Centers for Medicare & Medicaid Services
National Stakeholder Webinar on Price Transparency
2:00 P.M. ET
Wednesday, August 11, 2021

Webinar link: https://shared-assets.adobe.com/link/e199e180-4e3f-4ede-66ec-14245a936bca

Not mentioned in webinar recording:

(Jill Darling: *Good morning and good afternoon. My name is Jill Darling and I'm in the Office of Communication here at CMS. Welcome to today's Hospital Price Transparency Final Rule, Stakeholder Call.)*

(Recording in progress.)

Jill Darling: Before we begin, I have a few announcements. If you are a member of the press, you may listen in, but please refrain from asking questions during the webinar. If you have any questions please email press@CMS.HHS.gov. For those that need closed captioning, the instructions and a link are located in the chat function in the webinar. We will be answering questions related to the presentation provided today. You may ask a question by typing it into the Q&A function at the bottom of the screen. And we will do our best to get to as many questions as possible today. We will be taking questions at the end of the presentation.

If there are folks that are unable to join the webinar today, we'll be posting this webinar and transcript to our CMS National Stakeholder Calls webpage. The web page is located in the chat box. And now, I will turn the call over to Terri Postma, who's the Medical Officer in the Center for Medicare.

Terri Postma: Great, thank you, Jill. Thank you for everyone that joined us today. We appreciate your time and appreciate your interest in price transparency. Jill, can we forward to

slide 3, please?

Next one. Great. Thanks. On November 15, 2019, through the finalization of the Hospital Price Transparency Final Rule CMS finalized policies that lay the foundation for a patient-driven healthcare system by making prices for items and services provided by all hospitals in the United States more transparent for patients so they can be more informed about what they might pay for hospital items and services.

This final rule advances CMS's commitment to increasing price transparency and the requirements apply to each hospital operating in the United States. They became effective January 1, 2021, that is about eight months ago.

Specifically, the final rule implemented the law found in section 2718(e) of the Public Health Service Act which requires each hospital operating in the United States to establish and update and make public a yearly list of the hospital's standard charges for items and services provide the by the hospital, including for diagnosis related groups established under section 1886(d)(4) of the Social Security Act.

As we stated in the Hospital Price Transparency Final Rule:

> "Health economists and other experts state that significant cost containment cannot occur without widespread and sustained transparency in provider prices. [We stated that] we believe there is a direct connection between transparency and hospital standard charge information and having more affordable healthcare and lower healthcare coverage costs... Many empirical studies have investigated the impact of price transparency on markets,

> with most research, consistent with predictions of standard economic theory, showing that price transparency leads to lower and more uniform prices. Traditional economic analysis suggests that if consumers... have better pricing information for healthcare services, providers would face pressure to lower prices and provide better quality care. Falling prices may, in turn, expand consumer's access to healthcare."

Next slide. The Hospital Price Transparency Final Rule superseded prior guidance that beginning January 1, 2019 required hospitals to publish their chargemaster rates online in a machine-readable format. The Hospital Price Transparency Final Rule expanded on that guidance largely as a result from public input received from many of you including hospital CEOs, hospital billing personnel, clinicians, insurers and consumer and patient advocates from across the country. Feedback and input for which we're deeply grateful.

Your continued input helped mold and inform the Hospital Price Transparency Final Rule policies which, again, became effective January 1st of this year.

Some hospitals have indicated that they have some confusion over what is required of them. And for such hospitals, I'd encourage you to review the Hospital Price Transparency Final Rule, which was published in the federal register in November 2019. And I would also encourage review of the many resources we made available well before the January 1st effective date, including a list of FAQs, documents that walk through the requirements step-by-step, (including the one that we'll be reviewing today), compliance checklists and other resources. All of those can be found on our hospital price transparency website. Links to the website and those resources can be found towards the end of today's slide deck. This is also the third open door

forum that we have offered to educate hospitals and the public about the final rule requirements and the transcripts and audio recordings for those can be found on the CMS.gov website.

