Price Transparency Final Rule Overview

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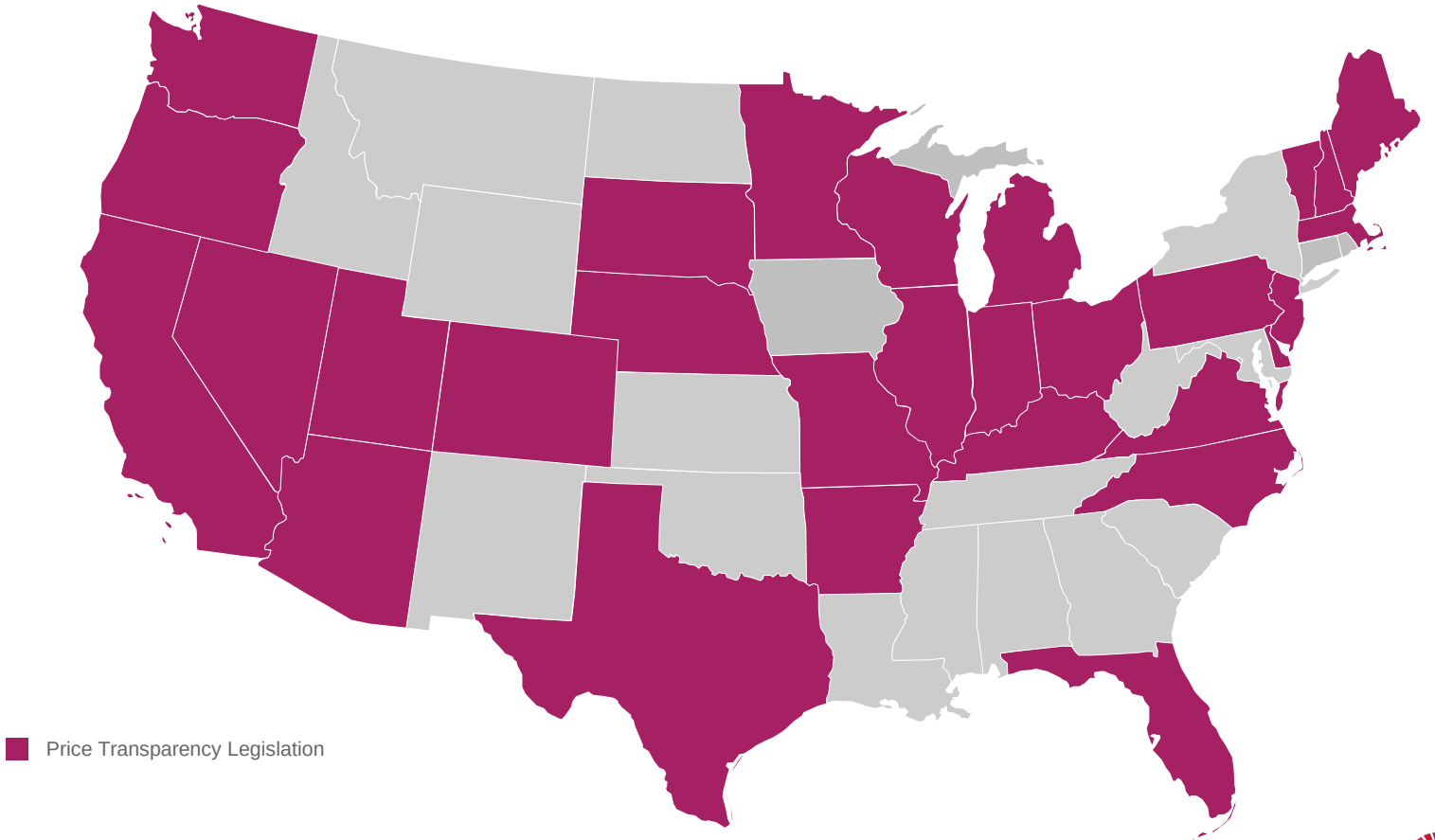
Agenda

