted cash price.

10 “State forensic hospital” means a public psychiatric hospital that
11 provides treatment exclusively for individuals who are in the
12 custody of penal authorities.

13 “Third party payer” means an entity that is, by statute, contract,
14 or agreement, legally responsible for payment of a claim for a
15 healthcare item or service.

16

17 2. Federal and State hospitals shall be deemed by the
18 department to be in compliance with the requirements of this
19 section including but not limited to: federally owned hospital
20 facilities, including facilities operated by the U.S. Department of
21 Veterans Affairs and Military Treatment Facilities operated by the
22 U.S. Department of Defense; hospitals operated by an Indian Health
23 Program as defined in section 4(12) of the federal Indian Health
24 Care Improvement Act; and State forensic hospitals.

25

26 3. A hospital shall publish the following: a machine-readable
27 file containing a list of all standard charges for all items and
28 services as provided in section 4 of this act, and a consumer-
29 friendly list of standard charges for a limited set of shoppable
30 services as provided in section 5 of this act.

31

32 4. a. (1) A hospital shall establish, update, and publish a list of
33 all standard charges for all items and services online in the form and
34 manner specified in this section.

35 (2) Each hospital location operating under a single hospital
36 license that has a different set of standard charges than the other
37 location operating under the same hospital license shall separately
38 publish the standard charges applicable to that location.

39 b. A hospital shall include all of the following corresponding
40 data elements in its list of standard charges, as applicable:

41 (1) description of each item or service provided by the hospital;

42 (2) gross charge that applies to each individual item or service
43 when provided in, as applicable, the hospital inpatient setting and
44 outpatient hospital department setting;

45 (3) payer-specific negotiated charge that applies to each item or
46 service when provided in, as applicable, the hospital inpatient
47 setting and outpatient hospital department setting. Each payer-

- 1 specific negotiated charge shall be clearly associated with the name
2 of the third party payer and plan;
- 3 (4) de-identified minimum negotiated charge that applies to each
4 item or service when provided in, as applicable, the hospital
5 inpatient setting and outpatient hospital department setting;
- 6 (5) de-identified maximum negotiated charge that applies to each
7 item or service when provided in, as applicable, the hospital
8 inpatient setting and outpatient hospital department setting;
- 9 (6) discounted cash price that applies to each item or service
10 when provided in, as applicable, the hospital inpatient setting and
11 outpatient hospital department setting; and
- 12 (7) any code used by the hospital for purposes of accounting or
13 billing for the item or service, including, but not limited to, the
14 Current Procedural Terminology code, the Healthcare Common
15 Procedure Coding System code, the Diagnosis Related Group, the
16 National Drug Code, and other common payer identifier.
- 17 c. The information described in subsection b. of this section shall
18 be published in a single digital file that is in a machine-readable
19 format.
- 20 d. (1) A hospital shall select a publicly available website for
21 purposes of publishing the standard charge information required
22 under subsection b. of this section.
- 23 (2) The standard charge information shall be displayed in a
24 prominent manner and clearly identified with the hospital location
25 with which the standard charge information is associated.
- 26 (3) A hospital shall ensure that the standard charge information
27 is easily accessible, without barriers, including but not limited to
28 ensuring the information is accessible:
- 29 (a) free of charge;
- 30 (b) without having to establish a user account or password;
- 31 (c) without having to submit personal identifying information;
- 32 and
- 33 (d) to automated searches and direct file downloads through a
34 link posted on a publicly available website.
- 35 (4) The digital file and standard charge information contained in
36 that file shall be digitally searchable.
- 37 (5) The file shall use the following naming convention specified
38 by CMS, specifically: `<ein>_<hospital-
39 name>_standardcharges.[json|xml|csv]`.
- 40 e. A hospital shall update the standard charge information
41 described in subsection b. of this section at least once annually.
42 The hospital shall clearly indicate the date that the standard charge
43 data was most recently updated, either within the file itself, or
44 otherwise clearly associated with the file.
- 45
- 46 5. a. (1) A hospital shall publish the standard charges identified
47 in paragraphs (3) through (6) of subsection b. of this section, for as
48 many of the 70 CMS-specified shoppable services that are provided

1 by the hospital, and as many additional hospital-selected shoppable
2 services as is necessary for a combined total of at least 300
3 shoppable services.

4 (a) In selecting a shoppable service for purposes of this section, a
5 hospital shall consider the rate at which it provides and bills for that
6 shoppable service.

7 (b) If a hospital does not provide 300 shoppable services, the
8 hospital shall publish the information specified in subsection b. of
9 this section for as many shoppable services as it provides.

10 (2) A hospital shall be deemed by the department to meet the
11 requirements of this section if the hospital maintains an Internet-
12 based price estimator tool which meets the following requirements.