At the most basic level the hospital transparency regulations require each hospital operating in the United States to make public their standard charges in two ways. First, as a single machine-readable file that contained all five types of standard charges as defined in the rule, for all the items and services provided by the hospital, and as a consumer-friendly display of some types of standard charges for 300 shoppable services that are provided by the hospital. For the second requirement, hospitals have the option of offering an online price estimator tool that provides a personalized out-of-pocket estimate. I want to be very clear that hospitals are required to meet both of these two main requirements and that offering a price estimator tool can satisfy the second requirement only. It does not satisfy the requirement to display hospital standard charges in a comprehensive machine-readable file. Each hospital in the United States must post a single machine-readable file that contains all their standard charges that the hospital has established for the items and services that it provides. Next slide, please.

Today, we're going to spend some time focusing on the requirements for the first of the two main requirements, that is the requirement for hospitals to post a single machine-readable file containing all standard charges for items and services. To do so, we're going to take a deep dive into the document that we posted on the CMS hospital price transparency website last summer prior to the January 1, effective date, that is designed to hospital compliance with the Hospital Price Transparency Rule. A companion document, "10 steps to a Consumer Friendly Display" is also available to assist you in meeting the second of the main two requirements. However, we're not going to go into that document or that aspect of the rule today. We're simply going to focus on the machine-readable file requirements.

I'd also like to mention that the requirements we're going to review today are all necessary to meet compliance with the regulation and avoid a compliance action from CMS, however they don't preclude the hospital from offering additional information or taking additional measures you may feel are necessary to help educate the public about your hospital standard charges or to engage in your own price transparency efforts. As we said in the Hospital Price Transparency Final Rule:

> "we encourage efforts to provide consumers with additional price information (beyond the requirements established in the final rule) and for hospitals to continue to educate and provide prospective out-of-pocket information to patients."

Okay. So, with that, let's dive in. Next slide, please. In the first several steps, of the eight steps to a machine-readable file document, your hospital will identify the standard charges it has established, the prices it has established and corresponding items and services to which the standard charges apply and the hospital location to which the standard charges data applies.

So, step one is to identify the hospital location. The first rule in this eight-step document, requires that each hospital location operating under a single hospital license (or approval) that has a different set of standard charges than the other location or locations operating under the same hospital license (or approval) must separately make public the standard charges applicable to that location.

There are, however, some special circumstances and allowances that we created to reduce hospital burden for posting the machine-readable file. For example, there could be situations in which multiple hospital departments or clinics are operating under a consolidated state hospital license and are co-located. To reduce burden, you wouldn’t need to post a separate file for each clinic or department at that location. You could post a single machine-readable file that

combines the standard charges for all the items and services offered by all the departments and clinics at the single location.

Another special circumstance is when there are multiple hospitals that operate under a consolidated state hospital license. They all have different locations, however, they all share the same standard charges for the same items and services. In order to reduce burden, you may use a single machine-readable file to display your list of standard charges for the items and services provided by the hospitals. However, if you choose to do that, make sure you clearly identify all the hospital locations with which that information is associated so that consumers know that those standard charges apply to those hospital and those locations. Next slide please.

Here are some examples of noncompliance and of compliance, respectively, with this requirement.

In the first noncompliant example, the hospital system has posted a single machine-readable file with tabs for each hospital location in the system. And each hospital has different payer specific negotiated charges for the same payer and plan. This is incorrect because it does not meet the requirement that each hospital location post a separate machine-readable file. It also doesn't meet either of the special circumstances. That is, the hospitals are neither co-located nor do they share the same set of standard charges. In the compliant example, this hospital system has clearly posted a single machine-readable file for each separate hospital location.

All right. Next slide. Let's move on to step two in the document, which is to identify all items and services for which your hospital has established a standard charge, as applicable.

Let's review some definitions. In the Hospital Price Transparency Final Rule, CMS identified and defined five types of standard charges. You must identify all the standard charges that your hospital has established for the items and services that your hospital provides, as

applicable, and make them public in the single machine-readable file. The first type of standard charge is the gross charge. This is the charge your hospital has established for an individual item or service that is reflected in your hospital's chargemaster. It's the undiscounted list price. Many hospitals have already done this as a result of the prior CMS guidance requiring hospitals to make public their charge masters online in a machine-readable file. As I mentioned before though, the final rule, the Hospital Price Transparency Final Rule that became effective earlier this year, supersedes that guidance and expands on it.

