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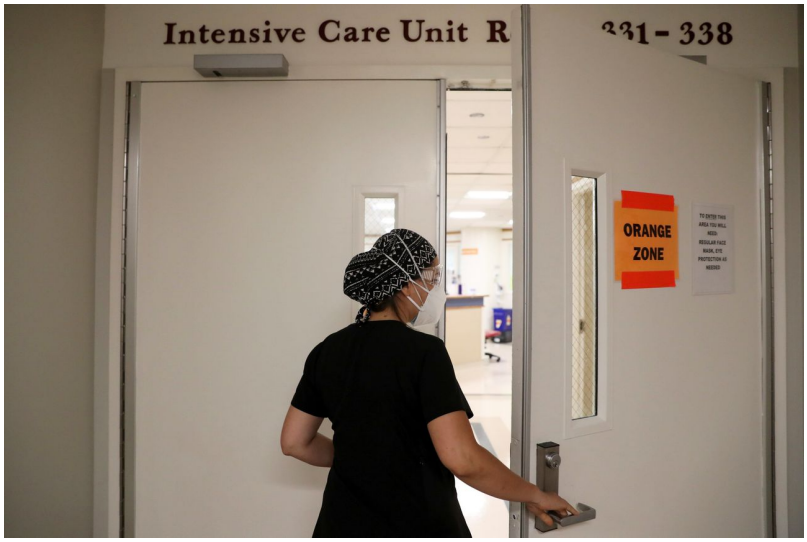
Hospitals Still Not Fully Complying With Federal Price-Disclosure Rules

Some healthcare systems post incomplete pricing data or nothing at all, with no penalties yet from the Biden administration



By Melanie Evans , Anna Wilde Mathews and Tom McGinty

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A year after federal rules compelled hospitals to make healthcare prices public, some of the nation's biggest chains haven't done so, with no penalty so far from the Biden administration, according to a Wall Street Journal review of the $1 trillion U.S. hospital system.

CommonSpirit Health, which operates hospitals across 17 states, and Providence, a major hospital system in the West and South, are among those with facilities that have failed in some cases to publish required data, keeping secret their prices for care and many procedures.

Some hospitals that failed to publish their prices said that doing so would leave them at a competitive disadvantage and that they don't believe consumers would find the

information useful, or that the technological requirements are onerous. "This work requires extensive resources and a considerable investment," CommonSpirit said in a statement. The system operates 140 hospitals, including 27 of 31 in California for which the Journal was unable to recently find posted prices negotiated by private insurers.

No hospitals have been penalized as of late December, according to the Centers for Medicare and Medicaid Services, which is responsible for enforcing the rules. The maximum penalty this year for violators is $109,500 per hospital, and the penalty increases to as much as $2 million in January.

The agency has issued approximately 335 warnings for violations and is giving hospitals information and technical help to increase compliance as of early December, a CMS spokeswoman said. Regulators also requested that 98 hospitals submit plans for how and when they would comply.

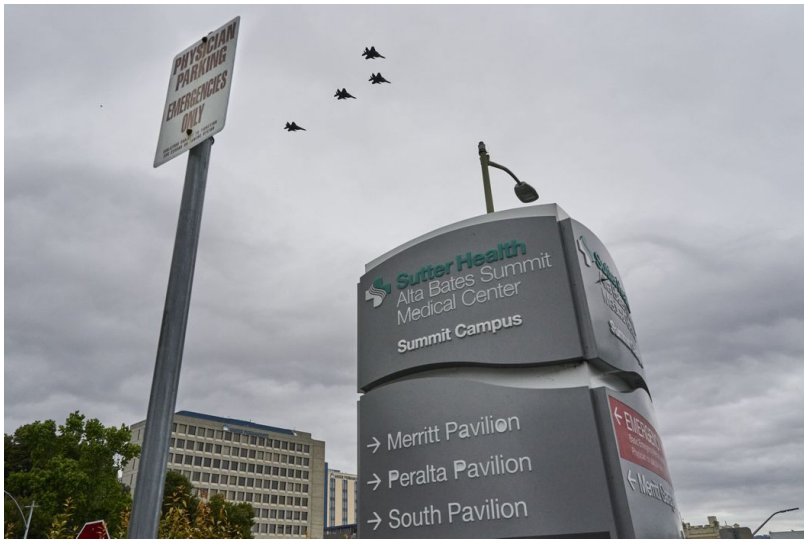
In its final rule, CMS summarized and responded to public comments, saying patients indicated that public price-disclosure "is essential for individual decision-making." CMS said the burden of collecting the data was outweighed by the public's need for pricing information, but also pushed back the initial date of release by one year.

