

WEST VIRGINIA LEGISLATURE

2025 REGULAR SESSION

Introduced

House Bill 2409

By Delegates Hornby, Maynor, Willis, Ward, Horst,

Anders, White, and Kimble

[Introduced February 17, 2025; referred to the
Committee on Health and Human Resources then the
Judiciary]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding a new article,
2 designated §26-12-1, §26-12-2, §26-12-3, §26-12-4, §26-12-5, §26-12-6, §26-12-7, §26-
3 12-8, §26-12-9, §26-12-10, §26-12-11, and §26-12-12 all relating to the creation of the
4 Hospital Transparency Act and providing for the administration of the Act.

Be it enacted by the Legislature of West Virginia:

ARTICLE 12. THE HOSPITAL TRANSPARENCY ACT.

§26-12-1. Short Title.

1 This Act shall be known and may be cited as the Hospital Price Transparency Act.

§26-12-2. Purpose.

1 The purpose of this Act is to require healthcare facilities to disclose prices for certain items
2 and services provided by certain medical facilities; provide administrative penalties; prohibit
3 collective action of debt for non-compliant facilities.

§26-12-3. Definitions.

1 The following definitions shall apply for the purposes of this article:

2 (1) "Ancillary service" means a facility item or service that a facility customarily provides as
3 part of a shoppable service.

4 (2) "Chargemaster" means the list of all facility items or services maintained by a facility for
5 which the facility has established a charge.

6 (3) "DHF" means the Department of Health Facilities.

7 (4) "De-identified maximum negotiated charge" means the highest charge that a facility
8 has negotiated with all third-party payors for a facility item or service.

9 (5) "De-identified minimum negotiated charge" means the lowest charge that a facility has
10 negotiated with all third-party payors for a facility item or service.

11 (6) "Discounted cash price" means the charge that applies to an individual who pays cash,
12 or a cash equivalent, for a facility item or service.

13 (7) "Facility" means a hospital licensed under §16-5b-1 et seq. of this code.

(8) "Facility items or services" means all items and services, including individual items and services and service packages, that may be provided by a facility to a patient in connection with an inpatient admission or an outpatient department visit, as applicable, for which the facility has established a standard charge, including:

(A) Supplies and procedures;

(B) Room and board;

(C) Use of the facility and other areas, the charges for which are generally referred to as facility fees;

(D) Services of physicians and non-physician practitioners, employed by the facility, the charges for which are generally referred to as professional charges; and

(E) Any other item or service for which a facility has established a standard charge.

(9) "Gross charge" means the charge for a facility item or service that is reflected on a facility's chargemaster, absent any discounts.

(10) "Machine-readable format" means a digital representation of information in a file that can be imported or read into a computer system for further processing. The term includes .XML, .JSON, and .CSV formats.

(11) "Payor-specific negotiated charge" means the charge that a facility has negotiated with a third-party payor for a facility item or service.

(12) "Service package" means an aggregation of individual facility items or services into a single service with a single charge.

(13) "Shoppable service" means a service that may be scheduled by a health care consumer in advance.

(14) "Standard charge" means the regular rate established by the facility for a facility item or service provided to a specific group of paying patients. The term includes all of the following, as defined under this section:

(A) The gross charge;

(B) The payor-specific negotiated charge;

(C) The de-identified minimum negotiated charge;

(D) The de-identified maximum negotiated charge; and

(E) The discounted cash price.

(15) "Third party payor" means an entity that is, by statute, contract, or agreement, legally responsible for payment of a claim for a facility item or service.

§26-12-4. Public availability of price information required.

Notwithstanding any other law, a facility must make public:

(a) A digital file in a machine-readable format that contains a list of all standard charges for all facility items or services as described by §26-12-5 of this Code; and

(b) A consumer-friendly list of standard charges for a limited set of shoppable services as provided in §26-12-6 of this Code.

§26-12-5. List of standard charges required.

(a) A facility must:

(1) Maintain a list of all standard charges for all facility items or services in accordance with this section; and

(2) Ensure that the list is available at all times to the public, including by posting the list electronically in the manner provided by this section.

(b) The standard charges contained in the list required to be maintained by a facility under this section must reflect the standard charges applicable to that location of the facility, regardless of whether the facility operates in more than one location or operates under the same license as another facility.