The second type of standard charge is the discounted cash price. The discounted cash price is the charge that applies to an individual who pays in cash (or cash equivalent) for a hospital item or service. For example, hospitals may offer a percent discount off the chargemaster rate for an itemized service to self-pay patients or some may offer a complete service package at a discounted rate. As we discussed in the Hospital Price Transparency Final Rule:

> "we considered this ...definition because many consumers who may wish to pay in cash (or cash equivalent) for hospital items or services whether they're insured or uninsured for a variety of reasons... We [clarified] that the "discounted cash price" would reflect the discounted rate published by the hospital unrelated to any charity care or bill forgiveness that a hospital may choose or be required to apply to a particular individual's bill. Thus, the discounted cash price is a standard charge offered by the hospital to a group of individuals who are self-pay. The discounted cash price... [applies] to all self-pay individuals regardless of insurance status... [We agreed] with commenters who indicated some hospitals may not have determined a discounted cash price for self-pay consumers. For some hospital, the cash price is the undiscounted gross charges as reflected in [their] chargemaster... [so] Hospitals that do not offer self-pay discounts may display the

hospital's undiscounted gross charges as found in the hospital's chargemaster."

The third type of standard charge is the payer specific negotiated charge. This is the charge that your hospital has negotiated with a third-party payer for an item or service. As we explained in the final rule:

> "the payer-specific negotiated charge is the charge that the hospital has negotiated with a third-party payer for an item or service and does not refer to the amount the hospital is ultimately paid by the insurer or patient for an item or service... We [noted] that the payer-specific negotiated charge for a DRG is the rate the hospital has negotiated for the DRG as a service package. We [clarified] that the requirement to make public the payer-specific negotiated charge for a DRG would mean the base rate that is negotiated by the hospital with the third-party payer [as found in their contracts] and not the adjusted or final payment received by the hospital for a package service.

Please note that your hospital is required to make public the payer-specific negotiated charges that your hospital has established for each payer and each payer's plan.

Note also as we stated in the Hospital Price Transparency Final Rule:

> "...payer-specific negotiated charges [do] not include non-negotiated payment rates (such as those payment rates for fee for service Medicare or Medicaid) [because those rates are not negotiated.] However, hospitals [are] required to make public the payer-specific negotiated charges they have negotiated with third party payers, including charges negotiated by third party managed care plans such as Medicaid Advantage plans, Medicaid MCOs, and other Medicaid managed care plans."

Finally, the fourth and fifth types of standard charges you must including in the machine-readable file are the deidentified minimum negotiated charge and the deidentified maximum

negotiated charge. These are the lowest and highest charges, respectively, that your hospital has negotiated with third party payers for an item or service. Next slide, please.

Let's review the types of items and services for which your hospital may have established one or more of the standard charges we went over. In the Hospital Price Transparency Final Rule, CMS finalized a definition of hospital items and services to mean all items and services, including the individual items and services you might find in the charge master, service packages for which you may have negotiated a payer specific negotiated charge (as identified in your contracts), and any item or service that could be provided by your hospital to a patient in connection with an inpatient admission or an outpatient department visit for which your hospital has established a standard charge.

Examples include things like supplies and procedures; room and board; facility fees; professional charges from the services of employed physicians and nonphysician practitioners; and any other item or service for which your hospital has established a standard charge.

Next slide, please. Your hospital may have established standard charges on items and services that are based on time, unit or complexity. Or you may have established standard charges with third party payers with certain service packages such as those represented by a DRG codes or per diem. All of these different types of items or services are included in the definition.