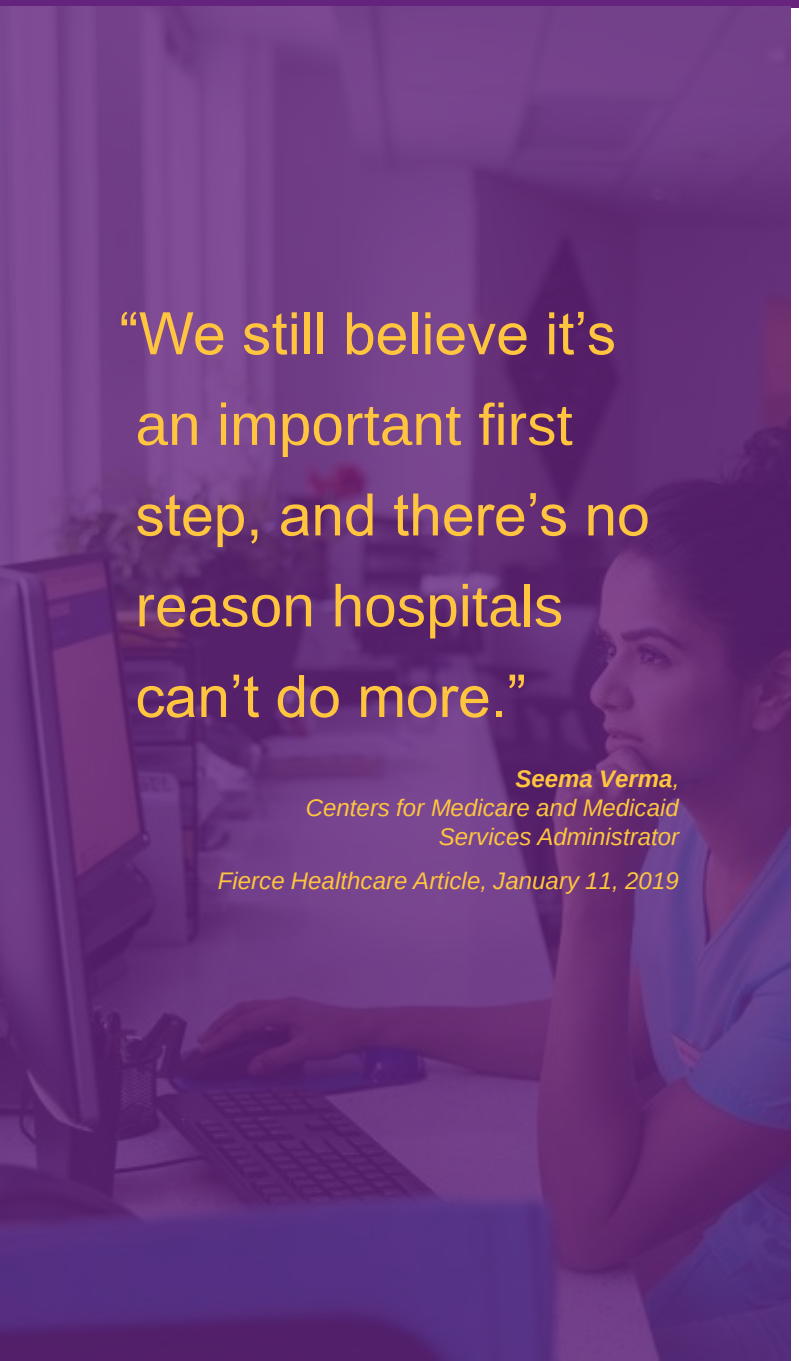
- Evolution of Price Transparency
- Breaking Down the Final Rule
- Next Steps and How to Prepare
- Questions

Evolution of Price Transparency

State Legislation

28 states have price transparency legislation





"We still believe it's an important first step, and there's no reason hospitals can't do more."

***Seema Verma**,*
Centers for Medicare and Medicaid Services Administrator

Fierce Healthcare Article, January 11, 2019

2019 IPPS Final Rule: Price Transparency

Effective 1/1/19

Providers are required to publish "standard charges" on the internet in a machine-readable format and update the information at least annually

Regulation is vague

regarding specific format and content

- Each provider must decide how to present the information
- Must include current CDM prices for all items and services provided by hospital
- Will remain in effect until 12/31/2020.

Federal Register Vol. 83, No. 160, Page 41686

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Timeline for Price Transparency Final Rule

June 2019

President Trump signed an executive order outlining an aggressive plan to increase price transparency for patients and directed CMS/HHS to provide draft proposals for each element within 60-180 days

July 2019

CMS released the 2020 OPPS Proposed Rule with sweeping regulations related to price transparency. Over 1,400 comments were received from the public in response to the proposals. The final ruling was not included in the 2020 OPPS Final Rule, as expected

November 15, 2019

CMS released two rules related to Price Transparency, one affecting hospitals and the other impacting payers. They are both slated to go into effect on 1/1/2021

- **Hospitals:** Calendar Year (CY) 2020 Outpatient Prospective Payment System (OPPS) & Ambulatory Surgical Center (ASC) Price Transparency Requirements for Hospitals to Make Standard Charges Public final rule (CMS-1717-F2)
- **Payers:** Transparency in Coverage Proposed Rule (CMS-9915-P)

CY 2020 Final Rule on Price Transparency

Effective 1/1/2021 Hospitals are required to:

