Employers May Need to Provide Cost Data Under Proposed ACA Rules

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Employer-sponsored health plans and health insurers may be required to post online—and to provide participants upon request—a range of pricing and cost-sharing information beginning in 2021.

Proposed Affordable Care Act (ACA) regulations published November 15, 2019, seek to increase pricing transparency to help patients better understand their options, as well as their share of the financial burden for medical care and services. Regulations aimed at hospitals were finalized the same day by the Department of Health and Human Services, requiring approximately 6,000 U.S. hospitals to publish prices for 300 common services and operations. Both sets of regulations are designed to facilitate healthcare price shopping; and both stem from a June 24, 2019, executive order on price transparency.

Issued jointly by the Internal Revenue Service, and the Departments of Labor and Health and Human Services (HHS), the proposed rules have two main requirements:

1. Insurers and group health plans offering non-grandfathered coverage would need to provide, upon request, personalized out-of-pocket cost information for all covered healthcare items and services online. This information would have to be in a free, easy-to-understand format accessible to all participants and beneficiaries and their representatives. Included would be estimated cost-sharing liability for the participant, amounts remaining on deductibles or out-of-pocket maximums, negotiated rates for in-network providers (in dollar terms), and out-of-network allowed amounts if a request applies to an out-of-network provider. Data would have to be accurate at the time the request was made. Paper copies would be available upon request.

2. Non-grandfathered plans and insurers also would need to regularly make public, through machine-readable files, negotiated in-network rates as well as historical payments of allowed amounts to out-of-network providers. These disclosures would go well beyond what is typically available to participants with current cost tools and would include details such as payment codes and bundled and non-bundled alternatives.

The regulations also encourage insurers to facilitate comparison shopping. Insurers could take credit for “shared savings” payments—money paid to enrollees that chose lower-cost care—when calculating their medical loss ratios. Ratios that exceed certain levels would require payments back to policyholders.

The proposed rule seeks comments on a number of issues, including whether all required cost information should be made available in an application-programming interface (that software developers could access) in addition to machine-readable files.
and an Internet tool. It also requests suggestions for how healthcare-quality information can be published alongside the required cost information. Comments are due by January 21, 2020.

The final HHS rule requires hospitals to publish in a searchable, user-friendly format standard charges for 300 common medical services such as hip replacements, X-rays, lab tests, and cesarean deliveries. Hospitals must comply with the regulation starting January 1, 2021, and can be fined up to $300 per day for noncompliance.