Let’s take a look at how hospital might display standard charges for complexity base services. Here's one example from one hospital’s machine-readable file. This hospital has established different charges for insertion of bladder catheter based on where the incursion is simple or complex. And this hospital has displayed those established standard charges. Note that the hospital has not negotiated a payer-specific negotiated charge for this particular service

with Payer 1/Plan A. Or with Payer 2/Plan B. Instead, they have noted "N/A". Indicating that -there is no applicable payer--specific negotiated charge for that particular item or service. Note that the de-identified minimum and maximum payer specific negotiated charges only take into account the payer specific negotiated charges that the hospital has established for "insert bladder cath -simple" and "insert bladder cath -complex".

Next slide, please. Take a look at how a hospital might display the standard charges for a time-based service. As we described in the Hospital Price Transparency Final Rule, your hospital may have established a standard charge for the first hour spent in an operating room or a different standard charge for each hour after that. In this case, the item or service, for example, the OR time, could be described as "OR time - first hour" and "OR time - each additional hour" on two different rows, each associated with the relevant standard charge that you have established.

As you can see in this example, the hospital has established different standard charge says for "infusion therapy - first hour" and for "infusion therapy - each additional hour".

All right. Next slide, please. Let's look at unit-based charges. Medications are an example of item or service for which a hospital may have established unit-based standard charges. For example, you may have established standard charge for each five milliliters of phenylephrine HCL 10% eyedrops. You can represent that on a row of the machine--readable file as "phenylephrine HCL 10% - 5mL", along with the standard charges have you established for that. This particular example, this hospital has established standard charges for docusate sodium and each tab of 81 milligram aspirin. I note we have seen other good examples of machine--readable file where the hospital has elected to add another column to indicate the unit, - -instead of

including the unit in the description. If we do that, based on this example, the description would read "aspirin 81 milligram chewable tablet"- and the unit column would read "each." Next slide.

As we explained in the Hospital Price Transparency Final Rule, the definition of items and services gives your hospital the flexibility to display your established standard charges for service packages in a way that is unique to each of the payer specific contracts. For example, your hospital may have negotiated with a third-party payer on a per diem basis or for a service package identified by a DRG code. When listing service packages and the payer-specific negotiated charges the hospital has established for them, the hospital is not required to list each and every individual item or service that *could* be included as part of the service package.

I want to repeat that. When listing service packages and the payer-specific negotiated charges your hospital has established for them, your hospital is not required to list each and every individual item or service that could be included as part of that service package. Instead, you should list the payer-specific negotiated charge, the base rate, you established in the contract with the payer and the associated service package description as a single line item in your machine-readable file. In this example, the hospital has negotiated a per diem rate with Payer 1/Plan A, and base rates for 2 DRGs with Payer 2/Plan A.

Several things to note in this example. Say that the hospital has not established a gross charge for the service packages. This is because gross charge says is found in the charge master are typically associated with individual items and services that are found in the chargemaster. Note that this hospital offers a discounted cash price for two of the service packages. Note also that this hospital has not established any payer-specific negotiated charges for these items or these service packages with Payer 1/Plan B or with Payer 2/Plan B. This may be because the

hospital has established payer-specific negotiated charges with the payers and plans on a fee-for-service basis, for example. In other words, as a percentage off the gross charge associated with the individual items of services that would be listed separately in this file, in other rows in this file.

All right. Let's move on. Next slide. Hopefully, everyone is still with me.

On to step 3. Once you have understood the definitions and identified the standard charges the hospital has established the items and services that your hospital provides, you must gather the required data elements that you display in the machine-readable file. These data elements include the standard charges, the service or item description that go along with that established charge, any common billing codes used by your hospital for purposes of accounting or billing for that item or service. And common billing codes could include but are not limited to the HCPC or CPT codes, DRGs, APCs, NDCs, you could include revenue center codes or other commonly used payer codes. This example shows a machine-readable file with all four required data elements.

Note that the machine-readable file description of the items and services are not required to be in plain language for the machine-readable file. This is in contrast to the requirements for your consumer-friendly display where you are required to have descriptions that are in plain language.

Note, again, that nothing in the Hospital Price Transparency Final Rule limits your hospital from providing any additional information or details that may be necessary to help the public understand your standard charges. For example, you might want to include additional data elements, like we mentioned earlier. Like maybe instead of putting the unit into the description, you want a separate column indicating the unit, if that makes sense for your hospital. Or you

might want to define the data elements in an accompanying data dictionary.

