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Why Hospitals Resist Disclosing the Absolute Costs of Their Procedures

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Why the proposed CMS penalties imposed on hospitals are destined for failure…

Without trying to dissect the language embedded in the proposal such as 'shoppable services', 'machine readable files' or 'limited set' services, the following article focuses on the absurdity of these CMS civil monetary penalties. The authors performed a financial analysis of the three largest 'for profit' hospitals and demonstrate the absurdity of these minimalist penalties.

First, the authors clarify the central problem that the Biden and future administrations face. Aging Baby Boomers will exceed 80 million demanding Medicare Services by year 2030. In fact, Medicare will require $1.54 Trillion to service these 80 million enrollees. Future Medicare financial obligations will only increase because its expenditures are driven by a variety of factors: demand for care, the complexity of medical services, high medical inflation, and increasingly longer life expectancies.

Second, we examine the inner workings of the Medicare system from a financial analysis viewpoint. There are two separate trust funds in the Medicare system, namely Hospital Insurance Trust Fund (HI Trust Fund) and Supplementary Medical Insurance Trust Fund (SMI Trust Fund). Prior to COVID-19, the latest financial projections calculated the HI Trust Fund insolvency by the year 2026. It is a fact that the Medicare HI Trust Fund has never been insolvent because there are no provisions in the Social Security Act that govern what would happen if insolvency were to occur. Ten of the last twelve years have witnessed expenditure outflows outpacing the HI Trust inflows, resulting in total Medicare spending obligations outpacing the increasing demands on the Federal budget as the number of beneficiaries and the per capita healthcare costs become ever-increasing each year.

Third, we educate readers on the only state to receive a waiver from the CMS because their statewide healthcare system has consistently saved money to Medicare. This state is Maryland, and their statewide data transparency has been in place since 1970. The CMS waiver has allowed the Health Services Cost Review Commission (Maryland HSCRC) to set hospital prices for all services

statewide, and these prices include an adjustment for uncompensated care that is shared by all stakeholders equally. In fact, the Maryland HSCRC created a state law whereby all stakeholders are required to comply with the detailed auditing and data submission requirements that allow the agency to restrict hospital costs without limiting hospital profits, accurately measure patient volume, and predict the financial condition of all inpatient and outpatient services in Maryland.

Because the Maryland HSCRC is accountable to the public, the hospital savings are as follow: Maryland markups for hospital services increased from 18 percent in 1980 to only 22 percent in 2008. During the same period, the average nationwide markup for hospital services has skyrocketed from 20 percent in 1980 to over 187 percent in 2008. It is because of these significant savings to the Medicare program that the Maryland HSCRC continues to receive a CMS waiver every year. In terms of prices, Maryland hospitals are prohibited from giving volume discounts and shifting costs to other payers. The Maryland commission enforces a clear mandate: same prices for the same service at the same hospital, no exceptions.

If the Biden administration seeks to replicate the success of the Maryland system at the nationwide level, then the CMS "Hospital Transparency Final Rule" fails to achieve this when it takes effect on January 1, 2022 at all 6,210 hospitals nationwide. After studying the Maryland model, the authors offer several suggestions to affect significant change towards future success. First, the creation of the Maryland HSCRC through a state law that forced all stakeholders to become accountable to the Maryland public in a way that the commission by design is insulated from conflicts of interests. Second, a uniform approach that ties together all stakeholders under a common set of rules regarding collected data on the costs, patient volume, and financial condition of hospitals. Third, a flexible approach that does not control hospital profits, but creates a system that would provide financial stability by focusing on constraining hospital costs. These adjustments allow all Maryland hospitals to cover uncompensated care evenly across the statewide system.

Without a doubt, the Maryland system should be replicated under the Biden administration and future administrations. However, the "Price Transparency Final Rule" fails to simplify the pricing data of all hospitals; it fails to realize that price is only one factor in a multidimensional problem. The CMS fails to provide solutions about how the four separate machine-readable prices will finance uncompensated care, which was the primary problem solved by the forefathers of the Maryland HSCRC system. After the authors studied the CMS proposal, it became clear that single-handedly imposing penalties for noncompliance is only one factor in a multidimensional problem. Unlike the Maryland system, which is far better than any designed to date, more effective and efficient than any state in the union, CMS has threatened all hospitals with what will be proven below, to be ineffective measures that yield worthless results.

