

## HOSPITAL PRICE TRANSPARENCY

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**House Bill 4349 as reported from committee**

**Sponsor: Rep. Ryan Berman**

**Committee: Health Policy**

**Complete to 3-22-21**

Analysis available at  
<http://www.legislature.mi.gov>

### SUMMARY:

House Bill 4349 would amend Part 215 (Hospitals) of the Public Health Code to incorporate into Michigan law five sections (45 CFR 180.20 through 180.60) of a federal rule issued by the Centers for Medicare & Medicaid Services concerning hospital price transparency. The rule was issued in November 2019 and took effect January 1, 2021. It currently applies to all state-licensed hospitals in the United States. This summary describes those sections of the federal rule that the bill would republish as state law.

Under the rule, hospitals must publish their *standard charges* both as a comprehensive data file and as a more selective consumer-friendly list.<sup>1</sup>

A *standard charge* is the regular rate established by a hospital for an *item or service* provided to a specific group of paying patients.

An *item or service* is one that could be provided to a patient in connection with an inpatient admission or outpatient visit, such as supplies, procedures, room and board, facility fees, and charges for the services of physicians or other practitioners.

The following apply to the publication of both the file and the list:

- The hospital must publish the information prominently on a publicly available website and clearly identify the applicable hospital location.
- The information must be accessible without charge, without having to set up a user account or password, and without having to submit personal identifying information.
- The information must be updated at least annually, and the hospital must indicate the date of the most recent update.

Other requirements specific to either the file or the list are described below.

### Data file

45 CFR 180.50 requires a hospital to establish, update, and publish online (in a single digital file that is in a machine-readable format<sup>2</sup>) a searchable list of all standard charges for all items and services. If different hospital locations operating under a single license have different standard charges, each location must separately publish its charges. The list of charges must include all of the following:

- A description of each item or service provided by the hospital.

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<sup>1</sup> <https://www.govinfo.gov/content/pkg/FR-2019-11-27/pdf/2019-24931.pdf>

See also <https://www.cms.gov/hospital-price-transparency>

<sup>2</sup> That is, it can be imported or read into a computer system for further processing. The rule offers .XML, .JSON, and .CSV as examples of machine-readable formats.

- The gross charge that applies to each individual item or service when provided in an inpatient setting and in an outpatient setting, as applicable.
- The charge the hospital has negotiated with a third-party payer that applies to each item or service when provided in an inpatient setting and in an outpatient setting, as applicable. Each charge must be clearly associated with the name of the third-party payer and plan with which it was negotiated.
- The de-identified minimum negotiated charge (the lowest charge negotiated among all third-party payers) that applies to each item or service when provided in an inpatient setting and in an outpatient setting, as applicable. (“De-identified” means that the information is presented without indicating a specific third-party payer.)
- The de-identified maximum negotiated charge (the highest charge negotiated among all third-party payers) that applies to each item or service when provided in an inpatient setting and in an outpatient setting, as applicable.
- The discounted cash price (the charge for someone paying cash or its equivalent) that applies to each item or service when provided in an inpatient setting and in an outpatient setting, as applicable.
- Any code used by the hospital for purposes of accounting or billing for the item or service.

### **Consumer-friendly list**

Except for hospitals that maintain an internet-based price estimator tool as described below, 45 CFR 180.60 requires a hospital to publish a plain-language list of standard charges for at least 300 shoppable services. (Shoppable services are those that can be scheduled by a health care consumer in advance.) The CMS has specified 70 services that must be included on a hospital’s list if the hospital provides them.<sup>3</sup> The hospital must then include enough additional shoppable services to total at least 300 services on its list, and it must select those additional services with consideration for the rate at which it provides and bills for them. If a hospital provides fewer than 300 shoppable services, it must make public the information described below for all of the services it provides. The list of standard charges for shoppable services may be in a format chosen by the hospital and must include all of the following:

- A plain-language description of each shoppable service.
- An indicator for any of the 70 CMS-specified services that are not offered by the hospital.
- The charge the hospital has negotiated with a third-party payer that applies to each shoppable service and any corresponding ancillary service. (An ancillary service is an item or service a hospital customarily provides as part of, or in conjunction with, a shoppable primary service.) Each charge must be clearly associated with the name of the third-party payer and plan with which it was negotiated.
- The de-identified minimum negotiated charge (the lowest charge negotiated among all third-party payers) that applies to each shoppable service and any corresponding ancillary service. (“De-identified” means that the information is presented without indicating a specific third-party payer.)
- The de-identified maximum negotiated charge (the highest charge negotiated among all third-party payers) that applies to each shoppable service and any corresponding ancillary service.

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<sup>3</sup> See pages 3 to 6 of this document (which also provides an overview of the shoppable services requirement): <https://www.cms.gov/files/document/steps-making-public-standard-charges-shoppable-services.pdf>

- The discounted cash price (the charge for someone paying cash or its equivalent) that applies to each shoppable service and any corresponding ancillary service. If the hospital does not offer a discounted cash price for a shoppable service or corresponding ancillary service, it must list its undiscounted gross charge for the service in question.
- The location at which the shoppable service is provided, including whether the indicated standard charge applies at that location to provision of the service in the inpatient setting, the outpatient department setting, or both.
- Any primary code for the service that the hospital uses for accounting or billing services.<sup>4</sup>

#### **Internet-based price estimator tool**

The CMS considers a hospital to meet the above requirements for a consumer-friendly list of shoppable services if the hospital maintains an internet-based price estimator tool that meets all of the following:

- It provides estimates for as many of the 70 CMS-specified shoppable services as are provided by the hospital and as many additional services as needed to reach a combined total of at least 300 shoppable services.
- It allows health care consumers to obtain a real-time estimate of the amount they will have to pay for the shoppable service.
- It is prominently displayed on the hospital's website and accessible to the public without charge and without having to register or establish a user account or password.

Proposed MCL 333.21517

#### **FISCAL IMPACT:**

House Bill 4349 would not have a significant fiscal impact on any unit of state or local government. The bill may result in minor cost increases for hospitals, but these costs are not anticipated to be significant.

#### **POSITIONS:**

The following entities indicated support for the bill:

- Mackinac Center for Public Policy (3-16-21)
- Michigan Manufacturers Association (3-18-21)

The Department of Licensing and Regulatory Affairs indicated a neutral position on the bill. (3-16-21)

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■ This analysis was prepared by nonpartisan House Fiscal Agency staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.

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<sup>4</sup> The rule offers the Current Procedural Terminology (CPT) code, the Healthcare Common Procedure Coding System (HCPCS) code, and the Diagnosis Related Group (DRG) as examples of common service billing codes.