(c) The list required under this section must include the following items, as applicable:

(1) A description of each facility item or service provided by the facility;

(2) The following charges for each individual facility item or service when provided in either an inpatient setting or an outpatient department setting, as applicable:

14 (A) The gross charge;

15 (B) The de-identified minimum negotiated charge;

16 (C) The de-identified maximum negotiated charge;

17 (D) The discounted cash price; and

18 (E) The payor-specific negotiated charge, listed by the name of the third-party payor and
19 plan associated with the charge and displayed in a manner that clearly associates the charge with
20 each third-party payor and plan; and

21 (3) Any code used by the facility for purposes of accounting or billing for the facility item or
22 service, including the Current Procedural Terminology (CPT) code, the Healthcare Common
23 Procedure Coding System (HCPCS) code, the Diagnosis Related Group (DRG) code, the
24 National Drug Code (NDC), or other common identifier.

25 (d) The information contained in the list required under subsection (a) must be published in
26 a single digital file that is in a machine-readable format.

27 (e) The list required under subsection (a) must be displayed in a prominent location on the
28 home page of the facility's publicly accessible Internet website or accessible by selecting a
29 dedicated link that is prominently displayed on the home page of the facility's publicly accessible
30 Internet website. If the facility operates multiple locations and maintains a single Internet website,
31 the list required under subsection (a) must be posted for each location the facility operates in a
32 manner that clearly associates the list with the applicable location of the facility.

33 (f) The list required under subsection (a) must:

34 (1) Be available:

35 (A) Free of charge;

36 (B) Without having to establish a user account or password;

37 (C) Without having to submit personal identifying information; and

38 (D) Without having to overcome any other impediment, including entering a code to access
39 the list;

(2) Be accessible to a common commercial operator of an Internet search engine to the extent necessary for the search engine to index the list and display the list as a result in response to a search query of a user of the search engine;

(3) Be formatted in a manner prescribed by the Department of Health Facilities;

(4) Be digitally searchable; and

(5) Use the following naming convention specified by the Centers for Medicare and Medicaid Services, specifically:

<ein> <facility-name> standardcharges.[jsonxmlcsv]

(g) In prescribing the format of the list required by this section, the Department of Health Facilities must:

(1) Develop a template that each facility must use in formatting the list; and

(2) In developing the template required by this section:

(A) Consider any applicable federal guidelines for formatting similar lists required by federal law or rule and ensure that the design of the template enables health care researchers to compare the charges contained in the lists maintained by each facility; and

(B) Design the template to be substantially similar to the template used by the Centers for Medicare and Medicaid Services for similar purposes, if the Department of Health Facilities determines that designing the template in that manner serves the purposes of this section and that the Department of Health Facilities benefits from developing and requiring that substantially similar design.

(h) The facility must update the list required under this section at least once each year. The facility must clearly indicate the date on which the list was most recently updated, either on the list or in a manner that is clearly associated with the list.

§26-12-6. Consumer-friendly list of shoppable services.

(a) Except as provided by this section, a facility must maintain and make publicly available a list of the standard charges described by this chapter for each of at least 300 shoppable services

provided by the facility. The facility may select the shoppable services to be included in the list, except that the list must include:

(1) The 70 services specified as shoppable services by the Centers for Medicare and Medicaid Services; or

(2) If the facility does not provide all of the shoppable services described by subdivision (1), as many of those shoppable services the facility does provide.

(b) In selecting a shoppable service for purposes of inclusion in the list required under this section, a facility must:

(1) Consider how frequently the facility provides the service and the facility's billing rate for that service; and

(2) Prioritize the selection of services that are among the services most frequently provided by the facility.

(c) If a facility does not provide 300 shoppable services, the facility must maintain a list of the total number of shoppable services that the facility provides in a manner that otherwise complies with the requirements of this section.

(d) The list, required under this section, as applicable, must:

(1) Include:

(A) A plain-language description of each shoppable service included on the list;

(B) The payor-specific negotiated charge that applies to each shoppable service included on the list and any ancillary service, listed by the name of the third-party payor and plan associated with the charge and displayed in a manner that clearly associates the charge with the third-party payor and plan;

(C) The discounted cash price that applies to each shoppable service included on the list and any ancillary service or, if the facility does not offer a discounted cash price for one or more of the shoppable or ancillary services on the list, the gross charge for the shoppable service or ancillary service, as applicable;

(D) The de-identified minimum negotiated charge that applies to each shoppable service included on the list and any ancillary service;

(E) The de-identified maximum negotiated charge that applies to each shoppable service included on the list and any ancillary service; and

(F) Any code used by the facility for purposes of accounting or billing for each shoppable service included on the list and any ancillary service, including the Current Procedural Terminology (CPT) code, the Healthcare Common Procedure Coding System (HCPCS) code, the Diagnosis Related Group (DRG) code, the National Drug Code (NDC), or other common identifier; and

(2) If applicable:

(A) State each location at which the facility provides the shoppable service and whether the standard charges included in the list apply at that location to the provision of that shoppable service in an inpatient setting, an outpatient department setting, or in both of those settings, as applicable; and

(B) Indicate if one or more of the shoppable services specified by the Centers for Medicare and Medicaid Services is not provided by the facility.

