

DEPARTMENT OF HEALTH & HUMAN SERVICES
Centers for Medicare & Medicaid Services
7500 Security Boulevard, Mail Stop C5-15-12
Baltimore, Maryland 21244-1850



Center for Medicare

June 7, 2022

Reference Number: 1823301152021

Unique Case Number (UCN): 2022HPT002

Via Certified Mail

William Hayes
Chief Executive Officer
Northside Hospital Cherokee
450 Northside Cherokee Boulevard
Canton, GA 30115

RE: Hospital Price Transparency Notice of Imposition of a Civil Monetary Penalty (CMP)

Dear William Hayes:

The Centers for Medicare & Medicaid Services (CMS) is imposing a civil monetary penalty (CMP) as described in 45 C.F.R. §180.90. CMS has determined that Northside Hospital Cherokee meets the definition of a hospital specified in 45 C.F.R. §180.20 and that as of the date of this notice, Northside Hospital Cherokee is noncompliant with the price transparency requirements for hospitals to make standard charges public under [45 C.F.R. Part 180](https://www.govinfo.gov/content/pkg/FR-2019-11-27/pdf/2019-24931.pdf) (<https://www.govinfo.gov/content/pkg/FR-2019-11-27/pdf/2019-24931.pdf>). CMS has documented that your hospital has been noncompliant since April 16, 2021.

Pursuant to 45 C.F.R. §180.70(b), CMS previously issued your hospital a Warning Notice dated May 18, 2021. Your hospital was provided the opportunity to respond and provide supporting documentation to CMS regarding cited violations; it did not.

CMS completed a review of Northside Hospital Cherokee's website <https://www.northside.com/chokeee> on September 9, 2021, and it became apparent that your hospital had not come into compliance. Based upon the September 9, 2021 review, Northside Hospital Cherokee remained in violation of the requirements to make public its list of standard charges. On October 27, 2021, CMS issued a Request for Corrective Action Plan (CAP) notifying the hospital of the following violations:

Violations- Comprehensive Machine-Readable File

M-1. Failure to comply with 45 CFR 180.50(a)(2) requiring each hospital location operating under a single hospital license (or approval) that has a different set of standard charges than the other location(s) operating under the same hospital license (or approval) must separately make public the standard charges applicable to that location.

M-2. Failure to make public a machine-readable file containing a list of all standard charges for all items and services as required at 45 C.F.R. §180.40(a). Specifically, items and services as defined at 45 C.F.R. §180.20 such as supplies, room and board, use of the facility and other items (generally described as facility fees) were not found in the online machine-readable file.

M-3. Failure to publish the information described in 45 C.F.R. §180.50(b) in a single digital file that is in a machine-readable format as required at 45 C.F.R. §180.50(c). Specifically, the information posted online by your hospital is not in a single digital file.

M-4. Failure to follow the naming convention specified by CMS, specifically:
<in>_<hospital-name>_standardcharges.[json|xml|csv] as required at 45 C.F.R. §180.50(d)(5).

Violations - Displaying Shoppable Services in a Consumer-Friendly Manner

S-1. Failure to make available a consumer-friendly list of standard charges for a limited set of shoppable services as provided in § 180.60, as required at § 180.40(b). Specifically, no consumer-friendly list of standard charges was found.

The Request for CAP stated that the CAP was due in 45 calendar days, which was extended to the next business day (December 13, 2021). Northside Hospital Cherokee did not submit a CAP.

CMS conducted a technical assistance call on January 11, 2022. During this call, the designated representative for Northside Hospital Cherokee confirmed that the previous violations had not been corrected and, in fact, the hospital system had intentionally removed all previously posted pricing files. CMS then reiterated that your hospital is required to post a machine-readable file and a shoppable services file (or price estimator tool) that meet price transparency requirements for hospitals to make standard charge information public in accordance with 45 C.F.R. §§ 180.40 – 180.60.

CMS issued a recap of the technical assistance call via email on January 24, 2022, requesting that Northside Hospital Cherokee submit a CAP within 10 calendar days from the date of the e-mail. Your hospital did not submit a CAP and continues to fail to meet CAP requirements as described in 45 C.F.R. §180.80(c), (d). Moreover, your hospital continues to be out of compliance with 45 C.F.R. §§ 180.40 – 180.60. Therefore, CMS is imposing the CMP set forth below.

Amount of CMP

Based on the foregoing findings, CMS is imposing a total CMP of \$214,320.00 pursuant to 45 C.F.R. § 180.90:

- a) \$300.00 per day of noncompliance from September 9, 2021 through December 31, 2021 (114 days), for a total of \$34,200.00.
- b) \$10.00 per bed per day for hospitals with a bed count greater than 30 but not more than 550 = \$10.00 x (114 beds¹) x (158 days) = \$180,120.00. This CMP is calculated from January 1, 2022 up to and including June 7, 2022.

For hospitals that remain noncompliant, CMS may issue subsequent notices imposing additional CMPs for continuing violation(s) as described at 45 C.F.R. § 180.90(b)(2)(iv), (f). **It is incumbent upon your hospital to notify CMS when your hospital makes necessary corrections and believes to be in compliance with 45 C.F.R. §§ 180.40 – 180.60. Should your hospital fail to notify CMS that all noncompliance have been corrected, a CMP will continue to accrue until the date CMS reviews your website and determines your hospital is in full compliance with sections 180.40 – 180.60.**

III. Payment of CMP

Pursuant to 45 C.F.R. § 180.90(d), your hospital must pay the CMP in full within 60 calendar days² from the date of this notice of imposition of CMP.