Next slide, please. Next, you'll select the format you want to use for displaying these data in a single machine-readable file. The hospital price transparency rule defined machine-readable as a digital representation of data or information in a file that can be imported or read into a computer system for further processing. Examples include but not limited to XML, JSON, and CSV. Next slide.

Once you have included your data into an appropriate machine-readable file format, as a single machine-readable file, then you must name the file according to the CMS established naming convention. This is the formula for the naming convention: Your hospital's employer identification number or EIN, underscore, hospital name, underscore, the term "standardcharges" as a single with word, dot, and the format that you have chosen to use. Here's an example of a hospital that followed this CMS specified naming convention correctly.

Slide 18, please.

All right. Step 6 is to post your machine-readable file online. You must post your machine-readable file prominently on a publicly available website. Make sure that the file is accessible to the public without barriers. It must be available free of charge to the public. You may not require anyone to register or establish an account in order to access this file. You may not request that the public identify any personally identifying information in order to gain access to the machine-readable file.

Next slide. For step 7, once you posted your machine-readable file online, you must update it at least once annually to avoid compliance action be sure you clearly indicate the date that you last updated your file. Here are two different methods that we have seen hospitals commonly use to clearly indicate the last date their files were updated. Both of these methods are compliant

with the rules. In the first example, you see that the hospital has indicated the date of the last update on their website, associated with a link to the file. In the second example, the hospital included the latest date of update within the file itself. Both methods are compliance with the rule. Next slide, please.

All right. And finally, step eight. Just check, doublecheck, to make sure that your machine-readable file meets all the requirements of the hospital price transparency rule before you post it online. There is a checklist on the hospital price transparency checklist to help you do this doublecheck. However, please note, the checklist is not a substitute for reading and meeting requirements found in 45 CFR 180 in the Hospital Price Transparency Final Rule. Next slide.

Hospital price transparency helps Americans know what a hospital charges for items and services that they provide. On January 1, 2021, the hospital price transparency rule became effective requiring hospitals to provide clear, accessible pricing information online about service on items that they provide. CMS is committed to ensuring consumers having the information they need to make fully informed decisions regarding healthcare. Because of this, we began proactive audits of hospital websites and review complaints submitted to us via the Hospital Price Transparency website. Should we conclude that a hospital is not compliant with making public the standard charges, we may take any of the following actions which generally, but not necessarily, occur in the following order:

> First, we may provide a written warning notice to your hospital of the specific violations. Second, we could request a corrective action plan from your hospital if your noncompliance constitutes material violation of one or more of the requirements. Finally, we can impose a civil monetary penalty not to exceed $300 per day on your hospital and publicize that penalty on a CMS public website if your hospital fails to

> respond to the request to submit a corrective action plan or fails to comply with the requirements of a corrective action plan. The Hospital Price Transparency Final Rule indicates that once CMS issues a civil monetary penalty, we will make public the name of your hospital on the CMS website.

In April of this year, the agency began issuing its first warning notices to hospitals that were not in compliance with the requirements of the Hospital Price Transparency Final Rule. We intend to continue our monitoring enforcement activities and will issue additional warning letters going forward as necessary. Upon receipt of warning notice of noncompliance, you have 90 days to address the findings cited in the warning notice. When the 90-day window expires, we'll re-review the hospital's disclosure of standard charges and determine whether additional compliance actions need to be taken.

To date, we have not yet issued any civil monetary penalties to any hospitals for noncompliance. During our reviews of hospital compliance, we have noted some common mistakes we would like to review now to help you avoid them in the future.

The first mistake is not posting a single machine-readable file that meets the requirements of the new hospital price transparency final rules that became effective January 1, 2021. We have noticed that the file posted by some hospitals appear to be intended to meet the requirements of the prior CMS guidance for chargemaster posting, but don't include the additional types of standard charges or data elements that are now required as a result of the Hospital Price Transparency Final Rule.