- ✓ **Include reimbursement information** in their machine-readable website CDM
- ✓ **Post charge and reimbursement information** for all core and ancillary charges associated with 300 *shoppable services*, 70 of which Medicare defines and an additional 230 that are chosen by the facility
  - Hospitals utilizing a patient facing estimation tool are exempt from this requirement
- ✓ **Define *Standard Charges*** as the:
  - Gross charge
  - Payor-specific negotiated rate
  - Self Pay cash price
  - Deidentified minimum and maximum negotiated rate
- ✓ **Define specific CDM information** that must be provided in the website file
- ✓ **Outline** a $300/day penalty for non-compliance

Federal Register Vol. 84, No. 229, Page 65524 - 65606

Breaking Down the Final Rule

Definition of “Standard Charges”

The Affordable Care Act gave CMS the right to force hospitals to reveal their “Standard Charges”

Definition of “Standard Charges”

- ✓ **The Final Rule defines** Standard Charges as[1]:
  - **Gross charge:** The charge for an individual item or service that is reflected on a hospital’s chargemaster, absent any discounts
  - **Discounted cash price:** The charge that applies to an individual who pays cash, or cash equivalent, for a hospital item or service
  - **Payer-specific negotiated charge:** The charge that a hospital has negotiated with a third-party payer for an item or service
  - **De-identified minimum negotiated charges**: The lowest charge that a hospital has negotiated with all third-party payers for an item or service
  - **De-identified maximum negotiated charges:** The highest charge that a hospital has negotiated with all third-party payers for an item or service
- ✓ **All standard charges must be** included in the machine-readable CDM provided on hospital websites
- ✓ **Government reimbursement rates** (Medicare, Medicaid, TRICARE, VA, etc.) do not need to be included

[1] CMS *Hospital Price Transparency Final Rule* Presentation: https://www.cms.gov/files/document/2019-12-03-hospital-presentation

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Definition of “Hospital”

“…an institution in any State in which State or applicable local law provides for the licensing of hospitals and that is: (1) Licensed as a hospital pursuant to such law; or (2) approved, by the agency of such State or locality responsible for licensing hospitals, as meeting the standards established for such licensing ”

Federal Register Vol. 83, No. 160, Page 65530

Definition of “Hospital”

- ✓ Includes CAHs, IPFs, IRFs, SCHs, LTCHs, etc.
- ✓ Standard Charge information for facility-owned physicians must be included
- ✓ Freestanding ambulatory centers (ASCs, imaging, labs, etc.) are encouraged to share standard charge information, but not required
- ✓ Federally owned hospitals excluded