The authors performed this financial analysis on the three largest publicly traded hospitals and calculated the financial impact of the proposed CMS civil monetary penalties on three 'for profit' hospitals. Bear in mind that the "Price Transparency Final Rule" penalizes hospitals with fewer than 30 beds at $300 daily for small hospitals, and large hospitals (more than 30 beds) at $10 per day per licensed bed, which cannot exceed the daily penalty of $5,500. Both numbers are completely ineffective in bringing about any significant change to the obscure pricing model that the hospital industry currently employs, and which the Biden administration promises to change after January 1, 2022. Remember, small hospitals (fewer than 30 beds) will have to pay $109,500 for a full year of noncompliance. Large hospitals (more than 30 beds)

will have to pay nearly $2,007 million for a full year of noncompliance from the starting date of January 1, 2022. These monetary amounts may seem fair to the uninformed public, but after examining the 2020 10-1< reports (2020 annual reports), it becomes clear that the CMS penalties are equivalent to a miniscule slap on the wrist for a full year of noncompliance [1-6].

The three hospitals examined are

- Hospital Corporation of America (stock symbol: HCA)
- Community Health Systems (stock symbol: CYH)
- Tenet Healthcare Corporation (stock symbol: THC)

For example, HCA Healthcare owns and operates 178 general and acute care hospitals with over 48,492 licensed beds as reported in their 10-1< statement for December 31, 2020. Community Health Systems owns and operates 89 hospitals with aggregated 114,110 licensed beds and Tenet Healthcare Corporation owns and operates 65 hospitals with 17,178 licensed beds as of December 31, 2020. Our financial analysis focuses on Free Cash Flow because it represents the cash that a company can generate after expending the money required to maintain its asset base and pursue opportunities that enhance shareholder value. Below are the calculations for the three hospitals:

Hospital Corporation of America (HCA)

48,492 licensed beds multiplied by $10 per bed per day is equivalent to $484,920 daily civil penalties, which annualizes to $177 million. As of December 31, 2020 the Free Cash Flow reported by HCA was $6,400 million. Compared to the CMS Total Maximum penalty of nearly only$2 million, the CMS penalty is significantly less than 1% of the 2020 Free Cash Flow.

Community Health Systems (CYH)

14,110 licensed beds multiplied by $10 per bed per day is equivalent to $141,100 daily civil penalties, which annualizes to $51.5 million. As of December 31, 2020 the Free Cash Flow reported by CYH was $1,740 million. Compared to the CMS Total Maximum penalty of $2 million, the CMS penalty is also significantly less than 1% of the 2020 Free Cash Flow.

Tenet Healthcare Corporation (THC)

17,178 licensed beds multiplied by $10 per bed per day is equivalent to $171,780 daily civil penalties, which annualizes to $62.7 million. As of December 31, 2020 the Free Cash Flow reported by THC was $2,870 million. Compared to the CMS Total Maximum penalty of $2 million, the CMS penalty is significantly less than 1% of the 2020 Free Cash Flow.

As the calculations show, the CMS civil penalty is significantly less than 1% of the 2020 Free Cash Flow for each of these three 'for-profit' hospital companies. This minuscule slap on the wrist for a full year of noncompliance starting on January 1, 2022, is absurd; we suspect that it is the main reason why most of the 6,210 hospitals in the nation continue to not post their prices on the Internet as the CMS "Price Transparency Final Rule" requires. Instead, the CMS should adopt a penalty of 10 percent of Free Cash Flow on each company, which would equate to $640 million on HCA, $5 million on CYH, and $6 million on THC. In the case that a hospital reports negative Free Cash Flow, the CMS should impose their current maximum total civil penalties of nearly $2 million and adjust this figure for medical inflation annually.

By imposing much stricter guidelines and yielding far greater monies for CMS to impose further penalties on hospitals that do not comply with the requirements, a greater amount of spending will be available to each state, which is forced to balance

budgets in the long run, and which will make more resources available for education, infrastructure, and other sources of needs now lacking in these state-funded areas.

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