As noted previously the Hospital Price Transparency Rule, effective January 1, supersedes the prior CMS guidance that required hospitals to post the chargemaster online in a machine-readable format. In this first example of a noncompliant posting, the hospital has displayed what

appears to be a download from their hospital's chargemaster. It contains a description of the items and services of the chargemaster as well as corresponding "current price". Prior to January 1, 2021, this file likely would have followed the prior guidance. Under the new rule it is not compliant. There is no date on the file to indicate when it was last updated. It is difficult to determine whether the hospital's intent is for the file to meet the new Hospital Price Transparency Final Rule requirements or simply a holdover from prior guidance. Thus, this hospital may receive a warning notice indicating the compliance reviewer could not find a machine-readable file to assess for compliance with the new hospital price transparency final rules.

Here's a pro tip. Consider removing the old files from your website that are no longer applicable. Or archive them appropriately or otherwise indicate that they meet prior guidance and are not intended to meet the hospital price transparency new final rules.

The second example is similar. Note this hospital added a date in the file - 2021- which suggests this hospital intends for this file to meet the requirements of the new hospital price transparency final rules. If this posting were to undergo a compliance review it would generate a warning notice that includes a number of deficiencies. Which would be applicable to both of these examples. These include, but are not limited to the following. First, this file is missing standard charges: doesn't include discounted cash price, no payer-specific negotiated charges, (inaudible) no deidentified minimum or maximum negotiated charge. And it is not necessarily clear that the "current price" or the "standard price" corresponds to the defined term gross charge So the warning notice may question whether the gross charges are missing as well. Both of these files are missing common billing codes. Both of the files may be missing hospital items or services. As noted in the Hospital Price Transparency Final Rule, hospitals routinely negotiate

rates with third party payers for bundles of services or service packages in lieu of charging for each individual item on the chargemaster. It is unlikely this chargemaster list of items and services, which appears to be solely derived from the hospital's charge master, it is very unlikely that would be complete. Therefore, it is likely that a deficiency would be generated by a compliance reviewer questioning whether this hospital has in fact included all items and services for which it has negotiated a standard charge. Next slide please.

Here's another common mistake to avoid. The failure to display all standard charges. Many fail to display payer-specific negotiated charges by payer and plan. As we discussed in the Hospital Price Transparency Final Rule, you should consult with your contracts and rate sheets to identify and collect the payer-specific negotiated charges your hospital has established with particular payers and for particular plans.

The example at the top is the compliant with the requirement to make public the payer specific negotiated charges by payer and plan. As demonstrated by this display it appears that this hospital has negotiated payer-specific negotiated charges with "Payer 1/Plan 1" for a fee-for-service discount off the hospital's gross charges as found in the chargemaster, as well as a case rate for observation stays.

With "Payer 1,Plan 2", it appears that this hospital negotiated payer-specific charges for packages identified by APR/DRG codes and per diem rate for inpatient rehab. This hospital’s file contains a number of empty cells, however, that could leave the reviewer to wonder whether the hospital has listed all standard charges as required or whether the hospital doesn't have applicable corresponding standard charges to insert. It may help to avoid a compliant from the public or compliance action from CMS if your hospital were to include notes or insert "N/A" (like a previous example we saw) into the empty cells to communicate why certain information

is missing and or not applicable to that hospital's situation.

The example at the bottom is noncompliant. This hospital has not posted payer- specific negotiated charges by payer and plan. Instead, it appears this hospital has looked at the commercial claims reimbursements (instead of at their contracts) and determined an average amount corresponding to the items and services they have listed in the file.

We have also seen hospitals perform this calculation by payer and plan, however, an aggregate or average amount does not meet the definition of a 'standard charge' or a payer specific negotiated charge as finalized in the Hospital Price Transparency Final Rule. We emphasize that the payer-specific negotiated charges your hospital established are those found in your contracts with the third party payers. Next slide.

All right. Finally, make sure that you are posting your single machine-readable file on a publicly available website that is searchable. The single machine-readable file must also be easily accessible and prominently displayed. The first example is prominent, and clicking the link provides quick access to a single machine-readable file. The second example is noncompliant for several reasons. First, several files, not a single file. It is unclear whether any of the files meet the requirements of the hospital price transparency rule because they're labeled "negotiated price list" rather than indicating it is meeting requirements to make public all standard charges. Next slide, please.