If your hospital decides to request a hearing, then your hospital must pay the CMP amount in full within 60 calendar days from the date of a final and binding decision to uphold the CMP, in whole or in part, as specified in 45 C.F.R. § 180.90(d)(2). More information regarding Appeal Rights can be found in Section VI.

The CMP may be paid by federal ACH wire transfer.

To Pay via Federal ACH Wire Transfer

Subtype/TypeCode:	10 00
Amount:	[Fill In]
Sending Bank Routing Number:	
ABA Number of Receiving Institution:	
Receiver Name:	Treasury NYC
Receiving Institution Name:	Federal Reserve Bank of New York
Receiving Institution Address:	33 Liberty Street, New York, NY 10045

¹ Pursuant to 45 CFR § 180.90(c)(2)(ii)(D)(1), CMS used the most recently available, finalized Medicare hospital cost report to determine the number of beds. The data is available at <https://data.cms.gov/provider-compliance/cost-report/hospital-provider-cost-report/data>.

² Pursuant to 45 CFR § 180.90(d)(3), if the 60th calendar day is a weekend or a Federal holiday, then the timeframe is extended until the end of the next business day.

Beneficiary Account Number:	
Beneficiary Name:	Centers for Medicare & Medicaid Services (CMS)
Beneficiary Physical Address:	7500 Security Blvd., Baltimore, MD 21244
CMS Tax ID Number:	
Credit Gateway Customer Care Number	1-877-815-1206
Re: Unique Case Number (UCN) 2022HPT002 and Hospital Price Transparency CMP	

IV. Appeal Rights

Pursuant to 45 C.F.R. Part 180, Subpart D, your hospital may appeal CMS' CMP determination by requesting a hearing before an Administrative Law Judge (ALJ) of the U.S. Department of Health and Human Services' Departmental Appeals Board (DAB). To request a hearing, your hospital must submit its hearing request within 30 calendar days³ of the issuance of the notice of imposition of CMP in accordance with the procedures outlined in 45 C.F.R. §150.401, *et. seq.* The request for a hearing must comply with the requirements described in 45 C.F.R. §150.407.

The DAB no longer accepts requests for a hearing submitted by U.S. Mail or commercial carrier unless your hospital does not have access to a computer or internet service. Your hospital must use the DAB's Electronic Filing System ("DAB E-File") located at <https://dab.efile.hhs.gov> within the time frame described above to electronically submit an appeal to CMS. Further instructions are located at https://dab.efile.hhs.gov/appeals/to_crd_instructions. The DAB's Civil Remedies Division (CRD) requires all hearing requests to be signed and accompanied by this notice letter from CMS that addresses the action taken and the respective appeal rights. All submitted documents must be in Portable Document Format. The ALJ will consider documents uploaded to the DAB E-File on any day on or before 11:59 p.m. EST to have been received on that day. Your hospital must accept electronic service of any appeal-related documents filed by CMS or that the CRD issues on behalf of the ALJ via DAB E-File.

Please contact the CRD at (202) 565-9462 for questions regarding the DAB E-File. If your hospital experiences technical issues with the DAB E-File, please contact the E-File System Support at OSDABImmediateOffice@hhs.gov or at (202) 565-0146 before 4 p.m. EST. If your hospital does not have access to a computer or internet service, your hospital may request a waiver from e-filing by contacting the CRD at (202) 565-9462 and providing an explanation as to why your hospital cannot file electronically.

Should your hospital file an appeal, CMS also requests that copies of the appeal documents be emailed to PriceTransparencyHospitalCharges@cms.hhs.gov and also mailed to the address listed below. Documents or first-class mail replies may be sent to:

Hospital Price Transparency
ATTN: John Pilotte
7500 Security Blvd, Mail Stop C5-15-12
Baltimore, MD 21244-1850

³ Pursuant to 45 CFR §180.110(a), if the 30th calendar day is a weekend or a Federal holiday, then the timeframe is extended until the end of the next business day.

Pursuant to 45 C.F.R. §180.110, failure to request a hearing in the manner and timeframe described above permits CMS to impose the CMP indicated in this notice and CMS may impose any subsequent penalties pursuant to continuing violations without right of appeal. The hospital has no right to appeal a penalty to which it has not requested a hearing in accordance with 45 C.F.R. §150.405, unless the hospital can show good cause, as determined at 45 C.F.R. §150.405(b), for failing to timely exercise its right to a hearing. If the CMP is upheld, in part, by a final and binding decision, CMS will issue a modified notice of imposition of CMP to conform to the adjudicated finding as described in 45 C.F.R. §180.90(b)(3).

V. Publication of CMP

In accordance with 45 C.F.R. §180.90(e), CMS will post this notice on a CMS website. If your hospital elects to request a hearing, CMS will indicate in its posting that the CMP is under review. If the CMP is upheld, in whole, by a final and binding decision, CMS will maintain this notice on a CMS website. If the CMP is upheld, in part, by a final and binding decision, CMS will issue a modified CMP notice to conform to the adjudicated finding and post the modified notice publicly on a CMS website. If the CMP is overturned, in full, by a final and binding decision, CMS will remove this notice from the CMS website.

If you have questions, please contact us at PriceTransparencyHospitalCharges@cms.hhs.gov. We appreciate your prompt attention to this matter.

Sincerely,

John C. Pilotte
-S

Digitally signed by John C.
Pilotte -S
Date: 2022.06.07 09:12:00
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John Pilotte
Director
Performance-Based Payment Policy Group
Center for Medicare

cc: Jorge J. Hernandez, VP Administrative Services & Chief Compliance Officer, Northside Hospital, Inc.