The requirement, which took effect Jan. 1, 2021, launched a nationwide test of whether price transparency could be an effective tool to help lower healthcare costs.

Under the rules, hospitals must make public two separate groups of prices. One set of prices includes 300 common services that can be scheduled ahead of time, allowing individual patients to shop around. The second is a comprehensive price list, including all prices for all services. Hospitals typically have many prices for the same service under separate health-insurance contracts.

More than 1,000 hospitals did comply. The Journal's analyses of this data have revealed wide disparities in prices, with higher prices often charged to the uninsured or those with limited insurance, who might be least able to pay for care.

"We support transparency and we work to provide meaningful cost and quality information to our patients to help them make informed decisions about care," said a spokeswoman for Sutter Health, a Northern California nonprofit with 23 hospitals, which largely complied with the rules.



Turquoise Health Co., a startup focused on gathering the pricing-transparency data, uses a five-point scale to rate how well hospitals have complied with the regulations. As of this week, Turquoise has given just 51% of hospitals a score of 4 or 5, indicating they have released significant amounts of negotiated rates. Some hospitals may have published additional data since Turquoise last checked their disclosures.

Lack of fuller compliance has hindered the ability of consumers, employers and insurers to use price data to push for the best deals.

“Transparency is table stakes,” said Ashok Subramanian, chief executive officer of Centivo, which negotiates hospital prices for health plans that employers offer to workers as benefits. “If you’re not going to comply, it’s going to feel like you’re hiding something.”

In cases when Centivo could find price data this year, it used comparisons to compete for more employers’ business by giving concrete examples of where Centivo got favorable deals from hospitals, Mr. Subramanian said. “It’s now in black and white.”

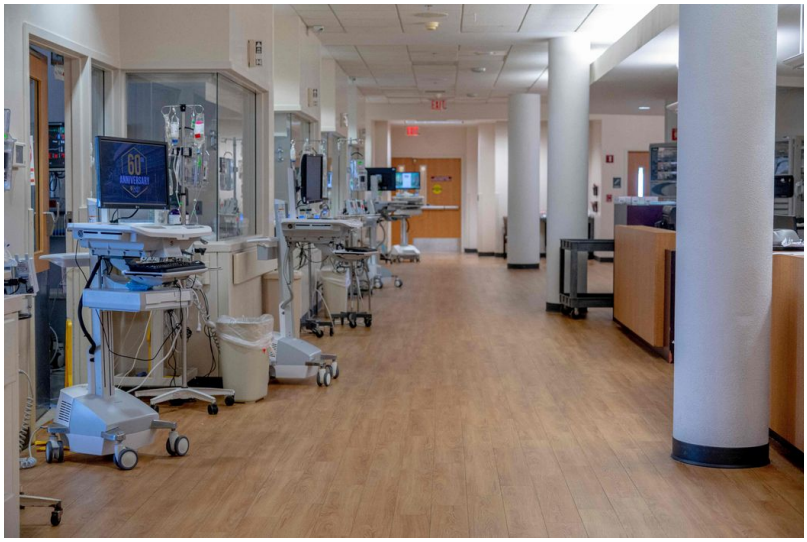
But that wasn’t possible where hospitals continued to keep prices secret, he said.

Some employers have pushed local hospitals to improve compliance and called for more aggressive enforcement from regulators. “Why aren’t they doing more?” said Gloria Sachdev, CEO of Employers’ Forum of Indiana, a coalition of employers.