Okay. We can go through this one and the next one and the next one, which contain links to information that we posted on our website to provide guidance for meeting the Hospital Price Transparency Final Rule requirements. I won't go over these in detail, but they're here for your reference. In this example there is a main link to resources page. You can see the resources that are listed. We're adding to this - we added a link to the slide deck that we're presenting today.

Next slide.

And here are some of the resources that are available to you. The "8 Steps" document that we reviewed in detail today that explains each of the required elements of the machine-readable file of all items and services. The "10 Steps to a Consumer Friendly Display", the second of the two requirements for hospitals. I encourage you to review that document. It explains each of the required elements related to the consumer-friendly display of shoppable services. Here's a quick reference checklist that is designed for use in conjunction with both of the step-by-step guides to help you evaluate if you met all the requirements.

And then there is a fairly extensive list of frequently asked questions that we've answered over the course of the past almost two years now. And we have consolidated those into a single document to assist you as you're looking for more guidance in how to make public your standard charges. Next slide, please.

All right. Here's a way that you can contact us. If you have a policy question about price transparency or if you want to reach out to us regarding warning notice that you may have gotten, you can send an email to the hospital price transparency team. If you have a complaint to submit about a hospital's standard charges that doesn't appear as though they're compliant with the rules, the public may submit a compliant through this website as well.

All right. Next slide. Before we open it up to questions, I'd like to offer a general observation about how hospitals can avoid a compliance action in relationship to the price transparency final rule. Specifically, I noticed a lot of hospitals are including clarifying notes about the information they're posting. I want to be clear that the rule doesn't require hospitals to include clarifying notes. This practice seems like it has been very helpful to the public's understanding of the data the hospital is posting and may also serve to avoid a compliance

action. There's several examples I have seen. Okay. So, for one. I remind you that the hospital price transparency rules require that the hospital post standard charges that the hospital has established *as applicable* for the items and services provided by the hospital.

Hospitals provide a different sets of items and services and established standard charges in very different ways. The hospital price transparency rule acknowledges this and allows for these types of differences. There is no one-size-fits-all approach to compliance.

So, for example, when we went over the definition of items and services, I noted that outpatient items and services are included in that definition. So, if a hospital offers outpatient items and services and has established standard charges for them, those must be made public in the hospital's machine-readable file. But say they don't provide outpatient items or services and you haven't included outpatient standard charges for outpatient services in your machine-readable file. Making a note about that fact will aid the public in understanding why you haven't posted any standard charges for outpatient items and services. And could potentially avoid a warning notice that questions whether your hospital has in fact posted all items and services in your machine readable file as required by the regulation.

Similarly, as we saw in the previous examples, your hospital may contract differently with different payers. For example, your hospital might have negotiated a payer-specific negotiated charge with one payer as a percentage discount off the chargemaster rate - a flat percentage discount off all the charge master gross charges. You might have negotiated with a different payer on a case rate for a service package. Or you might have established a gross charge for gauze pads but not have established a correspondent payer-specific charge for that item or service. If you present your data in a format similar to some of the examples we looked through earlier, there may be cells that are understandably blank because you don't have corresponding

charge for that particular item or service.

I have noticed that some hospitals are putting in explanatory notes or otherwise indicating "N/A" which can avoid complaints from the public and warning notices questioning whether the hospital has, in fact, included all applicable standard charges as required under the Hospital Price Transparency Final Rule.

Here's another example. Your hospital may not have established any discounted cash prices as defined by the Hospital Price Transparency rule. Or has not established discounted cash prices for all the items and services that you listed in your machine-readable file. It's possible that your hospital would not have any discounted cash prices to display. However, without any explanation about this, you may receive a complaint from the public, we may receive a compliant from the public or you may receive a warning notice from CMS questioning whether you have, in fact, included all applicable standard charges as required by the Hospital Price Transparency Final Rule.