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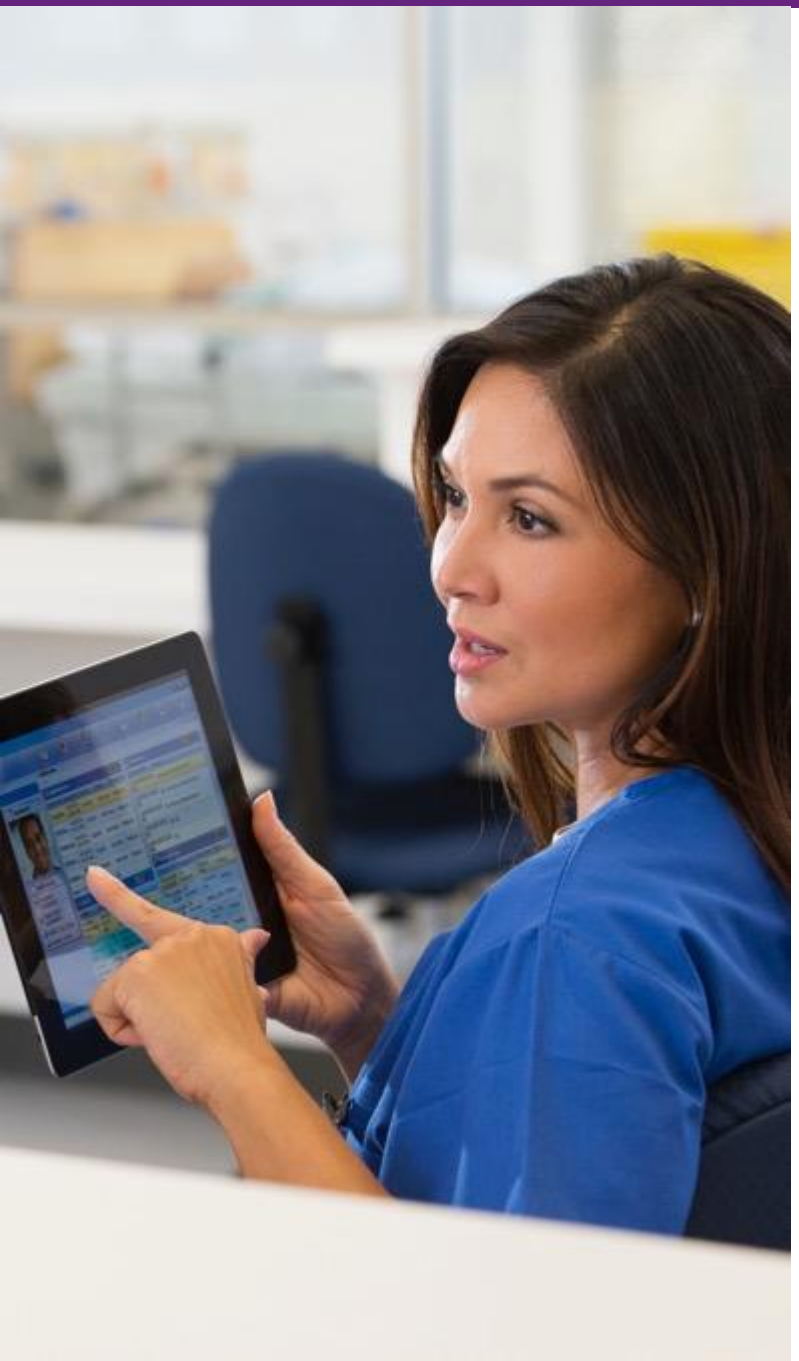
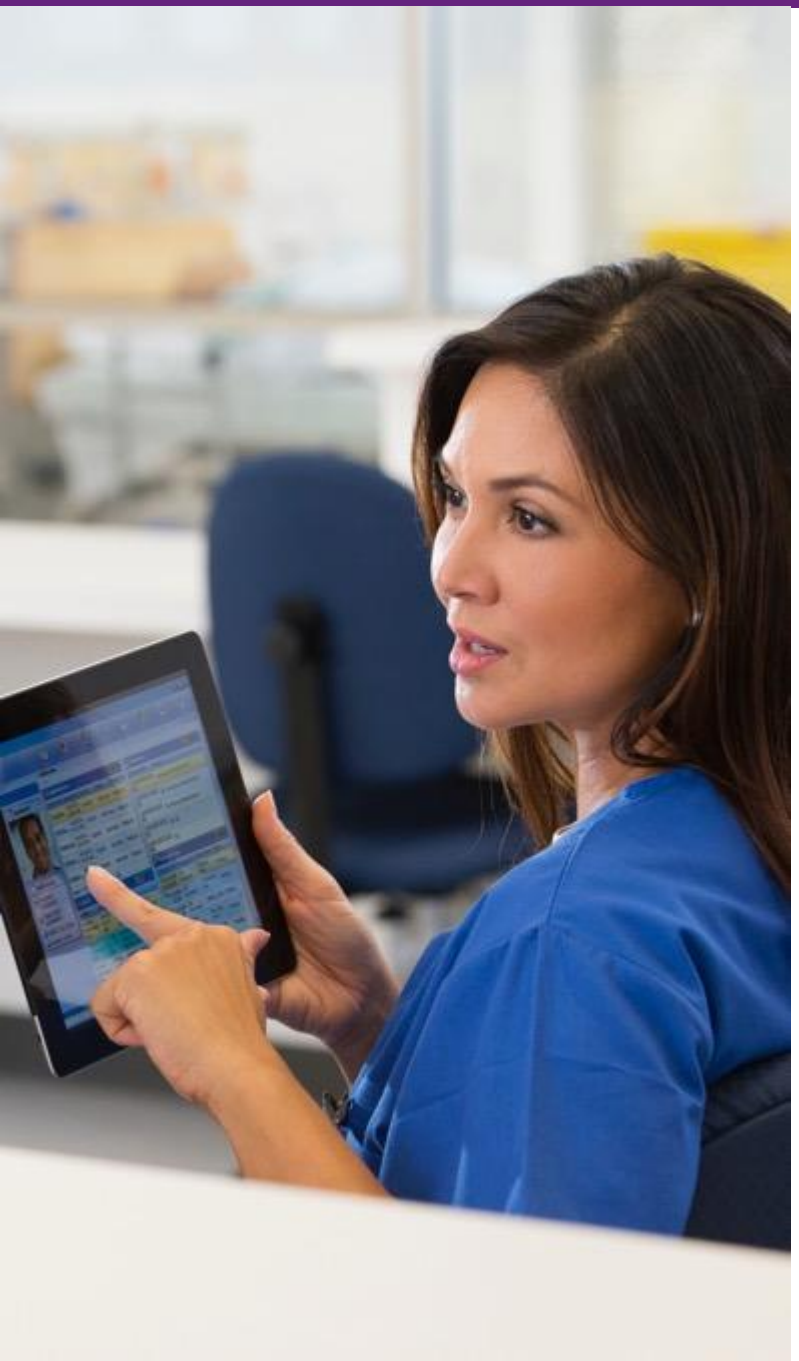


Definition of “Items and Services”

“Accordingly, items and services means all items and services, including individual items and services and service packages, that could be provided by a hospital to a patient in connection with an inpatient admission or an outpatient department visit for which the hospital has established a standard charge.”

