HealthLeaders

ANALYSIS

Advice for Hospital Leaders About the Price Transparency Rule

BY [JACK O'BRIEN] | OCTOBER 20, 2020

Six healthcare stakeholders offered advice to health system executives about how to navigate the new policy.

Hospitals and health systems remain focused on the potential impact of the proposed price transparency rule set to effect in January.

Though the policy is currently being appealed in federal court by the American Hospital Association (AHA) and three other hospital associations, the final rule issued by the Centers for Medicare & Medicaid Services (CMS) continues to generate conversation among industry leaders.

With less than three months remaining before the price transparency rule is scheduled to go into effect, six healthcare stakeholders offered advice to health system executives about how to navigate the new policy.

While the proposed price transparency rule is currently facing a legal challenge, **Fred Bentley**, managing director at Avalere, told *HealthLeaders* that the firm expects 'there will be something' in place on January 1.

"There may be iterations and permutations of [the rule], it may look a little bit different, but I don't envision, barring any sort of any major changes or updates on the legal front, [the rule] changing much," Bentley said. "I think the administration has gone out on a limb on this and I don't think they want to back off."

Bentley said another driving force behind price transparency is basic consumer demand for a greater understanding on costs for specific services. He said that while other industries have certain elements of transparency, healthcare is "lagging behind" due to structural forces and other complications.

However, he said that healthcare now has the available capabilities to meet consumer expectations for improved transparency.

"Let's be honest, the technology's there, the data is certainly there, and the appetite is there," Bentley said. "Five to 10 years ago, maybe [the appetite] was not there, but times have changed."

HELPING CONSUMERS SHOP AROUND

Kyle Raffaniello, CEO of Sapphire Digital, a healthcare technology company based in Lyndhurst, New Jersey, told *HealthLeaders* that the company is upbeat about the proposed rule.

"We support where this policy is moving and driving towards because we believe that consumers need more information about the cost of healthcare and their options to make smarter care choices," Raffaniello said.

Despite her optimism for the rule and its impact on the industry, Raffaniello said many hospitals are dealing with a short time frame and limited resources to meet the January 1 deadline.

Information must be delivered in a more consumer-friendly way rather than the mandated 300 CPT codes, Raffaniello said, arguing "that's not how consumers shop."

"I think we are getting there and have probably taken 10 steps [forward] but we've 20 more steps to achieve what everyone wants: get consumers smarter about understanding the cost difference of healthcare and making the best choices for them," Raffaniello said. "[However,] that has to be wrapped up [for consumers] in terms of what it means for their health plan benefits."

Paul Burke, chief product and technology officer at Sapphire Digital, told *HealthLeaders* that the world is going to move towards consumer-empowered datasets and that another crucial component to the price transparency shift will be the interoperability aspect of the conversation.

"In a perfect world, we make sure that the data of these organizations are interoperable and that the translations of cost are made so that the consumer's not confused," Burke said. "The net of this is we get to a world where no matter where you're getting your care, you are getting the right price for the right reason for the right people. You don't get a balanced bill at the end; you get the actual bill that you anticipated getting; that's the ideal state that we're working towards."

Jay Sultan, vice president of healthcare strategy at LexisNexis Risk Solutions, a global data and analytics company based in Alpharetta, Georgia, said hospital executives should look beyond the price transparency rule towards interoperability and value-based care.

Echoing Burke's point, Sultan said that while most leaders are focused on the impact of the price transparency rule, **the two final interoperability rules** are also going to act as indirect transparency rules because entities are going to be able to aggregate claims.

"A lot of these transparency rules are focused on fee-for-service schedules. Now is the time, if you've been holding back, to shift a significant part of the payer mix from fee-for-service rates that are discoverable to other rates that are not discoverable. Such as capitation, such as taking a haircut on fee-for-service rates because you're going to get 20% of revenue through a value-based reimbursement agreement, instead of 2% of revenue."

Sultan continued: "As you [conduct] those shifts, not only are you potentially better aligning with the market in the future, but the funds you receive under those value-based purchasing agreements and partial capitation PMPM agreements are not discoverable, at least not currently, under the price transparency rules. You have to be ready to fight in the fee-for-service world, but you also need to think about 'What are my reasons for not moving out of this world?' If you as a hospital executive believe that your hospital won't be successful if you still can't charge 2x what the hospital across the street is charging for a colonoscopy then it's time to start rethinking your business models because those kind of unwarranted pricing variations are going to have to be justified."

'FORCED TO MAKE SOME HARD CHOICES'

The Trump administration is still going "full steam ahead" with its price transparency initiatives despite the ongoing lawsuit, according to **Mark Polston**, a former chief litigation counsel for CMS and a partner in King & Spalding's healthcare practice.

He said that while there has been pushback from providers around specific aspects of the rule, he doesn't believe there are hospitals and health systems "cavalierly" saying they will take the $300-per-day penalty rather than comply.

"I think they would say, and I agree with [these providers], that they are being forced to make some hard choices and it's particularly true now that the pandemic has required them to shift resources and adjust patient care issues, which may be taking them away from big initiatives like price transparency," Polston said. "There may be people who have said that in the calculation of where they need to deploy their resources and where they need to spend money that it's reasonable to say, 'Well, if I'm going to have to take the hit and not be in compliance with the price transparency rule, I should look at what the result of that would be.' If [an executive] looks at the results and a loss of some hundreds of dollars per day, then I could see where an executive might conclude that perhaps that's just what they need to do, given the exigency of all the circumstances."

However, Polston added that CMS also recently indicated that beyond the monetary penalties associated with the rule, the agency has other reporting requirements in place that are tied to Medicare reimbursements as a way to encourage hospitals to provide the requested information.

"I think executives have and should interpret that as a shot across the bow to hospitals," Polston said. "I think a lot of executives are now partially scrambling because they assumed either the rule wasn't going to be enforced because court was going to strike it down or that they were going to be able to convince CMS to delay it, or, if worst comes to worst, they could just withstand the penalties. Now, CMS has been clear that that's not the only thing that [hospitals] may be putting at risk if they're out of compliance."

As much as some hospitals may perceive the price transparency rule as a federal mandate, there is an opportunity to leverage the rule as a strategic advantage, according to **Leon Corbeille**, senior director of decision support at Strata Decision Technology.

He told *HealthLeaders* that hospital CFOs who are skeptical or resistant to the proposed rule should look at this as an opportunity to differentiate their services from a competitive access and generate some positive public relations as well.

"This now offers you a chance to use this to your advantage; there are already health systems out there that have been doing this for the last five to 10 years, why not use this to your advantage?" Corbeille said. "If there are four competitors in your area and none of them are embracing price transparency, that's an opportunity for you to ... turn the table, be proactive, and get ahead of this."

While acknowledging that some providers are "behind the eight-ball" when it comes to complying with the rule, Corbeille said that proactive CFOs should be discussing their options with vendors and start planning for the future so that price transparency compliance doesn't become a "once-a-year lift."

"It's definitely not a daily or a weekly [task] but this is something that you can start planning for and doing analysis on year round," Corbeille said.