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September 20, 2021

The Honorable Chiquita Brooks-LaSure
Administrator
Centers for Medicare & Medicaid Services
7500 Security Boulevard
Baltimore, MD 21244

Dear Administrator Brooks-LaSure:

I am writing today in support of the Administration's commitment to improving the transparency of health care prices for individuals who seek care from U.S. hospitals. On August 4, 2021, the Centers for Medicare & Medicaid Services (CMS) issued the Calendar Year (CY) 2022 Medicare Hospital Outpatient Prospective Payment System (OPPS) and Ambulatory Surgical Center (ASC) Payment System Proposed Rule which includes proposals to amend existing hospital price transparency regulations. This proposed rule is an important step in realizing greater price transparency in ways that help patients make informed choices. I also urge you to pursue additional policies that will ensure accessibility of meaningful price data is realized for patients and payers as envisioned by the regulation.

In today's complex health care system, too many Americans do not know how much their health care will cost before receiving services. Transparent health care prices give consumers more of the information they need to make decisions about their care, and a significant majority of Americans are in support of hospital price transparency.¹ As you know, beginning this year, hospitals were required to post health care prices to their websites according to the CY 2020 Hospital Price Transparency final rule – making it easier for consumers to access information about the cost of their care prior to receiving services.² Real price information is critical for consumers who are looking to compare providers and plan for out-of-pocket costs. Unfortunately, hospitals have been found to hide the ball and have high rates of noncompliance with one or more of CMS's price transparency requirements.^{3 4}

Existing enforcement mechanisms by CMS have been insufficient to date to encourage facilities to comply with the transparency requirements. Research findings from patient advocates show the vast majority of U.S. hospitals are not complying with the current price transparency policies.⁵ Until more hospitals substantially meet the requirements of the rule, consumers will

¹ <https://static1.squarespace.com/static/60065b8fc8cd610112ab89a7/t/60f1c21c49c4f65d0f57d5ae/1626456605014/SocialSphere+Patient+Rights+Advocate+June+2021+Survey+Results.pdf>

² <https://www.federalregister.gov/documents/2019/11/27/2019-24931/medicare-and-medicaid-programs-cy-2020-hospital-outpatient-pps-policy-changes-and-payment-rates-and>

³ <https://jamanetwork.com/journals/jamainternalmedicine/article-abstract/2781019>

⁴ <https://www.govinfo.gov/content/pkg/FR-2021-08-04/pdf/2021-15496.pdf>

⁵ <https://static1.squarespace.com/static/60065b8fc8cd610112ab89a7/t/60f1c225e1a54c0e42272fbf/1626456614723/PatientRightsAdvocate.org+Semi-Annual+Hospital+Compliance+Report.pdf>

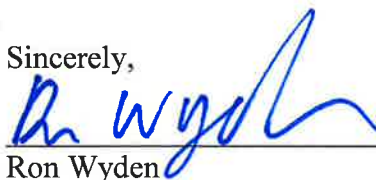
not benefit from its goal informing patient choice of health care providers. Therefore, I urge CMS to include higher civil monetary penalties (CMPs) for noncompliance in the final rule. Also I encourage CMS to finalize CMPs that are determined to be sufficient to encourage full compliance with the requirements, while remaining sensitive to the significant variation in the size and resources of hospitals across the country.

In addition, the CY 2020 final rule allowed hospitals to be compliant with the requirement to post standard charges if they provided patients with an estimate of the amount that they will be obligated to pay.⁶ I support the Administration's proposal to standardize these cost estimator tools so they accurately reflect the actual cost of care which is meaningful for patients and consumers shopping among providers. I also urge the Administration to require hospitals to list their standard charges for care regardless of whether they offer an online estimator tool. These tools should supplement and not supplant the requirement for hospitals to make their prices widely available and accessible. Consumers and other interested parties should be able to access standard charges regardless of the availability of such tools.

Finally, I fully support finalization of policies that will improve the accessibility of price data for consumers and researchers. In too many instances, it remains a great challenge for consumers to access standard charge data posted by hospitals. Barriers imposed by hospitals that prevent price data from being displayed on search engines prevent consumers from accessing the information they need.⁷ Clear standards from the agency for sharing required pricing data are necessary to make certain that consumers have access to the most complete and accurate data. I urge you to proceed with proposed provisions that require standard charge information be easily accessible to consumers without unnecessary barriers.

I am fully committed to helping consumers better understand providers' health care prices and I support the consideration of new policies to enforce and improve the existing transparency requirements. I strongly encourage the Administration to consider the steps described in order to advance our shared goal of improving price transparency for American patients. Thank you for your actions on this important issue.

Sincerely,



Ron Wyden
Chairman
Committee on Finance

⁶ <https://www.hhs.gov/sites/default/files/cms-1717-f2.pdf>

⁷ <https://www.govinfo.gov/content/pkg/FR-2021-08-04/pdf/2021-15496.pdf>