Federal Register Vol. 83, No. 160, Page 65533



Definition of “Items and Services”

- ✓ Any item or service for which a charge exists
- ✓ Examples include, but are not limited to:
  - Supplies
  - Procedures
  - Room and Board Charges
  - Facility Fees for Physician Care
  - Professional Fee for Employed Physicians
- ✓ Standard charges for “Service Packages” must also be included in the machine-readable CDM. Examples include DRG, CPT codes (soft and hard-coded), per diems, etc.

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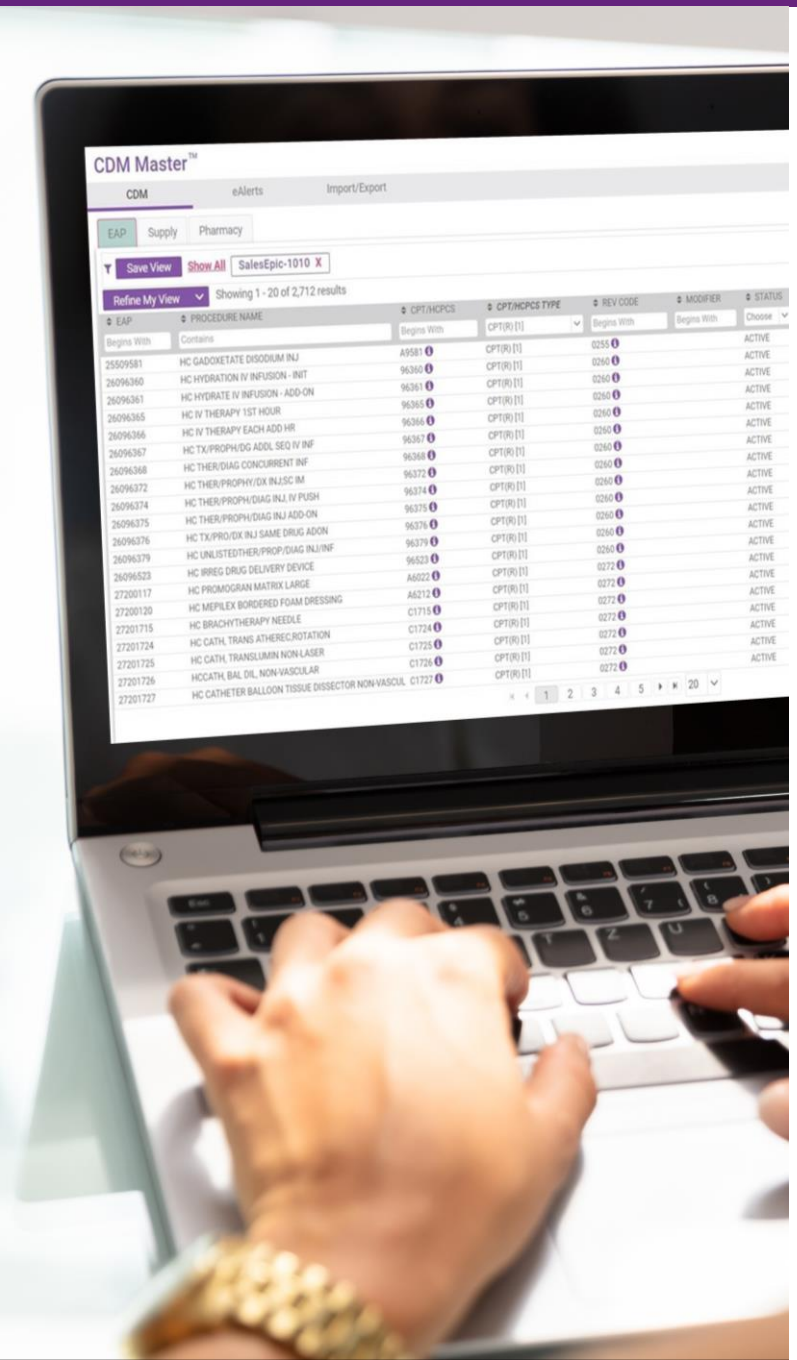

Additional Website CDM Requirements

- ✓ The 1/1/19 regulation did not provided guidance on required CDM details or format
- ✓ The final rule will require the following fields to be included **effective 1/1/2021**:
  - Standard Charges
  - Charge Description
  - Any code used for accounting or billing: CPT, HCPCS Code, DRG, NDC, or other common payer identifier
  - Revenue Code
- ✓ Each hospital location operating under a single hospital license with different CDMs must separately provide this information
- ✓ File must be machine-readable, be displayed prominently on hospital website without barriers to access and must be updated at least annually.

