

Congress Should Codify and Strengthen Hospital and Plan Price Transparency Regulations

SHOW US THE PRICES

People **should know the price of health care services** at a hospital or health care facility before they receive care, whether it is an X-ray, an MRI or a surgery.

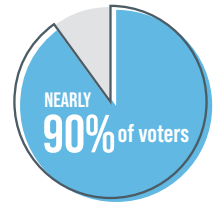


HONOR THE WILL OF THE PEOPLE



The American public agrees that hospitals and health plans should be required to post their health care prices

— **Nearly 90% of voters believe hospitals and health plans should be required to post their health care prices publicly¹**



ACHIEVING MEANINGFUL PRICE TRANSPARENCY IN THE HEALTH CARE SYSTEM

THE PROBLEM

Health care is one of the only sectors in the US economy where **consumers and purchasers cannot obtain the actual prices of a service before they undergo a procedure or receive care.²**

For the two-thirds of Americans who receive health care through private insurance, **health care prices are established in closed-door negotiations between large hospital corporations and health plans**, and based on which organization has more market power.³ These health care prices — often referred to as negotiated rates — **are buried in proprietary contracts without insight into or oversight over the price of health care services by the public and policymakers.⁴**

The most critical pricing information that must become publicly available for meaningful transparency to be achieved is the negotiated rate, which is widely recognized as the underlying price of health care services and goods.⁵

Although the current Hospital Price Transparency and Transparency in Coverage (TiC) regulations require hospitals and health plans to publicly disclose health care prices, including the negotiated rate, **most large hospital corporations have bucked the federal requirements and are actively working to keep their prices hidden.⁶**



ACHIEVING MEANINGFUL PRICE TRANSPARENCY IN THE HEALTH CARE SYSTEM

THE SOLUTION

Congress must require all hospitals and health plans to disclose negotiated rates, in dollars and cents, establish standard formats including a machine-readable file format, eliminate loopholes, and require hospital executive attestation and further increase penalties to encourage greater compliance by hospitals.⁷ Importantly these efforts should include codifying strengthened versions of both the Hospital Price Transparency and the Transparency in Coverage regulations. Taken together, these are critical steps toward making price transparency meaningful and accessible to consumers.

WHY CONGRESS NEEDS TO CODIFY BOTH HOSPITAL PRICE TRANSPARENCY AND TRANSPARENCY IN COVERAGE REGULATIONS

Only requiring negotiated rates from payers through TIC undermines achieving full and meaningful transparency in the health care system.

Codifying both regulations into statute is critical for the following reasons:

- » **Requiring hospitals to disclose negotiated rates strengthens consumer protections and empowers consumers to fight back against hospitals' abusive billing practices.** Most hospitals require patients to sign financial and treatment consent forms to pay whatever amount the hospital charges for the rendered services. Empowering consumers with hospital-specific negotiated rates prior to receiving care would allow them to know what that hospital should be charging for health care services before they agree to any financial liability, and this information would strengthen any legal challenges around that financial liability through private right of action lawsuits.
- » **Transparency in Coverage data files alone are not consumer friendly.** While the TiC data file does include hospital-specific negotiated rates, it requires

a third-party vendor to translate the data into usable and actionable pricing information. Because most consumers do not have the means to contract with data vendors to translate these data files into usable pricing information, it is imperative that hospitals are required to disclose negotiated rates, in dollars and cents, in a machine-readable format. Importantly, price estimates cannot be used as a substitute for negotiated rates given that there is often a discrepancy between the hospital estimate and the actual price of the service.⁸