(e) The list required under subsection (a) or (c), as applicable, must be:

(1) Displayed in the manner prescribed by §26-12-5 of this code for the list required under that section;

(2) Available:

(A) Free of charge;

(B) Without having to register or establish a user account or password;

(C) Without having to submit personal identifying information; and

(D) Without having to overcome any other impediment, including entering a code to access the list;

(3) Searchable by service description, billing code, and payor;

(4) Updated in the manner prescribed by §26-12-5 of this code for the list required under that section;

(5) Accessible to a common commercial operator of an Internet search engine to the extent necessary for the search engine to index the list and display the list as a result in response to a search query of a user of the search engine; and

(6) Formatted in a manner that is consistent with the format prescribed by the Department of Health Facilities under §26-12-5 of this code.

§26-12-7. Reporting Requirement.

Each time a facility updates a list as required under this article, the facility must submit the updated list to the Department of Health Facilities. The Department of Health Facilities must prescribe the form in which the updated list must be submitted to the Department of Health Facilities.

§26-12-8. Monitoring and enforcement.

(a) The Department of Health Facilities must monitor each facility's compliance with the requirements of this chapter using any of the following methods:

(1) Evaluating complaints made by persons to the Department of Health Facilities regarding noncompliance with this chapter;

(2) Reviewing any analysis prepared regarding noncompliance with this chapter;

(3) Auditing the Internet websites of facilities for compliance with this chapter; and

(4) Confirming that each facility submitted the lists required under §26-12-7 of this code.

(b) If the Department of Health Facilities determines that a facility is not in compliance with a provision of this chapter, the Department of Health Facilities must take the following actions:

(1) Provide a written notice to the facility that clearly explains the manner in which the facility is not in compliance with this chapter;

(2) Request a corrective action plan from the facility if the facility has materially violated a provision of this chapter, as determined under §26-12-9 of this code; and

(3) Impose an administrative penalty, as determined in §26-12-10 of this code on the facility and publicize the penalty on the Department of Health Facilities Internet website if the facility fails to:

(A) Respond to the Department of Health Facilities request to submit a corrective action plan; or

(B) Comply with the requirements of a corrective action plan submitted to the Department of Health Facilities.

(c) Beginning not later than 90 days after the date of the enactment of this Act, the Department of Health Facilities must create and maintain a publicly available list on its website of hospitals that have been found to have violated the hospital price transparency rule, that has been issued an administrative penalty or sent a warning notice, a request for a corrective action plan, or any other written communication from the Department of Health Facilities. Such penalties, notices, and communications must be subject to public disclosure under 5 U.S.C. 552, notwithstanding any exemptions or exclusions to the contrary, in full without redaction. Such list will be updated at least every 30 days thereafter.

(d) Notwithstanding any provision of law to the contrary, in considering an application for renewal of a hospital's license or certification, the department must consider whether the hospital is or has been in compliance with hospital price transparency laws.

§26-12-9. Material violation; corrective action plan.

(a) The Department of Health Facilities must impose an administrative penalty on a facility in accordance with §16-5B-1 et seq. of this code if the facility fails to:

(1) Respond to the Department of Health Facilities request to submit a corrective action plan; or

(2) Comply with the requirements of a corrective action plan submitted to the Department of Health Facilities.

(b) The Department of Health Facilities must impose an administrative penalty on a facility

8 for a violation of each requirement of this chapter. The Department of Health Facilities must set the
9 penalty in an amount sufficient to ensure compliance by facilities with the provisions of this chapter
10 subject to the limitations prescribed by subsection (c).

11 (c) For a facility with one of the following total gross revenues as reported to the Centers
12 for Medicare and Medicaid Services or to another entity designated by Department of Health
13 Facilities rule in the year preceding the year in which a penalty is imposed, the penalty imposed by
14 the Department of Health Facilities must not be lower than:

15 (1) In the case of a hospital with a six-bed count of 30 or fewer, \$600 for each day in which
16 the hospital fails to comply with such requirements;

17 (2) In the case of a hospital with a bed count that is greater than 30 and equal to or fewer
18 than 550, \$20 per bed for each day in which the hospital fails to comply with such requirements; or

19 (3) In the case of a hospital with a bed count that is greater than 550, \$11,000 for each day
20 in which the hospital fails to comply with such requirements

21 (d) Each day a violation continues is considered a separate violation.

