

## **PROMOTING PRICE TRANSPARENCY IN HEALTH CARE**

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When we plan a home renovation or car repair, typically we call a few businesses who give us estimates either over the phone or in person. Sometimes these initial consultations are free, other times there is a charge, but at least we know what to expect. We understand that additional problems may be found and we expect to be consulted on any additional charges that may result. Why can't we do this with a hip replacement? Or an ankle X-ray? Or any other non-emergency medical care?

The US General Accounting Office summarized the reasons listed by the healthcare industry.<sup>1</sup> Providers say they do not know the specifics of patients' insurance plans, hence they cannot give estimates. Insurers say they do not know what services will be needed, hence they cannot give estimates. Hospitals and surgery centers know their own charges (facility fees) but do not know what physicians (e.g. surgeons and anesthesiologists) charge, or what implants will cost, hence they cannot give estimates. So, although the construction and auto repair industries have surmounted these problems, the healthcare industry has not. What can the state do to promote changes in industry price practices?

### **Require providers to post self-pay (cash) prices for standard procedures. Require providers to give billing codes to insured patients for standard procedures.**

Many visits are routine or predictable, e.g. strep tests, X-rays of sprains, etc. Providers may not know the specifics of each patient's insurance coverage, deductibles, etc. but they do know the prices they charge uninsured and out-of-network patients. They also know the billing codes of standard procedures that are submitted to payers (insurers and Medicare). With billing codes, patients can contact insurers directly to determine their out-of-pocket costs. In summary, patients need to know the self-pay (cash) prices, insurance plans that are accepted, and billing codes for the requested/likely procedures. Even if doctors are unsure what will ultimately be needed, at a minimum they should be able to quote a standard initial consultation cash price or billing code by phone or by website.

### **Require hospitals, surgery centers and/or doctors to give cost estimates for more complex, non-emergency procedures**

It may be argued that providing a price estimate for complicated procedures (such as surgeries) is impossible due to the intricacies of specific cases and the wide range of potential complications. There is also the problem of multiple providers (facilities, surgeon, anesthesiologist, etc.) However, there are institutions that manage to do just that. The Oklahoma City Surgery Center provides, on a website, prices for a variety of surgical procedures. These are for self-paying patients and explicitly exclude patients with insurance. The quotes are all inclusive for cases without complications (made very clear on the website). It would seem then that a local hospital/surgeon with the ability to consult directly with patients before surgery could, at the very least, provide a fairly accurate estimate. The existence and continued success of the Oklahoma Surgery Center proves that a health care provider can provide accurate cost estimates to

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<sup>1</sup> HEALTH CARE PRICE TRANSPARENCY: Meaningful Price Information Is Difficult for Consumers to Obtain Prior to Receiving Care, GAO-11-791: Published: Sep 23, 2011. Publicly Released: Oct 24, 2011.

their patients.

### **What Other States Require**

Other states have taken steps to improve pricing practices in health care. Some states require hospitals/surgery centers/physician's practices to **post prices** for common inpatient or outpatient procedures, sometimes with a breakdown between doctors' and facilities' fees (CA, IL, NH). A number of states (FL, MN, MA, CT) require hospitals and/or surgery centers to provide **cost estimates upon request**. Two states (TX, CT) require hospitals to provide cost estimates to patients who are uninsured or out-of-network, apparently regardless of request.<sup>2</sup> At least one (TX) requires that patients must be informed if services are from a provider that is out-of-network for that patient's insurer.

### **Price/Cost Availability in Delaware**

Currently no Delaware laws require health care providers to post prices, give cost estimates, or provide billing codes. Nor is there a requirement that providers list the plans that they accept. In an informal survey of the websites of major hospitals/hospital chains in Delaware, we discovered one that, with sufficient persistence, yields a phone number to call for cost estimates. One website has a Consumer Guide but a login name and password are required. Two (with plenty of clicking around) reveal offers to make 'arrangements' but no dedicated phone number. One lists accepted insurance plans but no offer or phone number to make cost estimates. There is one standout: a southern Delaware facility posts both procedure prices and billing codes on its website.

In an admittedly unscientific survey of nine Delaware primary care, walk-in and urgent care clinic websites, none quote an initial consultation fee for self-payers. Only one offers to quote over the phone and also states that it is willing to provide cost estimates (only in person however). Several list accepted insurance plans.