13 (a) Provides estimates for as many of the 70 CMS-specified
14 shoppable services that are provided by the hospital, and as many
15 additional hospital-selected shoppable services as is necessary for a
16 combined total of at least 300 shoppable services.

17 (b) Allows healthcare consumers to, at the time consumers use
18 the tool, obtain an estimate of the amount consumers would be
19 obligated to pay the hospital for the shoppable service.

20 (c) Is prominently displayed on the hospital's website and
21 accessible to the public without charge and without having to
22 register or establish a user account or password.

23 b. A hospital shall include, as applicable, all of the following
24 corresponding data elements when displaying its standard charges,
25 identified in paragraphs (3) through (6) of this subsection, for its list
26 of shoppable services selected under paragraph (1) of subsection a.
27 this section:

28 (1) a plain-language description of each shoppable service;

29 (2) an indicator when one or more of the CMS-specified
30 shoppable services are not offered by the hospital;

31 (3) the payer-specific negotiated charge that applies to each
32 shoppable service, and to each ancillary service, as applicable.
33 Each list of payer-specific negotiated charges shall be clearly
34 associated with the name of the third party payer and plan;

35 (4) the discounted cash price that applies to each shoppable
36 service and corresponding ancillary services, as applicable. If the
37 hospital does not offer a discounted cash price for one or more
38 shoppable services, or corresponding ancillary services, the hospital
39 shall list its undiscounted gross charge for the shoppable service
40 and corresponding ancillary services, as applicable;

41 (5) the de-identified minimum negotiated charge that applies to
42 each shoppable service and to each corresponding ancillary service,
43 as applicable;

44 (6) the de-identified maximum negotiated charge that applies to
45 each shoppable service and to each corresponding ancillary service,
46 as applicable;

47 (7) the location at which the shoppable service is provided,
48 including whether the standard charges identified in paragraphs (3)

- 1 through (6) of this subsection for the shoppable service apply at that
2 location to the provision of that shoppable service in the inpatient
3 setting, the outpatient hospital department setting, or both; and
- 4 (8) any primary code used by the hospital for purposes of
5 accounting or billing for the shoppable service, including, as
6 applicable, the Current Procedural Terminology code, the
7 Healthcare Common Procedure Coding System code, the Diagnosis
8 Related Group, or other common service billing code.
- 9 c. A hospital shall have discretion to choose a format for
10 publishing the information described in subsection b. of this section
11 online.
- 12 d. (1) A hospital shall select an appropriate publicly available
13 internet location for purposes of publishing the information
14 described in subsection b. of this section.
- 15 (2) The information shall be displayed in a prominent manner
16 that identifies the hospital location with which the information is
17 associated.
- 18 (3) The shoppable services information shall be easily accessible,
19 without barriers, including but not limited to ensuring the
20 information is:
- 21 (a) free of charge;
- 22 (b) accessible without having to register or establish a user
23 account or password;
- 24 (b) accessible without having to submit personal identifying
25 information; and
- 26 (d) searchable by service description, billing code, and payer.
- 27 e. A hospital shall update the standard charge information
28 described in subsection b. of this section at least once annually. A
29 hospital shall clearly indicate the date that the information was most
30 recently updated.
- 31
- 32 6. a. (1) The department shall evaluate whether a hospital has
33 complied with sections 3 through 5 of this act.
- 34 (2) The department may use methods to monitor and assess
35 hospital compliance, which may include, but may not be limited to:
- 36 (a) evaluation of complaints made by individuals or entities to
37 the department;
- 38 (b) review of individuals' or entities' analysis of noncompliance;
39 and
- 40 (c) audit of hospitals' websites.
- 41 b. If the department concludes that a hospital is noncompliant
42 with one or more of the requirements of this act, the department
43 may take any of the following actions:
- 44 (1) provide a written warning notice to a hospital of a specific
45 violation;
- 46 (2) request a corrective action plan from the hospital if its
47 noncompliance constitutes a material violation of this act; or

1 (3) impose a civil monetary penalty on the hospital and publish
2 the penalty on the department's Internet website if the hospital fails
3 to respond to the department's request to submit a corrective action
4 plan or comply with the requirements of the corrective action plan.

5 c. Each year, the department shall prepare and submit a report
6 detailing hospitals' compliance with the provisions of this act, and
7 any other relevant findings or recommendations to the Governor,
8 and to the Legislature, pursuant to section 2 of P.L.1991, c.164
9 (C.52:14-19.1). The department shall publish each report on its
10 Internet website.