- » **Hospital Price Transparency is essential to unveil high and variable health care prices and to stop price gouging.** Health care prices are not only high but also vary substantially across and within U.S. health care markets, and even within a single hospital. Codifying the Hospital Price Transparency regulation is critical to unveiling not just how high health care prices are across big hospital corporations but also how much prices vary, even within a single hospital system. This requirement is essential to reining in abusive pricing practices driven by big health care corporations. Codifying both the Hospital Price Transparency and the TiC regulations will allow researchers and policymakers to analyze prices in U.S. health markets and make targeted policy decisions to stop medical monopolies from price gouging America's families, and to drive high-value care into the health care system.
- » **Hospital and health plan price transparency increases competition in U.S. health care markets.** Requiring all hospitals and health plans to disclose negotiated rates is critical to achieving meaningful transparency in the U.S. health care system by empowering consumers and employers — the actual purchasers of health care — to be better informed purchasers and to ensure that they can get the best deal possible for their families and employees. Ultimately, when hospitals and plans are disclosing all negotiated rates, and eventually alongside quality data, the health care sector will be forced to compete based on rational prices and quality of care rather than buying up doctors' offices to price gouge and generate a high volume of high-priced services that do not improve patient health.

Codifying the Hospital Price Transparency and Transparency in Coverage regulations into statute by requiring all hospitals and health plans to disclose negotiated rates publicly has the power to disrupt the status quo market dynamics and infuse competition back into U.S. health care markets to make health care more affordable for Americans. **This shift is an important step to aligning the business interests of the health care sector with the financial security and health outcomes of our nation's families.**

Endnotes

- ¹ John Della Volpe, “Executive Summary of National Healthcare Survey,” SocialSphere, February 24, 2022, <https://www.patientrightsadvocate.org/feb2022surveyresults>.
- ² Danielle Scheurer, “Lack of Transparency Plagues U.S. Health Care System,” The Hospitalist, May 1, 2013, <https://www.the-hospitalist.org/hospitalist/article/125866/health-policy/lack-transparency-plagues-us-health-care-system>; Ann Boynton and James C. Robinson, “Appropriate Use of Reference Pricing Can Increase Value,” Health Affairs Forefront, July 7, 2015, <https://www.healthaffairs.org/doi/10.1377/forefront.20150707.049155/full/>; Sarah Kliff and Josh Katz, “Hospitals and Insurers Didn’t Want You to See These Prices. Here’s Why,” New York Times, August 22, 2021, <https://www.nytimes.com/interactive/2021/08/22/upshot/hospital-prices.html>.
- ³ Katherine Keisler-Starkey and Lisa N. Bunch, U.S. Census Bureau Current Population Reports, P60-274, Health Insurance Coverage in the United States: 2020 (Washington, DC: U.S. Government Publishing Office, September 2021), <https://www.census.gov/library/publications/2021/demo/p60-274.html>; Kliff and Katz, “Hospitals and Insurers.”
- ⁴ “RAND Health Care Price Transparency,” Rand Corporation, n.d., <https://www.rand.org/health-care/projects/price-transparency.html>.
- ⁵ King, “Examining State Efforts.”
- ⁶ The Fifth Semi-Annual Hospital Price Transparency Compliance Report (PatientsRightsAdvocate.org, July 2023), <https://www.patientrightsadvocate.org/july-semi-annual-compliance-report-2023>. See also The Fourth Semi-Annual Hospital Price Transparency Compliance Report (PatientsRightsAdvocate.org, February 2023), <https://www.patientrightsadvocate.org/february-semi-annual-compliance-report-2023>; Justin Lo et al., “Ongoing Challenges With Hospital Price Transparency,” Peterson-KFF Health System Tracker, February 10, 2023, <https://www.healthsystemtracker.org/brief/ongoing-challenges-with-hospital-price-transparency/>.
- ⁷ For more information on FUSA’s recommendations on codifying a strengthened hospital price transparency rule into law, see: Sophia Tripoli, Adam Axler, The Power of Price Transparency: Unveiling Health Care Prices to Promote Accountability and Lower Costs, April 2023. Pages 13-15. <https://familiesusa.org/wp-content/uploads/2023/04/Power-of-Price-Transparency-final-4.19.23.pdf>.
- ⁸ The Fifth Semi-Annual Hospital Price Transparency Compliance Report (PatientsRightsAdvocate.org, July 2023), <https://www.patientrightsadvocate.org/july-semi-annual-compliance-report-2023>.

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