



LD 953, An Act to Protect Maine Patients Regarding Hospital Price Transparency

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Good morning, Senator Bailey, Representative Perry, and distinguished members of the Committee on Health Coverage, Insurance and Financial Services,

I am pleased to introduce LD 953, “An Act to Protect Maine Patients Regarding Hospital Price Transparency.” The purpose of this bill is to require Maine healthcare facilities to disclose prices for certain items and services provided by certain medical facilities; provide administrative penalties, and prohibit collective action of debt for non-compliant facilities.

These state-level hospital price transparency policies would codify the 2019 hospital price transparency rule¹ and strengthen the specific terms by which the prices must be created, published, and maintained. This bill would further encourage compliance on the part of health care facilities by preventing collection of non-payment from patients if the hospital is not in compliance with transparency requirements.

¹ Medicare and Medicaid Programs: CY 2020 Hospital Outpatient PPS Policy Changes and Payment Rates and Ambulatory Surgical Center Payment System Policy Changes and Payment Rates. Price Transparency Requirements for Hospitals To Make Standard Charges Public, 84 FR 65524, November 27, 2019.

POLICY BACKGROUND

In November of 2019, the Department of Health and Human Services (HHS) finalized a rule² requiring hospitals to publish prices, fulfilling a directive in an Executive Order signed by President Trump.³ For too long, the price of care at hospitals has been shrouded from patients, leaving them with unexpected bills after they receive care. This lack of transparency leaves patients in the dark, and renders them unable to make informed decisions about where and when to receive care. Efforts to improve transparency have been bipartisan, and aim to increase consumer knowledge, increase competition, and put downward pressure on the prices of medical devices and services. The final rule required hospitals to publish a machine-readable file of five types of standard charges for all items and services, and create a consumer-friendly, shoppable list of 300 items and services, including 70 identified by CMS.

Unfortunately, hospital compliance with this rule has been subpar since it took effect. As of February 2023, only an estimated 24.5 percent were in full compliance.⁴ Under the Biden Administration, HHS signaled support for these policies by increasing the penalties for hospitals who do not comply in regulation.⁵ The higher penalties went into effect January 1st, 2022. The Centers for Medicare and Medicaid Services (CMS) have issued about 350 letters of warning to non-compliant hospitals, and have fined four hospitals.^{6,7} Several states (most recently Colorado) have seized this opportunity to pass price transparency legislation that encourages greater compliance with the rule by hospitals in their state.

KEY TECHNICAL COMPONENTS OF THE FEDERAL RULES

List Requirements:

- The rules require hospitals to publish and maintain a single machine-readable file that contains a list of all standard charges for all facility items or services.
- Hospitals must also publish and maintain a consumer-friendly list of searchable standard charges for at least 300 shoppable services, including 70 shoppable services identified by CMS.
- Each facility of a hospital system with multiple facilities must maintain and publish their own list.

² Id.

³ Improving Price and Quality Transparency in American Health Care to Put Patients First, [Executive Order 13877](#), June 27, 2019.

⁴ [Semi-Annual Hospital Price Transparency Compliance Report, February 2023](#), Patient Rights Advocate.

⁵ Medicare Program: Hospital Outpatient Prospective Payment and Ambulatory Surgical Center Payment Systems and Quality Reporting Programs; Price Transparency of Hospital Standard Charges; Radiation Oncology Model, [86 FR 63458](#), November 16, 2021.

⁶ [After Months of Warnings, CMS Hands Out Its First Fines to Hospitals Failing on Price Transparency](#), by Dave Muoio, Fierce Healthcare, June 9, 2022.

⁷ [Enforcement Actions](#), Centers for Medicare & Medicaid Services, accessed 7/27/22.

- The list must include a description of the items or services, the gross charge, minimum and maximum negotiated charges, discounted cash price, payor-specific negotiated charge, and billing code.
- The list must be available online, free of charge, without establishing an account or password, and without requiring an access code or entering personal information.

Bill Summary

This bill requires that hospitals comply with the price transparency requirements established at 45 Code of Federal Regulations, Part 180, as in effect on January 1, 2023. It provides that upon application of the Attorney General, the Department of Health and Human Services or any affected patient, the Superior Court or District Court has full jurisdiction to enforce the price transparency laws. It prohibits a hospital from billing a patient, a patient guarantor or a 3rd-party payor for items or services provided to the patient, and requires that a hospital refund any payment made for items or services provided, on a date the hospital was in violation of the price transparency laws, as determined by a court, and provides for monetary penalties.

In closing, the federal rules around healthcare price transparency are only as strong as the individual state's enforcement mechanism, and providing direct recourse for Maine citizens is the best mechanism by which to ensure compliance. The only reason for healthcare facilities to object to LD 953 would be an intent to continue in non-compliance with the federal rules. As Maine citizens continue to struggle to pay ever increasing healthcare costs, improving our statewide compliance with the federal rules will empower Mainers to make educated and informed healthcare decisions.

Thank you for your time and consideration, and I'd be happy to answer any questions you may have.