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Shoppable Services

- **Standard Charges for** 300 shoppable services must be displayed in a "consumer-friendly manner"
- **Shoppable services are defined as** a "service package that can be scheduled by a healthcare consumer in advance."
- **CMS provided a list** of 70 shoppable services and hospitals are expected to choose an additional 230
- **Standard Charges must be provided** for the primary service, as well as any related ancillary charges
- **Facilities that do not provide** 300 shoppable services must include as many as they provide
- **Providers with patient-facing estimation technology** are exempt from this requirement

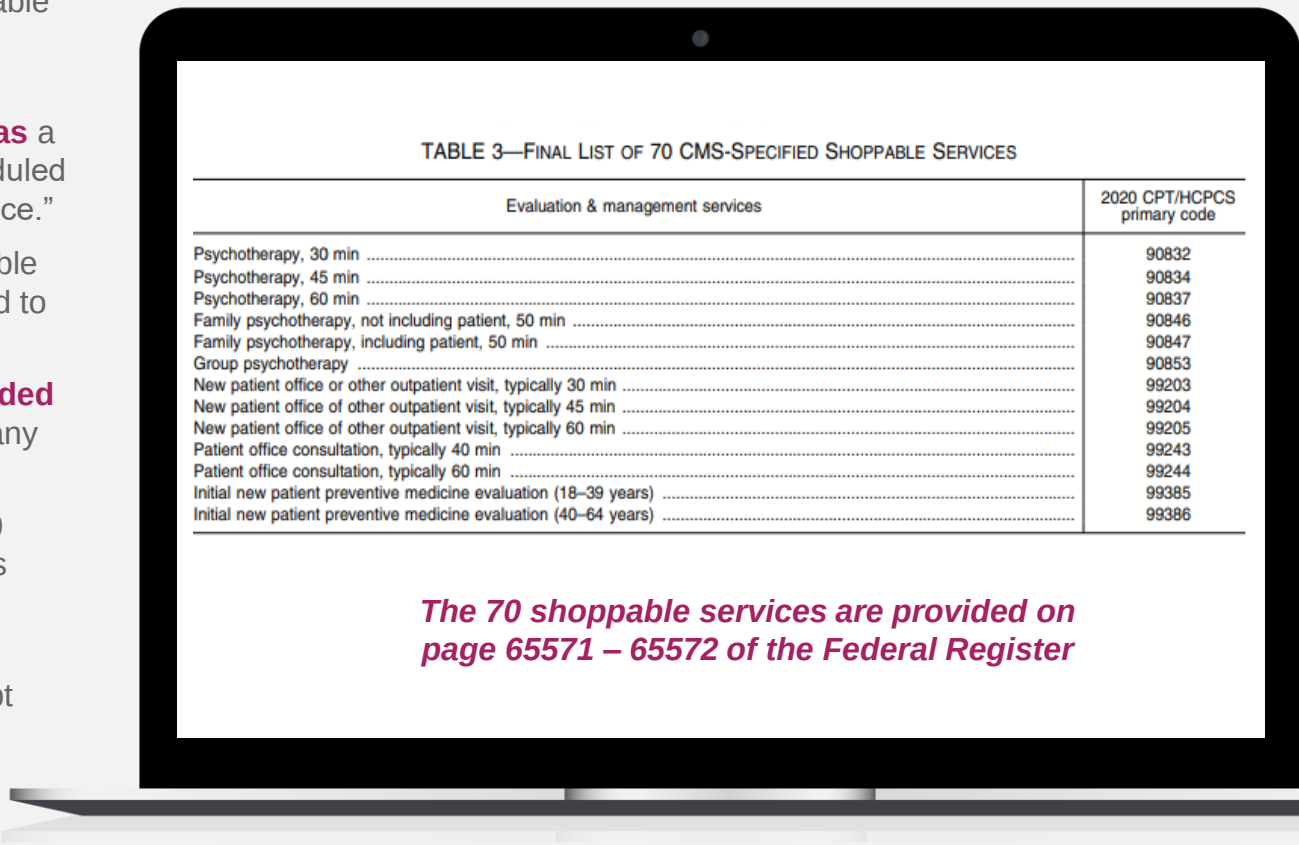

TABLE 3—FINAL LIST OF 70 CMS-SPECIFIED SHOPPABLE SERVICES

Evaluation & management services	2020 CPT/HCPCS primary code
Psychotherapy, 30 min	90832
Psychotherapy, 45 min	90834
Psychotherapy, 60 min	90837
Family psychotherapy, not including patient, 50 min	90846
Family psychotherapy, including patient, 50 min	90847
Group psychotherapy	90853
New patient office or other outpatient visit, typically 30 min	99203
New patient office of other outpatient visit, typically 45 min	99204
New patient office of other outpatient visit, typically 60 min	99205
Patient office consultation, typically 40 min	99243
Patient office consultation, typically 60 min	99244
Initial new patient preventive medicine evaluation (18–39 years)	99385
Initial new patient preventive medicine evaluation (40–64 years)	99386