11

12 7. a. The department shall determine if a hospital's
13 noncompliance with the provisions of this act constitutes a material
14 violation requiring a corrective action plan. A material violation
15 may include, but may not be limited to, a hospital's failure to
16 publish its standard charges in the form and manner as required
17 pursuant to this act.

18 b. The department may request that a hospital submit a corrective
19 action plan, specified in a notice of violation issued by the
20 department to a hospital.

21 c. (1) A hospital required to submit a corrective action plan shall
22 do so, in the form and manner, and by the deadline, specified in the
23 notice of violation issued by department to the hospital.

24 (2) A hospital's corrective action plan shall specify elements
25 including, but not limited to:

26 (a) the corrective actions or processes the hospital shall take to
27 address the deficiency identified by the department; and

28 (b) the timeframe by which the hospital shall complete the
29 corrective action.

30

31 8. a. The department may impose a civil monetary penalty on a
32 hospital that violates a provision of this act.

33 b. (1) If the department imposes a penalty in accordance with
34 this section, the department shall provide a written notice of
35 imposition of a civil monetary penalty to the hospital via certified
36 mail or another form of traceable carrier.

37 (2) The notice to the hospital may include, but may not be
38 limited to, the following:

39 (a) The basis for the hospital's noncompliance, including, but not
40 limited to, the following:

41 (i) the department's determination as to which requirement the
42 hospital has violated; and

43 (ii) the hospital's failure to respond to the department's request to
44 submit a corrective action plan or comply with the requirements of
45 a corrective action plan.

46 (b) The department's determination as to the effective date for
47 the violation. This date shall be the latest date of the following:

- 1 (i) the first day the hospital is required to meet the requirements
2 of this section;
- 3 (ii) if a hospital previously met the requirements of this section
4 but did not update the information annually as required, the date 12
5 months after the date of the last annual update specified in
6 information posted by the hospital; and
- 7 (iii) a date determined by the department, such as one resulting
8 from monitoring activities, or development of a corrective action
9 plan.
- 10 (c) The amount of the penalty as of the date of the notice.
- 11 (d) A statement that a civil monetary penalty may continue to be
12 imposed for a continuing violation.
- 13 (e) Payment instructions.
- 14 (f) Intent to publish the hospital's noncompliance and the
15 department's determination to impose a civil monetary penalty on
16 the hospital for noncompliance by posting the notice of imposition
17 of a civil monetary penalty on the department's Internet website.
- 18 (g) A statement of the hospital's right to a hearing.
- 19 (h) A statement that the hospital's failure to request a hearing
20 within 30 calendar days of the issuance of the notice permits the
21 imposition of the penalty, and any subsequent penalties pursuant to
22 continuing violations, without the right of appeal. If the civil
23 monetary penalty is upheld, in part, by a final and binding decision,
24 the department shall issue a modified notice of imposition of a civil
25 monetary penalty to conform to the adjudicated finding.
- 26 c. (1) The department shall determine the daily dollar amount for
27 a civil monetary penalty for which a hospital may be subject as
28 follows:
- 29 (a) for each day a hospital is determined by the department to be
30 out of compliance:
- 31 (i) For a hospital with a number of beds equal to or less than 30,
32 the maximum daily dollar civil monetary penalty amount to which it
33 may be subject shall be \$300, even if the hospital is in violation of
34 multiple discrete requirements of this act.
- 35 (ii) For a hospital with at least 31 and up to and including 550
36 beds, the maximum daily dollar civil monetary penalty amount to
37 which it may be subject shall be the number of beds times \$10, even
38 if the hospital is in violation of multiple discrete requirements of
39 this act.
- 40 (iii) For a hospital with a number of beds greater than 550, the
41 maximum daily dollar civil monetary penalty amount to which it
42 may be subject shall be \$5,500, even if the hospital is in violation of
43 multiple discrete requirements of this act.
- 44 (iv) The department shall use the most recently available,
45 finalized Medicare hospital cost report to determine the number of
46 beds for a Medicare-enrolled hospital, for purposes of determining
47 the maximum daily dollar civil monetary penalty amount under this
48 section.

1 (v) If the number of beds for the hospital cannot be determined,
2 the department shall request that the hospital provide
3 documentation of its number of beds, in a form and manner and by
4 the deadline prescribed by the department in a written notice
5 provided to the hospital. If the hospital fails to provide the
6 department with this documentation in the prescribed form and
7 manner, and by the specified deadline, the department shall impose
8 on the hospital the maximum daily dollar civil monetary penalty
9 amount permissible under this section.

10 (vi) The amount of the civil monetary penalty shall be adjusted
11 annually using the multiplier determined by the federal government
12 for annually adjusting civil monetary penalty amounts under federal
13 law.

