

HOUSE BILL NO. 4349

February 24, 2021, Introduced by Reps. Berman, Brann, Whiteford, Borton, Paquette, Allor, Glenn, Farrington, Bellino, Yaroch, Wozniak, O'Malley and Calley and referred to the Committee on Health Policy.

A bill to amend 1978 PA 368, entitled
"Public health code,"
(MCL 333.1101 to 333.25211) by adding section 21517.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 21517. 45 CFR 180.20 to 180.60, as they exist on February
2 22, 2021, are incorporated as follows:
3 "§ 180.20 Definitions.
4 The following definitions apply to this part, unless specified
5 otherwise:

1 *Ancillary service* means an item or service a hospital
2 customarily provides as part of or in conjunction with a shoppable
3 primary service.

4 *Chargemaster (Charge Description Master or CDM)* means the list
5 of all individual items and services maintained by a hospital for
6 which the hospital has established a charge.

7 *De-identified maximum negotiated charge* means the highest
8 charge that a hospital has negotiated with all third party payers
9 for an item or service.

10 *De-identified minimum negotiated charge* means the lowest
11 charge that a hospital has negotiated with all third party payers
12 for an item or service.

13 *Discounted cash price* means the charge that applies to an
14 individual who pays cash (or cash equivalent) for a hospital item
15 or service.

16 *Gross charge* means the charge for an individual item or
17 service that is reflected on a hospital's chargemaster, absent any
18 discounts.

19 *Hospital* means an institution in any State in which State or
20 applicable local law provides for the licensing of hospitals, that
21 is licensed as a hospital pursuant to such law or is approved, by
22 the agency of such State or locality responsible for licensing
23 hospitals, as meeting the standards established for such licensing.
24 For purposes of this definition, a State includes each of the
25 several States, the District of Columbia, Puerto Rico, the Virgin
26 Islands, Guam, American Samoa, and the Northern Mariana Islands.

27 *Items and services* means all items and services, including
28 individual items and services and service packages, that could be
29 provided by a hospital to a patient in connection with an inpatient

admission or an outpatient department visit for which the hospital has established a standard charge. Examples include, but are not limited to, the following:

(1) Supplies and procedures.

(2) Room and board.

(3) Use of the facility and other items (generally described as facility fees).

(4) Services of employed physicians and non-physician practitioners (generally reflected as professional charges).

(5) Any other items or services for which a hospital has established a standard charge.

Machine-readable format means a digital representation of data or information in a file that can be imported or read into a computer system for further processing. Examples of machine-readable formats include, but are not limited to, .XML, .JSON and .CSV formats.

Payer-specific negotiated charge means the charge that a hospital has negotiated with a third party payer for an item or service.

Service package means an aggregation of individual items and services into a single service with a single charge.

Shoppable service means a service that can be scheduled by a healthcare consumer in advance.

Standard charge means the regular rate established by the hospital for an item or service provided to a specific group of paying patients. This includes all of the following as defined under this section:

(1) Gross charge.

(2) Payer-specific negotiated charge.

(3) De-identified minimum negotiated charge.

(4) De-identified maximum negotiated charge.

(5) Discounted cash price.

Third party payer means an entity that is, by statute, contract, or agreement, legally responsible for payment of a claim for a healthcare item or service.

§ 180.30 Applicability.

(a) *General applicability.* Except as provided in paragraph (b) of this section, the requirements of this part apply to hospitals as defined at § 180.20.

(b) *Exception.* Federally owned or operated hospitals are deemed by CMS to be in compliance with the requirements of this part including but not limited to:

(1) Federally owned hospital facilities, including facilities operated by the U.S. Department of Veterans Affairs and Military Treatment Facilities operated by the U.S. Department of Defense.

(2) Hospitals operated by an Indian Health Program as defined in section 4(12) of the Indian Health Care Improvement Act.

(c) *Online availability.* Unless otherwise stated, hospital charge information must be made public electronically via the internet.

§ 180.40 General Requirements.

A hospital must make public the following:

(a) A machine-readable file containing a list of all standard charges for all items and services as provided in § 180.50.

(b) A consumer-friendly list of standard charges for a limited set of shoppable services as provided in § 180.60.

§ 180.50 Requirements for making public hospital standard charges for all items and services.

1 (a) *General rules.*

2 (1) A hospital must establish, update, and make public a list
3 of all standard charges for all items and services online in the
4 form and manner specified in this section.

5 (2) Each hospital location operating under a single hospital
6 license (or approval) that has a different set of standard charges
7 than the other location(s) operating under the same hospital
8 license (or approval) must separately make public the standard
9 charges applicable to that location.

10 (b) *Required data elements.* A hospital must include all of the
11 following corresponding data elements in its list of standard
12 charges, as applicable:

13 (1) Description of each item or service provided by the
14 hospital.

15 (2) Gross charge that applies to each individual item or
16 service when provided in, as applicable, the hospital inpatient
17 setting and outpatient department setting.

18 (3) Payer-specific negotiated charge that applies to each item
19 or service when provided in, as applicable, the hospital inpatient
20 setting and outpatient department setting. Each payer-specific
21 negotiated charge must be clearly associated with the name of the
22 third party payer and plan.

23 (4) De-identified minimum negotiated charge that applies to
24 each item or service when provided in, as applicable, the hospital
25 inpatient setting and outpatient department setting.

26 (5) De-identified maximum negotiated charge that applies to
27 each item or service when provided in, as applicable, the hospital
28 inpatient setting and outpatient department setting.

29 (6) Discounted cash price that applies to each item or service

1 when provided in, as applicable, the hospital inpatient setting and
2 outpatient department setting.