The 70 shoppable services are provided on page 65571 – 65572 of the Federal Register

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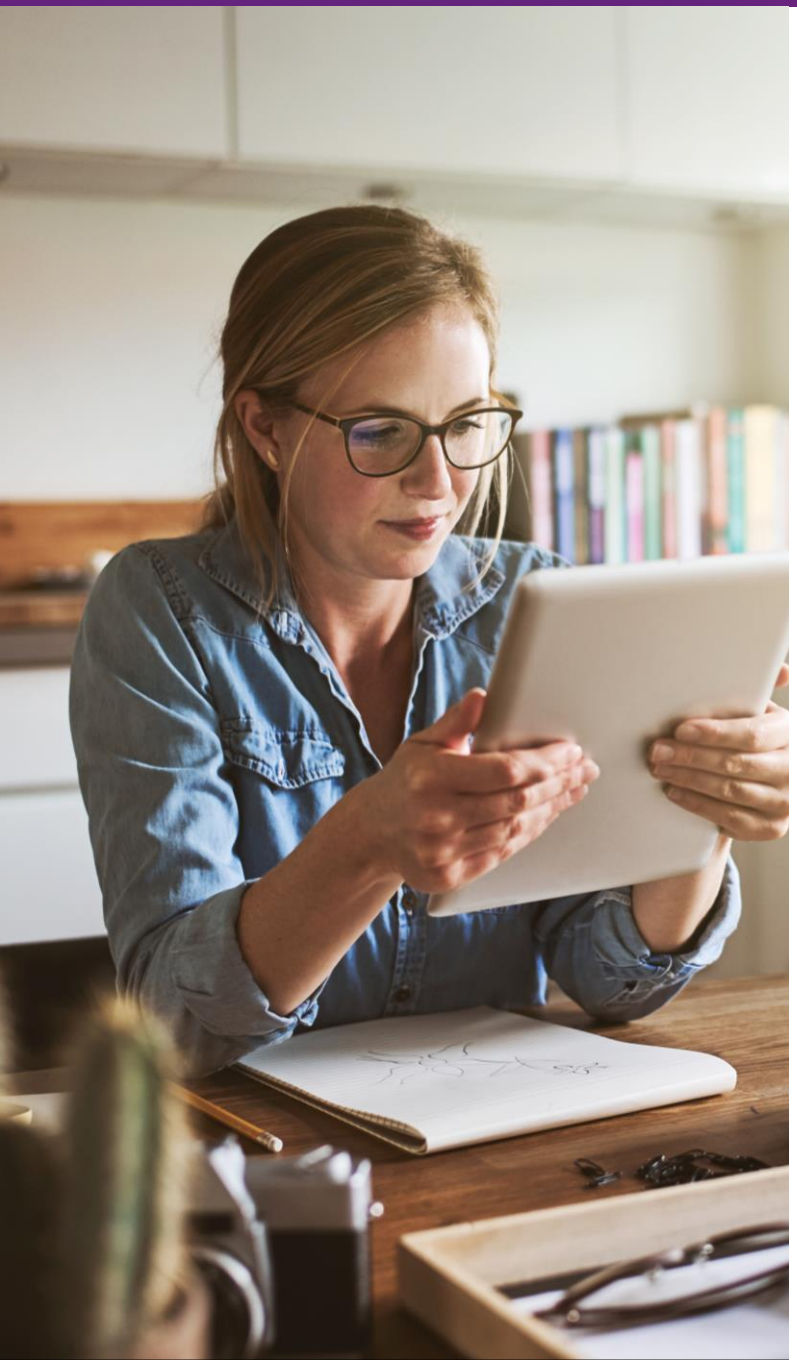

Patient Estimation Technology

- ✓ **The patient-facing estimator exemption** was not in the proposed rule, but CMS added it to the final rule based on public comments
- ✓ **Estimation technology must** meet the following requirements:
  - Allow patients to log in to the tool and obtain an out-of-pocket cost estimate
  - Provide estimates for at least 300 shoppable services, including the 70 provided by CMS
  - Prominently displayed on the hospital's website
- ✓ **Estimates only need to show** out-of-pocket costs, not all Standard Charges
- ✓ **nThrive recommends** installing patient-facing estimation technology as a best practice to maximize patient satisfaction and minimize final rule preparation time
- ✓ **nThrive offers a tool called CarePricer Payment Estimator**, which satisfies the 300 shoppable service requirement