22 (e) In determining the amount of the penalty, the Department of Health Facilities must
23 consider:

24 (1) Previous violations by the facility's operator;

25 (2) The seriousness of the violation;

26 (3) The demonstrated good faith of the facility's operator; and

27 (4) Any other matters as justice may require.

28 (f) An administrative penalty collected under this chapter must be deposited to the credit of
29 an account in the general revenue fund administered by the Department of Health Facilities.
30 Money in the account must be appropriated only to the Department of Health Facilities.

§26-12-10. Administrative penalty.

1 (a) The Department of Health Facilities must impose an administrative penalty on a facility
2 in accordance with §16-5B-1 et seq. of this code if the facility fails to:

3 (1) Respond to the Department of Health Facilities request to submit a corrective action
4 plan; or

5 (2) Comply with the requirements of a corrective action plan submitted to the Department
6 of Health Facilities.

7 (b) The Department of Health Facilities must impose an administrative penalty on a facility
8 for a violation of each requirement of this chapter. The Department of Health Facilities must set the
9 penalty in an amount sufficient to ensure compliance by facilities with the provisions of this article.

10 (c) For a facility with one of the following total gross revenues as reported to the Centers for
11 Medicare and Medicaid Services or to another entity designated by Department of Health
12 Facilities rule in the year preceding the year in which a penalty is imposed, the penalty imposed by
13 the Department of Health Facilities must not be lower than:

14 (1) In the case of a hospital with a six-bed count of 30 or fewer, \$600 for each day in which
15 the hospital fails to comply with such requirements;

16 (2) In the case of a hospital with a bed count that is greater than 30 and equal to or fewer
17 than 550, \$20 per bed for each day in which the hospital fails to comply with such requirements; or

18 (3) In the case of a hospital with a bed count that is greater than 550, \$11,000 for each day
19 in which the hospital fails to comply with such requirements.

20 (d) Each day a violation continues is considered a separate violation.

21 (e) In determining the amount of the penalty, the Department of Health Facilities must
22 consider:

23 (1) Previous violations by the facility's operator;

24 (2) The seriousness of the violation;

25 (3) The demonstrated good faith of the facility's operator; and

26 (4) Any other matters as justice may require.

27 (f) An administrative penalty collected under this chapter must be deposited to the credit of
28 an account in the general revenue fund administered by the Department of Health Facilities.

29 Money in the account must be appropriated only to the Department of Health Facilities.

§26-12-11. Legislative recommendations.

1 The Department of Health Facilities must propose to the legislature recommendations for
2 amending this chapter, including recommendations in response to amendments by the Centers for
3 Medicare and Medicaid Services to 45 C.F.R. Part 180.

§26-12-12. Failure to comply with hospital price transparency laws; prohibiting collection
of debt; penalties.

1 (a) Except as provided in §26-12-12(1)(b) of this code, on and after the effective date of this
2 section, a hospital that is not in material compliance with hospital price transparency laws on the
3 date that items or services are purchased from or provided to a patient by the hospital must not
4 initiate or pursue a collection action against the patient or patient guarantor for a debt owed for the
5 items or services.

6 (b) If a patient believes that a hospital was not in material compliance with hospital price
7 transparency laws on a date on or after the effective date of this section that items or services were
8 purchased by or provided to the patient, and the hospital takes a collection action against the
9 patient or patient guarantor, the patient or patient guarantor may file suit to determine if the
10 hospital was materially out of compliance with the hospital price transparency laws and rules and
11 regulations on the date of service, and the noncompliance is related to the items or services. The
12 hospital must not take a collection action against the patient or patient guarantor while the lawsuit
13 is pending.

14 (c) A hospital that has been found by a judge or jury, considering compliance standards
15 issued by the Federal Centers for Medicare and Medicaid Services, to be materially out of
16 compliance with hospital price transparency laws and rules and regulations:

17 (1) Must refund the payer any amount of the debt the payer has paid and must pay a
18 penalty to the patient or patient guarantor in an amount equal to the total amount of the debt;

19 (2) Must dismiss or cause to be dismissed any court action with prejudice and pay any

- 20 attorney fees and costs incurred by the patient or patient guarantor relating to the action; and
21 (3) Remove or cause to be removed from the patient's or patient guarantor's credit report
22 any report made to a consumer reporting agency relating to the debt.
23 (d) Nothing in this article:
24 (1) Prohibits a hospital from billing a patient, patient guarantor, or third-party payer,
25 including health insurer, for items or services provided to the patient; or
26 (2) Requires a hospital to refund any payment made to the hospital for items or services
27 provided to the patient, so long as no collection action is taken.

NOTE: The purpose of this bill is to create the Hospital Transparency Act and providing for the administration of the Act.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.