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Show and Tell: The Trump Administration Releases the Transparency in Coverage Final Rule

On October 29, the U.S. Department of Health and Human Services, Department of Labor and Department of Treasury (Departments), released the Transparency in Coverage final rule (the Rule). The Rule will enable consumers to access health plans' pricing information and private negotiated rates, which are typically confidential. According to CMS, the Rule "will reduce the secrecy behind health care pricing with the goal of bringing greater competition to the private health care industry."

The Rule will require most group health plans and health insurance issuers (Payors) in the individual and group markets to provide, upon request, cost-sharing information to consumers (for the purposes of this article, "consumers" means plan participants, beneficiaries, enrollees, or authorized representatives). Such cost-sharing information includes an estimate of a consumer's cost-sharing liability for a requested covered item or service, reflecting any cost-sharing reductions the consumer would receive. Even if the requested information involves a service or item that is provided within a bundled payment arrangement, the Payor is still required to share with the consumer estimates of the cost-sharing liability for the requested covered item or service and an estimate of the cost-sharing liability for each of the items/services in the bundled payment arrangement with separate cost-sharing liability. The Rule also requires Payors to make certain rate information available online, with the goal of creating websites that streamline the cost comparison process.

As noted by CMS, by January 1, 2023, Payors must make available through an online tool (and via paper, if requested) a list of 500 "shoppable services,"- as determined by the Departments, for consumers to browse. The following year, Payors must include all other items or services, as required by the Department, in the online self-service tool. This online self-service tool will provide consumers with "real-time and accurate estimates of cost-sharing liability for health care items and services from different providers." Similarly, by January 1, 2022, Payors are required to make public three distinct machine-readable files with detailed pricing information, including negotiated rates for covered items, historical payments for out-of-network providers, and in-network negotiated rates and historical net prices for covered prescription drugs.

According to *Modern Healthcare*, there are mixed reactions from the Payor industry as to the utility in providing such information to consumers. Matt Elyes, CEO of America's Health Insurance Plans, noted, "Disclosing privately negotiated rates will reduce incentives to offer lower rates, creating a floor—not a ceiling—for the prices that drug makers, providers and device makers would be willing to accept." However, CMS Administrator Seema Verna is confident that the Rule is long overdue and describes our current healthcare system as "dysfunctional … [It] serves special interests but leaves patients out in the cold." As the Rule becomes effective and more information is made available, the industry will have a better idea of the Rule's utility and how consumers' health-care choices will or will not be impacted.

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