

December 29, 2020

Appeals Court Rules Against Hospitals' Challenge to CMS' Price Transparency Regulation

Rule to take effect Jan. 1; AHA resources available to assist hospitals

A federal appeals court today ruled against AHA's legal challenge to the Centers for Medicare & Medicaid Services' (CMS) final rule mandating that hospitals disclose their privately negotiated charges with commercial health insurers. The rule goes into effect Jan. 1, 2021.

In a [statement](#), AHA General Counsel Melinda Hatton said, "America's hospitals and health systems support the goal of increasing price transparency by making patient out-of-pocket cost estimates easier to access and understand. Our focus remains on providing patients with the knowledge they actually need to make informed decisions about their health care. That is why we are disappointed in today's decision to uphold the District Court rejection of hospitals' challenge to the rule. Further, the decision to decline a stay in enforcement ignores the overwhelming burden of the pandemic on hospitals.

"The AHA continues to believe that the disclosure of privately negotiated rates does nothing to help patients understand what they will actually pay for treatment and will create widespread confusion for them. We also believe it will accelerate anticompetitive behavior among commercial health insurers and hinder innovations in value-based care delivery. Lastly, the requirement imposes significant costs on care providers at a time when scarce resources are needed to fight COVID-19 and save lives. For these reasons, the AHA has urged the incoming administration to evaluate whether the rule should be revised and to exercise enforcement discretion for the duration of the public health emergency.

"We are reviewing the decision carefully to determine next steps."

Joining the AHA in the [lawsuit](#) are the Association of American Medical Colleges, the Children's Hospital Association and the Federation of American Hospitals, as well as member hospitals Memorial Community Hospital and Health System in Blair, Neb.; Bothwell Regional Health Center in Sedalia, Mo.; and Providence Holy Cross Medical Center in Mission Hills, Calif.

Earlier this year, the AHA and other national associations asked the Department of Health and Human Services (HHS) [to delay the implementation date of the rule](#) due to the burden it would represent for hospitals and health systems in the midst of

responding to the COVID-19 public health emergency. AHA reiterated its request this month in a [letter HHS](#).

In addition, AHA this month [urged](#) President-elect Biden in his first 100 days in office to rescind provider requirements to publicly disclose negotiated rates that do nothing to help patients understand their costs, could result in anticompetitive actions on the part of health plans, and, according to the Federal Trade Commission, could result in high costs for patients. AHA followed up on this issue last week in a [letter](#) to the Biden transition team.

Concurrent with our advocacy efforts, the AHA has been working to prepare the field for the rule's implementation. Our [Oct. 30 Member Advisory](#) outlined numerous available resources, including several on out-of-pocket cost estimators. In addition, our most recent [Member Advisory](#) provides additional resources to help hospitals and health systems discuss the price transparency rule with patients and the media. **Visit [AHA's webpage](#) to access a full suite of tools and resources, including case studies, on-demand webinars and podcasts.**

Further Questions

If you have questions, please contact AHA at 800-424-4301.