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Civil Monetary Penalties

- ✓ **Hospitals will be fined** $300/day for non-compliance
- ✓ **CMS will not actively monitor** websites and will instead rely on public complaints
- ✓ **A Corrective Action Plan (CAP)** will be sent if a hospital has been deemed as non-compliant
- ✓ **If the hospital does not respond** to the CAP or become compliant, then the penalty will be imposed.
- ✓ **The names of non-compliant hospitals** will be posted on the CMS website
- ✓ **Hospitals will have** the ability to appeal
- ✓ **nThrive recommends developing robust policies and procedures** for the price transparency initiatives to better defend actions

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Next Steps and How to Prepare

Lawsuit

On December 4, 2019, four healthcare associations and three hospitals brought a lawsuit against HHS over the final rule.

Argues that:

- ✓ **CMS does not have the statutory authority** to define “Standard Charges” to include negotiated payer rates, which are by no means “Standard”
- ✓ **Violates First Amendment rights** because it mandates speech that fails to advance a substantial government interest and will create more confusion for patients
- ✓ **The regulation posed a major administrative burden** on hospitals and would undermine competition
- ✓ **The rule lacks a rational basis** and does not achieve the goal CMS is trying to achieve; to allow patients to easily determine their out-of-pocket costs

A legal battle was expected after the release of the final rule

HOSPITAL PRICE TRANSPARENCY REQUIREMENTS

Prepare for stringent price transparency requirements effective January 1, 2021 with an experienced, flexible partner

PATIENT BILL ESTIMATION

Provide patients with **online access to accurate estimates** prior to service

PAYMENT ESTIMATOR

Patient bill estimation technology empowers patients with the ability to create their own quick and accurate estimates on a user-friendly platform

- ✓ **Embed the patient-facing web tool** into your website and apply your branding
- ✓ **Create estimates** for desired services utilizing Services Builder
- ✓ Generate estimates that are **90%+ accurate** when compared with final bill
- ✓ Integrate **patient eligibility and benefit information** into estimate process
- ✓ **Allow staff to create estimates** on desktops, tablets and mobile devices with a user-friendly interface

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Ensure your CDM facilitates **accurate, compliant billing**

CDM COMPLIANCE REVIEW AND AUDIT

Line-item review of your entire CDM to ensure it facilitates billing in accordance with Medicare outpatient regulatory guidelines

- ✓ **Conduct in-depth conferences** with clinical departments
- ✓ **Identify revenue opportunities** and ensure compliant billing practices are in place
- ✓ **Identify opportunities to improve and/or defend CDM structure** including formal staff training and education needs
- ✓ **Validate** HCPCS, UB-04 revenue codes and modifier assignment
- ✓ **Calculate** the correct unit of measure for pharmaceuticals
- ✓ **Identify non-billable services** such as routine nursing, routine supplies, etc.
- ✓ **Identify potential unbundling errors** based on current NCCI edits

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Identify areas of risk and opportunities to improve CDM structure

RISK ANALYSIS

In-depth risk analysis of targeted risk areas prone to payor regulation and scrutiny including patient charges, routine nursing and routine supplies

- ✓ **Evaluate risk areas to defend CDM structure:**
  - **Services not defined** by a detailed CPT/HCPCS code (e.g., surgical services)
  - **E/M level criteria** for emergency room and provider-based clinics
  - **Routine nursing** included in room and board
  - **Non-billable items** such as routine supplies, equipment, etc.
  - **Screening tests performed** as part of standard protocol or for risk management
- ✓ **Conduct a line item cost analysis** and evaluate the current markup used to validate or realign current prices
- ✓ **Draft criteria, policies and procedures** to define and defend the CDM structure
- ✓ **Document KPIs by functional areas** to facilitate efficient and effective monitoring

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Ensure **optimal price positioning** in your respective market

PRICE TRANSPARENCY REVIEW

Comprehensive comparative rate modeling and price transparency analysis using advanced proprietary software and custom benchmarks

- ✓ **Analyze targeted risk areas** prone to payor regulation and scrutiny to identify opportunities to either bundle services and/or restructure the CDM based upon best practice industry standard
- ✓ **Identify and evaluate pricing** for consumer-driven "shoppable" services
- ✓ **Develop price model assumptions** and/or constraints including revenue targets, constrained risk areas, and/or limitations for price sensitive areas
- ✓ **Leverage nThrive proprietary benchmarks** selected from 10–20 hospitals that are of similar size and same geographical location
- ✓ **Evaluate markup strategies** to establish new prices or realign current prices
- ✓ **Assess gross and net financial impact of pricing changes** and analyze reimbursement methodologies to determine sensitivity of each payor

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Questions

From Patient-to-Payment,℠ nThrive empowers
health care for every one in every community.®

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