Employers are among the nation’s largest healthcare consumers, contracting with insurers for networks of hospitals and doctors included in worker health benefits. They pick up about three-quarters of the family premium cost, according to the nonprofit Kaiser Family Foundation.

Hundreds of hospitals that posted pricing data on their websites masked the information from online search results, using special webpage coding that blocks pricing data on their websites from the results of search engines.

Under new rules that take effect in 2022, hospital price webpages can't use such coding, after the Journal reported that hundreds of hospitals had blocked their data.



The North Oaks Health System, based in Hammond, La., posted some data early in 2021 but then pulled it down two weeks later, the system's chief financial officer, Mark Anderson, said in an interview in June. None of the system's nearby competitors had posted their rates, he said.

"You get nervous about putting those negotiated rates out there. You don't know who will look at those rates and say, 'I want to negotiate to the Medicare rates,' " he said. "We didn't want to put ourselves at a competitive, strategic disadvantage."

A North Oaks representative this week pointed to a data file that the hospital posted on its site on July 1. The file contains a single price for each procedure, and the website includes a phone number consumers can call for more information. The file doesn't include the required prices that the hospital negotiates with each insurer.

"Due to the highly competitive environment we are in, they are not on the website, but we are handling personally with individuals," Mr. Anderson said through a spokeswoman this week. "We believe this is a better service to our customers."

Texas-based Christus Health early this year said on its website it planned to defy the rules

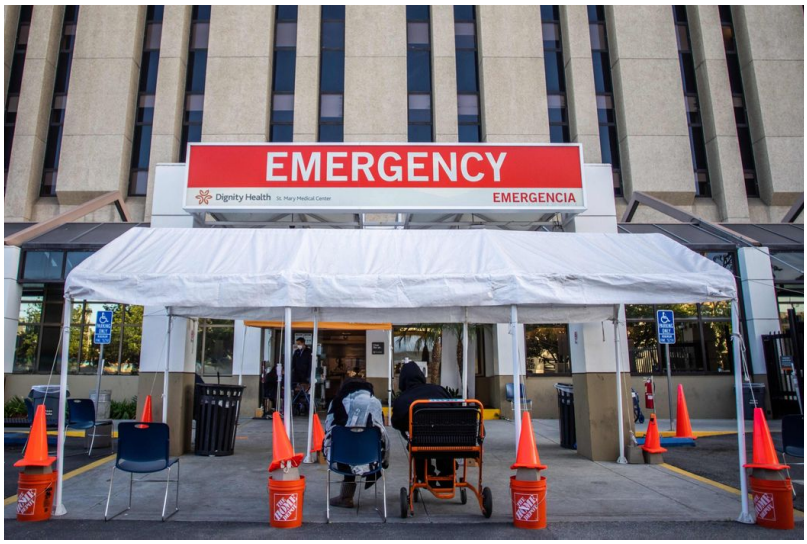
because its comprehensive list of prices "will only be useful for our competitors."

Five Christus hospitals got warning letters from CMS, followed by a notice that they were required to complete a corrective plan to get into compliance, a Christus spokeswoman said.

Christus expects its hospitals to be fully compliant before Jan. 1, according to the spokeswoman.

The hospitals put off making prices public because Christus officials didn't believe the required disclosures would be useful to patients, she said. Instead, Christus made billing experts available to take patients' questions about prices, she said.

Providence, a 52-hospital system based in Renton, Wash., has price-estimation tools available for patients and is working to post its comprehensive list of prices negotiated by payers, said Melissa Tizon, a Providence spokeswoman. None of the six hospitals in the system's Los Angeles region had revealed their negotiated prices as of a Journal review of disclosures this week.



Caring for Covid-19 patients has been the top priority at Providence, Ms. Tizon said. "The rule and the process of meeting its requirements are complex and are taking time," she said.

CommonSpirit first began to post comprehensive price lists at least three months after the deadline.

The hospital system needed to compile and analyze its hospital price data before making it public, the system said in April. As of this month, nearly all CommonSpirit hospitals in California still haven't complied, a Journal review of disclosures found. Hospitals post prices as their data are ready, a CommonSpirit spokesman said.

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