3 (7) Any code used by the hospital for purposes of accounting
4 or billing for the item or service, including, but not limited to,
5 the Current Procedural Terminology (CPT) code, the Healthcare
6 Common Procedure Coding System (HCPCS) code, the Diagnosis Related
7 Group (DRG), the National Drug Code (NDC), or other common payer
8 identifier.

9 (c) *Format*. The information described in paragraph (b) of this
10 section must be published in a single digital file that is in a
11 machine-readable format.

12 (d) *Location and accessibility*.

13 (1) A hospital must select a publicly available website for
14 purposes of making public the standard charge information required
15 under paragraph (b) of this section.

16 (2) The standard charge information must be displayed in a
17 prominent manner and clearly identified with the hospital location
18 with which the standard charge information is associated.

19 (3) The hospital must ensure that the standard charge
20 information is easily accessible, without barriers, including but
21 not limited to ensuring the information is accessible:

22 (i) Free of charge;

23 (ii) Without having to establish a user account or password;

24 and

25 (iii) Without having to submit personal identifying
26 information (PII).

27 (4) The digital file and standard charge information contained
28 in that file must be digitally searchable.

29 (5) The file must use the following naming convention

1 specified by CMS, specifically: <ein>_<hospital-
2 name>_standardcharges.[json|xml|csv].

3 (e) *Frequency of updates.* The hospital must update the
4 standard charge information described in paragraph (b) of this
5 section at least once annually. The hospital must clearly indicate
6 the date that the standard charge data was most recently updated,
7 either within the file itself or otherwise clearly associated with
8 the file.

9 § 180.60 Requirements for displaying shoppable services in a
10 consumer-friendly manner.

11 (a) *General rules.* (1) A hospital must make public the
12 standard charges identified in paragraphs (b)(3) through (6) of
13 this section, for as many of the 70 CMS-specified shoppable
14 services that are provided by the hospital, and as many additional
15 hospital-selected shoppable services as is necessary for a combined
16 total of at least 300 shoppable services.

17 (i) In selecting a shoppable service for purposes of this
18 section, a hospital must consider the rate at which it provides and
19 bills for that shoppable service.

20 (ii) If a hospital does not provide 300 shoppable services,
21 the hospital must make public the information specified in
22 paragraph (b) of this section for as many shoppable services as it
23 provides.

24 (2) A hospital is deemed by CMS to meet the requirements of
25 this section if the hospital maintains an internet-based price
26 estimator tool which meets the following requirements.

27 (i) Provides estimates for as many of the 70 CMS-specified
28 shoppable services that are provided by the hospital, and as many
29 additional hospital-selected shoppable services as is necessary for

1 a combined total of at least 300 shoppable services.

2 (ii) Allows healthcare consumers to, at the time they use the
3 tool, obtain an estimate of the amount they will be obligated to
4 pay the hospital for the shoppable service.

5 (iii) Is prominently displayed on the hospital's website and
6 accessible to the public without charge and without having to
7 register or establish a user account or password.

8 (b) *Required data elements.* A hospital must include, as
9 applicable, all of the following corresponding data elements when
10 displaying its standard charges (identified in paragraphs (b) (3)
11 through (6) of this section) for its list of shoppable services
12 selected under paragraph (a) (1) of this section:

13 (1) A plain-language description of each shoppable service.

14 (2) An indicator when one or more of the CMS-specified
15 shoppable services are not offered by the hospital.

16 (3) The payer-specific negotiated charge that applies to each
17 shoppable service (and to each ancillary service, as applicable).
18 Each list of payer-specific negotiated charges must be clearly
19 associated with the name of the third party payer and plan.

20 (4) The discounted cash price that applies to each shoppable
21 service (and corresponding ancillary services, as applicable). If
22 the hospital does not offer a discounted cash price for one or more
23 shoppable services (or corresponding ancillary services), the
24 hospital must list its undiscounted gross charge for the shoppable
25 service (and corresponding ancillary services, as applicable).

26 (5) The de-identified minimum negotiated charge that applies
27 to each shoppable service (and to each corresponding ancillary
28 service, as applicable).

29 (6) The de-identified maximum negotiated charge that applies

1 to each shoppable service (and to each corresponding ancillary
2 service, as applicable).

3 (7) The location at which the shoppable service is provided,
4 including whether the standard charges identified in paragraphs
5 (b)(3) through (6) of this section for the shoppable service apply
6 at that location to the provision of that shoppable service in the
7 inpatient setting, the outpatient department setting, or both.

8 (8) Any primary code used by the hospital for purposes of
9 accounting or billing for the shoppable service, including, as
10 applicable, the Current Procedural Terminology (CPT) code, the
11 Healthcare Common Procedure Coding System (HCPCS) code, the
12 Diagnosis Related Group (DRG), or other common service billing
13 code.

14 (c) *Format*. A hospital has discretion to choose a format for
15 making public the information described in paragraph (b) of this
16 section online.

17 (d) *Location and accessibility of online data*. (1) A hospital
18 must select an appropriate publicly available internet location for
19 purposes of making public the information described in paragraph
20 (b) of this section.

21 (2) The information must be displayed in a prominent manner
22 that identifies the hospital location with which the information is
23 associated.

24 (3) The shoppable services information must be easily
25 accessible, without barriers, including but not limited to ensuring
26 the information is:

27 (i) Free of charge.

28 (ii) Accessible without having to register or establish a user
29 account or password.

1 (iii) Accessible without having to submit personal identifying
2 information (PII).

3 (iv) Searchable by service description, billing code, and
4 payer.

5 (e) *Frequency*. The hospital must update the standard charge
6 information described in paragraph (b) of this section at least
7 once annually. The hospital must clearly indicate the date that the
8 information was most recently updated."