### **Potential Problems**

In 2012 Massachusetts passed a law that required health care providers to give cost estimates within 2 business days upon request (effective 2014). However, a follow-up study reported that in a survey to obtain estimates for a routine CT scan, about half of the providers required multiple phone calls over multiple days (usually hospitals), and half provided estimates within a day (usually imaging or outpatient centers).<sup>3</sup> Moreover, the number of patient requests for cost estimates was typically low. However, given the persistence the researchers needed to get these estimates from so many providers, that is not surprising. With the spread of high-deductible insurance plans, health savings accounts and non-insurance, it is difficult to believe that patients do not need this information.

The solution to these problems is to model Delaware's law, in part, after existing Delaware laws for other industries (e.g., Title 6 Ch 49A in particular 4908A). A hired contractor prior to service must provide an itemized list of costs to the customer before doing any work. The customer is entitled to this list by law, and the final price listed on this bill is the agreed upon price the customer will pay for the service provided. A similar approach to healthcare is a much more straightforward method for pricing when compared to informing the patient what the cost will be only after the procedure is done. Of course

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<sup>2</sup> National Conference of State Legislatures [www.ncsl.org](http://www.ncsl.org) accessed June 21, 2017.

<sup>3</sup> Barbara Anthony "Mass Hospitals Weak on Price Transparency" Pioneer Institute Policy Brief, June 2015.

it may be unrealistic to suppose that a doctor can predict exactly what each patient will need before treatment, however it is not unreasonable to suppose that a fairly accurate estimate could be made. While, unlike the contractor, the healthcare provider should probably not be held to the quoted price, setting conditions requiring the final cost to be within some margin of error of that original estimate would alleviate much of the issue.<sup>4</sup> This policy, along with a posted initial consultation fee, would go a long way toward removing the fear many self-pay health care consumers have when going to the doctor, namely that they will end up being charged an amount massively greater than expected.

For insured patients, if providers find it too burdensome to find out what each individual patient's insurance plan will cover, then as an alternative they should be required to provide billing codes for the initial consultation and any foreseeable procedures to patients who can then contact insurers directly. Insurers should be required to provide a hotline or website so that patients can get quotes quickly. As in other states, patients should be informed whether any providers involved in their care are out-of-network. Finally, since insured patients are almost always required to sign a statement accepting ultimate responsibility for bills not paid by insurance, a medical bill should be uncollectable unless this statement includes a specified price or maximum amount. Considering that the situation now is that patients can be surprised with prices quoted after the fact, this is a matter of simple justice.

## Conclusions

In a prior column we listed sources of market-wide health cost information, but this data is only useful for a very general estimate of what the final cost of care will be. Medical care providers typically disclose prices only after a procedure is completed, which can result in significant price discrepancies between what the patient may expect from market-wide price websites and the final bill. The practice of disclosing costs after the service is provided is almost unique to the medical community, and needs to be changed to allow consumers to accurately make decisions regarding their medical care.

Two problems have been identified here. One is the need to require providers and insurers to post their self-pay prices and/or the billing codes of standard procedures and consultations. The second is to make patients aware that they have a right to this information and to make it accessible to them. Unlike other states, Delaware should *require* providers give this information to patients or sign a statement that the patients waive their right to it. Other states require providers to give this information only *upon request*. Thus, patients remain unaware of it.

Consumer protection laws already exist in Delaware and other states for other industries. Given the evolution of the health care industry toward patient-directed care via high-deductibles, health savings accounts, self-payers and narrowing insurer networks, such laws are needed in health care. Other states have taken some steps toward this. Delaware should learn from their experience and act to fill this gap and promote health care price transparency.

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<sup>4</sup> There is a printable model agreement on the Healthcare Bluebook website.

**§ 4904A Estimate requirements for auto repair work.**

(a) *Written estimate and authorization requirements.* — Unless waived pursuant to subsection (b) of this section by the customer or by a person the auto repair facility reasonably believes is acting on the customer's behalf, the automotive repair facility shall, before beginning any auto repair work and/or transmission repair diagnosis on a motor vehicle, give the customer a written statement which contains:

- (1) The estimated completion date;
- (2) The estimated price for the auto repair work including parts and labor; and
- (3) The estimated surcharge, if any.

(b) *Oral estimates and authorization.* — If a customer or a person the auto repair facility reasonably believes is acting on the customer's behalf, waives his or her right to a written estimate, the automotive repair facility shall orally provide to the customer or a person the

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automotive repair facility reasonably believes to be acting on a customer's behalf the estimated price and completion date before beginning any auto repair work; provided however, that the person giving the oral estimate shall make a written record of the requirements set forth in paragraphs (a)(1) through (3) of this section, sign or initial the written document and retain such document for a period of no less than 2 years.