



September 27, 2019

Seema Verma
Administrator
Centers for Medicare and Medicaid Services
US Department of Health and Human Services
Attn: CMS-1717-P
Mail Stop C4-26-05
7500 Security Boulevard
Baltimore, MD 21244

RE: Medicare Program: Proposed Changes to Hospital Outpatient Prospective Payment and Ambulatory Surgical Center Payment Systems and Quality Reporting Programs; Price Transparency of Hospital Standard Charges; Proposed Prior Authorization Process and Requirements for Certain Covered Outpatient Department Services [CMS-2019-0109-0365]

Dear Administrator Verma:

The National Association of Healthcare Access Management (NAHAM) appreciates the opportunity to respond to the Centers for Medicare and Medicaid Services' (CMS) Medicare Program: *Proposed Changes to Hospital Outpatient Prospective Payment and Ambulatory Surgical Center Payment Systems and Quality Reporting Programs; Price Transparency of Hospital Standard Charges; etc.* [CMS-2019-0109-0365]. NAHAM's response provides guidance, seeks clarity, and identifies challenges that CMS should address in the final rule.

About NAHAM

NAHAM is the non-profit professional association for health access professionals—individuals who work in, and oversee, hospital scheduling, admissions, registration, patient finance, benefits coordination and frontend revenue cycle-related services. CMS' rules and operating regulations fall within medical staff administrators' professional responsibilities. As such, NAHAM provides unique insight into CMS' proposed price transparency rule.

NAHAM Summary Response

NAHAM agrees with, and fully supports the goals and spirit of, the *Executive Order* and CMS' subsequent proposal. As professionals in healthcare revenue cycle and particularly in healthcare access, its members work diligently to provide clear, concise patient-financial care that includes information on the cost of care and, when possible, the anticipated cost of care. Still, NAHAM has concerns with the proposed rule's feasibility, legality, functionality, and overall effect on patients, hospital personnel, and practitioners.

The U.S. healthcare system is a complex “open market” with various payers, and many individually tailored health plans—commercial, government-sponsored, commercially managed Medicaid plans, and even “within Network Payers.” Each plan has many different price points for many different components of care, and cost determinations vary depending on who (employer, union, government, self, etc.) pays for the beneficiary's plan.

These layers make for a complex system with no one-size-fits-all approach. Umbrella approaches to simplify the process create confusion, misunderstandings, and gaps in care. As the driver of change, CMS should communicate these new requirements to beneficiaries rather than place that burden solely on provider organizations. In setting price- transparency rules on hospitals, CMS should also extend these rules to payers, which play a powerful role in negotiating contracts and prices.

Request for Additional Clarity

NAHAM respectfully requests that CMS further consider the relationship between CPT codes and its role in pricing transparency. These codes are practitioner-focused and assume a level of knowledge in medical terminology that the average patient does not possess. This complexity makes them difficult to be shoppable or public facing.

For example, a practitioner is not going to provide a patient with an order for either of the tests below.

Manual urinalysis test with examination using microscope	81000 or 81001
Automated urinalysis test	81002 or 81003

The proposed rules raises the question of who screens in advance for medical appropriateness. It should also factor value-based care complexities, which drive contract rates based on quality outcomes, making contracted rates difficult to confirm until minimally quarterly reviews.

To make these tests shoppable, CMS would need to require practitioners to provide patients CPT codes for everything they order, which would be time-consuming—and overwhelming to the patient. The average consumer would have difficulty navigating these charges and understanding the applicable rate if a hospital posts more than one.

If the proposed rule speaks to billed vs. paid/negotiated charge rates, it provides little guidance on how hospitals should know which charge rates to post. Would the final rule require hospitals to post the rate every contracted rate for that payer?

Proprietary Information and Confidentiality

NAHAM has concerns with confidentiality issues around posting payer-negotiated rate. Negotiated rates are proprietary. Many plans with various rates would make it impossible for hospitals to list them all in an easy-to-understand and navigate format. Revealing contract rates would directly violate contract terms, which would have drastic and long-lasting effects on healthcare pricing and payer/practitioner relationships. Posting these rates would alleviate neither practitioner consolidations nor barriers to competition, but may encourage them.

National and local coverage decision (NCD) and (LCD) requirements, conservative care, and other authorization requirements limit the accuracy of prices based on payer interpretations to documentation and codes that are only determined after the fact. What if a rate failed the LCD or NCD and if the patient they needs to sign an Advance Beneficiary Notice of Noncoverage before testing? How would hospitals navigate around experimental classifications for tests/procedures and whether they are covered benefits?

Cost Estimates

The burden to administer would adversely affect hospitals and practitioners. Much of the proposed price transparency rule affects health access professionals in hospital settings and while NAHAM supports the desired outcome for the pricing transparency objectives, the complexity of operationalizing the requirements would put an extraordinary financial burden on hospitals.

Having cited a belief that transparency leads to more affordable healthcare, what data is available from the initiatives cited above to demonstrate that connection? The complexity in making payer-specific negotiated charges is a fundamental challenge related to the current model of healthcare financing in the United States.

Every hospital has hundreds of contracted payers and multiple plans for each payer. Frequently, the contracts allow payers to make unilateral changes within a contract period. The resources necessary meet this requirement would most likely have an adverse effect on lowering costs. Hospitals would also face legal issues resulting from making proprietary information publicly available.

Recommendations

While NAHAM agrees with the proposed rule's intent, the healthcare industry today has no way of even coming close within our capability to provide published price lists based on a patient's contract.

Many hospitals do not have contracts with many payers, and instead complete "single-case agreement contracts." Additionally some hospitals, so long as the payer agrees, accept out-of-network health payer insurance and charge out-of-network rates, which again vary, based on the specific contract. Since there is no practical way to make this information available in advance, NAHAM recommends that CMS exempt these types of payment arrangements from the final rule.

CMS should consider a standard "easy-to-understand" template for health plans to follow to establish a valid contract so the hospital could post the cost. This would be an ideal way for every flavor of every health plan to have an easy-to-understand format for healthcare practitioners to relay to their patients.

NAHAM appreciates CMS' ongoing initiative to increase price transparency to avoid unnecessary and costly requirements on patients and healthcare professionals. As the professional association for healthcare access professionals, NAHAM stands by as a resource in this effort and welcomes questions or additional discussion on reducing paperwork burdens.

Respectfully Submitted,

Kirsten Shaffer

Kirsten Shaffer, CAE

Executive Director

National Association of Healthcare Access Management (NAHAM)