To anticipate and avoid this, you could choose to indicate the non-applicability of this particular standard charge. For example, or you could include you could include a note about why the standard charge is absent from the file, either in the machine-readable file itself or on the web page with which the machine-readable file link associated. Or, for example, you could include a column labeled "discounted cash price" that simply duplicates the charges found under your gross charges column, if that is the standard charge you apply to individuals that choose to pay in cash or cash equivalent.

Another tip. I've noticed that it can avoid complaints from the public and compliance actions from CMS if you use defined terms in your machine-readable file. For example, using the defined term, "discounted cash price" at the top of a column in the machine--readable file is

clearer to the public and compliance reviewers than the term "uninsured payer"-. Using defined terms for example, is not a specific requirement of the Hospital Price Transparency Final Rule, but it does aid the public in understanding the data that you posted and potentially avoids a warning notice that questions whether your hospital has in fact have posted your standard charges in your machine-readable file, -as defined by requirement under the regulation.

As mentioned earlier, we're actively responding to public complaints and taking compliance action against those hospitals that do not in compliance with the Hospital Price Transparency Final Rule. If you receive a warning notice, it will indicate how long you have to correct the deficiencies that are indicated in the warning notice, before CMS re-reviews the information what you have posted - currently, 90 days.

Some tips for you, if you receive a warning notice, read the deficiencies carefully before making changes to the data you already made public. Be sure to address each deficiency. Be careful not to break anything you haven't been cited for. In other words, address the deficiencies but don't change other things if they haven’t been cited as noncompliant.

As noted previously, you may get a warning notice questioning whether your hospital has posted - - I'm sorry - noted previously you may get a warning notice questioning whether the hospital has posted all items and services or all standard charges as required under the Hospital Price Transparency Final Rule. If it appears to the reviewer or to the complainant that some of this information is missing, there may be absolutely valid reasons as we discussed, for those missing data points. But I have noticed that including explanatory notes along with the data you posted can help resolve the deficiencies upfront and avoid future complaints and future compliance actions. If CMS sends out a compliance action, we will do so to the CEO or president of your hospital. As a policy matter, we don't discuss the hospital's violations with

anyone except the recipient of that compliance action specifically the CEO or president.

However, if the CEO or president wants to designate someone else as a specific contact for us, the hospital CEO or president should notify us right away in writing - in writing! - and provide the desired point of contact's designee name, title, email, and phone number to ensure we share confidential information with only your hospital's official representative.

Finally, I want to highlight your continued feedback and input. We rely on your input which we intend to use to improve the hospital transparency regulations over time. We're specifically seeking input on a number of proposed updates currently available for public comment through the federal register. On July 19, 2021 CMS proposed changes to the hospital transparency regulations in the CY 2022 Hospital Outpatient Prospective Payment System and ASC Payment System Proposed Rule, which is open for public comment through September 17, 2021. The final rule with comment period will be issued in early November, and is anticipated to become effective January 1, 2022. There is a fact sheet available online for you which discusses the major provisions of this proposed rule: and you can download that at HTTPS://www.federalregister.gov/documents/current. Or you can Google it.

In particular, in relationship to today's topic, I wanted to bring a couple of the proposals to your attention. In the proposed rule, we're proposing, beginning January 1, 2022, to increase the civil penalty. We're proposing to set a minimum civil monetary penalty of $300 per day that would apply to smaller hospitals with a bed count of 30 or fewer, and to apply a penalty of $10 per bed per day for hospitals with a bed count greater than 30, not to exceed a maximum daily dollar civil monetary penalty amount of $5,500 per hospital location. We're also proposing to prohibit additional specific barriers to access to the machine-readable file. Specifically, we're propose to

require that the machine-readable file is accessible to automated searches and direct downloads.

Additionally, we're seeking your input on how to improve standardization of the machine-readable file in the future. Recognizing that hospitals vary widely in how they establish their standard charges, and in the items and services that are provided by those hospitals, and the variations and technical expertise of hospital staff for presenting machine-readable data online. Comments that will be considered as we develop the final rules, must be submitted through the federal register by September 17. I believe I saw Heather put that link for you in the chat.

End