14 (2) A hospital shall pay the civil monetary penalty in full within
15 60 calendar days after the date of the notice of imposition of a civil
16 monetary penalty from the department.

17 (3) If a hospital requests a hearing, the hospital shall pay the
18 amount in full within 60 calendar days after the date of a final and
19 binding decision to uphold, in whole or in part, the civil monetary
20 penalty.

21 (4) If the 60th calendar day is a weekend or a federal or State
22 holiday, then the timeframe shall be extended until the end of the
23 next business day.

24 d. (1) The department shall post the notice of imposition of a
25 civil monetary penalty on the department's Internet website.

26 (2) If a hospital elects to request a hearing:

27 (a) the department shall indicate in its posting that the civil
28 monetary penalty is under review.

29 (b) If the civil monetary penalty is upheld, in whole, by a final
30 and binding decision, the department shall maintain the posting of
31 the notice of imposition of a civil monetary penalty on the
32 department's Internet website.

33 (c) If the civil monetary penalty is upheld, in part, by a final and
34 binding decision, the department shall issue a modified notice of
35 imposition of a civil monetary penalty to conform to the adjudicated
36 finding. The department shall publish the modified notice on the
37 department's Internet website.

38 (d) If the civil monetary penalty is overturned in full by a final
39 and binding decision, the department shall remove the notice of
40 imposition of a civil monetary penalty from the department's
41 Internet website.

42

43 9. A hospital upon which the department has imposed a penalty
44 may appeal that penalty. In determining whether the amount of a
45 civil money penalty is reasonable, a court may consider evidence of
46 record relating to the following: the hospital's posting of its
47 standard charges, if available, material the hospital previously
48 submitted to the department, including with respect to corrective

1 actions and corrective action plans, and material the department
2 used to monitor and assess the hospital's compliance.

3
4 10. a. If a hospital does not request a hearing within 30 calendar
5 days of the issuance of a notice of imposition of a civil monetary
6 penalty, the department may impose the civil monetary penalty
7 indicated in such notice and may impose additional penalties
8 pursuant to continuing violations without the right of appeal. If the
9 30th calendar day is a weekend or a federal or State holiday, then
10 the timeframe shall be extended until the end of the next business
11 day.

12 b. A hospital shall have no right to appeal a penalty with respect
13 to which it has not requested a hearing, unless the hospital can show
14 good cause for failing to timely exercise its right to a hearing.

15
16 11. The Commissioner of Health shall adopt rules and
17 regulations, in accordance with the "Administrative Procedure Act,"
18 P.L.1968, c.410 (C.52:14B-1 et seq.), as are necessary to effectuate
19 the provisions of this act.

20
21 12. This act shall take effect 180 days following enactment.

22

23

24 STATEMENT

25

26 This bill requires hospitals to publish a list of standard charges
27 for certain items and services.

28 Under the bill, a hospital is to publish: a machine-readable file
29 containing a list of all "standard charges" for all "items and
30 services," and a consumer-friendly list of "standard charges" for a
31 limited set of "shoppable services," as these terms are defined in the
32 bill. A hospital is to include corresponding data elements in its list
33 of standard charges, as outlined in the bill. A hospital is to publish
34 a total of at least 300 shoppable services or for as many shoppable
35 services as it provides.

36 The bill provides that the Department of Health (department) is
37 to evaluate whether a hospital has complied with the bill's
38 provisions. If the department concludes that a hospital is
39 noncompliant with one or more of the bill's provisions, the
40 department may take any of the following actions: (1) provide a
41 written warning notice to a hospital of a specific violation; (2)
42 request a corrective action plan from the hospital if its
43 noncompliance constitutes a material violation; or (3) impose a civil
44 monetary penalty on the hospital and publish the penalty on the
45 department's Internet website if the hospital fails to respond to the
46 department's request to submit a corrective action plan or comply
47 with the requirements of the corrective action plan. A material
48 violation may include a hospital's failure to publish its standard

1 charges. A hospital's corrective action plan is to specify elements
2 including: (1) the corrective actions or processes the hospital is to
3 take to address the deficiency identified by the department; and (2)
4 the timeframe by which the hospital is to complete the corrective
5 action.

6 The department may impose a civil monetary penalty on a
7 hospital that violates the bill's provisions. A hospital is to pay the
8 civil monetary penalty in full within 60 calendar days after the date
9 of the notice of imposition of a civil monetary penalty.

10 A hospital upon which the department has imposed a penalty
11 may appeal that penalty. If a hospital does not request a hearing
12 within 30 calendar days of the issuance of a notice of imposition of
13 a civil monetary penalty, the department may impose the civil
14 monetary penalty indicated in such notice and may impose
15 additional penalties pursuant to continuing violations without the
16 right of appeal.