House Committees Agree on Expanding Price Transparency – There are Several New Provisions

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The leaders of the three House Committees with jurisdiction over hospital and insurer price transparency reached agreement on the text of a new bill.

We would appreciate any feedback that we can share with the Committees' staff.

- Click here for H.R. 5388, the Lower Costs, More Transparency Act, here for the Committees' section-by-section and here for the press release.

The bill is expected to go directly to the House floor for a vote perhaps as early as this week. In the Senate, the HELP Committee Chairman Sanders said it's a good start, but he wants the bill to go further; the Senate Finance Committee is working on its own PBM price transparency bill.

- On the plus side, this bill delays the Medicaid DSH cuts through the end of 2025, saving hospitals $16B over two years. (DSH cuts take effect October 1 unless Congress acts.)

Key Provisions Include:

- Site-neutralizes off-campus HOPD physician administered pharmaceuticals, cutting hospital payments nationally $20M - $30M a year. Cuts to be phased in over 4 years with a one-year delay for rural and health professional shortage areas; fully applicable for services beginning in 2028 (2029 for rural and health professional shortage areas).
- Codifies and strengthens hospital and insurer price transparency regulations – see below for changes.
- Extends price transparency requirements to clinical diagnostic laboratory testing, imaging services and ambulatory surgical centers.
- Adds certain price transparency requirements for pharmacy benefits managers to provide information to employers.

Key Changes to Existing Hospital Price Transparency Requirements:

- Increases civil monetary penalties (CMPs) according to bed count, with CMPs up to $10M for persistent noncompliance.
- HHS may waive or reduce some CMPs for hospitals in rural or underserved areas if HHS certifies an immediate threat to access to care.

- Requires hospitals to attest that all information is accurate and complete.
- Requires hospitals to include negotiated rates in dollar amounts, eliminating the ability to use algorithms, percentage amounts or estimated amounts.
- Requires HHS to establish a standard, uniform method and format for all hospitals to use by 1/1/26.
- Requires HHS to review all hospitals for compliance at least once every three years, publicizing compliance information.
- An indication that Congress is looking to further facilitate comparison shopping, the bill requires these reports:
    - APIs (page 96) - By 1/1/25, HHS to report on the use of standards-based application programming interfaces (APIs) to facilitate access to health care price transparency information and the interoperability of other medical information.
    - Provider Tool (page 98) – Within one year after enactment, HHS to report on the usefulness and feasibility of insurers establishing a provider tool to provide cost-sharing information to insured.
    - Comparison of Negotiated Prices (page 103) – By 1/1/28, a report to assess differences in negotiated prices in the private market.
    - Quality Report (page 103) – Within one year after enactment, HHS to report on the feasibility of including data relating to quality with the price transparency information.

While it's likely this bill will sail through the House, Senate action remains uncertain. We will keep you updated as developments warrant.

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