

2023 -- S 0584

LC001939

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2023

A N A C T

RELATING TO HEALTH AND SAFETY -- DISCLOSURE OF PRICES -- MEDICAL
FACILITY ITEMS

Introduced By: Senators de la Cruz, Rogers, DiPalma, Lombardo, Ciccone, and Burke

Date Introduced: March 07, 2023

Referred To: Senate Health & Human Services

It is enacted by the General Assembly as follows:

1 SECTION 1. Title 23 of the General Laws entitled "HEALTH AND SAFETY" is hereby
2 amended by adding thereto the following chapter:

3 CHAPTER 99

4 DISCLOSURE OF PRICES - MEDICAL FACILITY ITEMS

5 **23-99-1. Definitions.**

6 As used in this chapter:

- 7 (1) "Ancillary service" means a facility item or service that a facility customarily provides
8 as part of a shoppable service.
- 9 (2) "Chargemaster" means the list of all facility items or services maintained by a facility
10 for which the facility has established a charge.
- 11 (3) "Commission" means the health and human services commission.
- 12 (4) "De-identified maximum negotiated charge" means the highest charge that a facility
13 has negotiated with all third-party payors for a facility item or service.
- 14 (5) "De-identified minimum negotiated charge" means the lowest charge that a facility has
15 negotiated with all third-party payors for a facility item or service.
- 16 (6) "Discounted cash price" means the charge that applies to an individual who pays cash,
17 or a cash equivalent, for a facility item or service.
- 18 (7) "Facility" means a hospital licensed under chapter 17 of title 23.

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

5 (i) Supplies and procedures;

6 (ii) Room and board;

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

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

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

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

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

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

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

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

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

26 (i) The gross charge;

27 (ii) The payor-specific negotiated charge;

28 (iii) The de-identified minimum negotiated charge;

29 (iv) The de-identified maximum negotiated charge; and

30 (v) The discounted cash price.

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

33 **23-99-2. Public availability of price information required.**

34 (a) Notwithstanding any other law, a facility must make public:

1 (1) A digital file in a machine-readable format that contains a list of all standard charges
2 for all facility items or services as described by § 23-99-3; and

3 (2) A consumer-friendly list of standard charges for a limited set of shoppable services as
4 provided in § 23-99-4.

5 **23-99-3. List of standard charges required.**

6 (a) A facility shall:

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

9 (2) Ensure the list required under subsection (a)(1) of this section is available at all times
10 to the public, including by posting the list electronically in the manner provided by this section.

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

15 (c) The list required under subsection (a) of this section must include the following items,
16 as applicable:

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

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

20 (i) The gross charge;

21 (ii) The de-identified minimum negotiated charge;

22 (iii) The de-identified maximum negotiated charge;

23 (iv) The discounted cash price; and

24 (v) The payor-specific negotiated charge, listed by the name of the third-party payor and
25 plan associated with the charge and displayed in a manner that clearly associates the charge with
26 each third-party payor and plan; and

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

31 (d) The information contained in the list required under subsection (a) of this section must
32 be published in a single digital file that is in a machine-readable format.

33 (e) The list required under subsection (a) of this section must be displayed in a prominent
34 location on the home page of the facility's publicly accessible Internet website or accessible by

1 selecting a dedicated link that is prominently displayed on the home page of the facility's publicly
2 accessible Internet website. If the facility operates multiple locations and maintains a single Internet
3 website, the list required under subsection (a) of this section must be posted for each location the
4 facility operates in a manner that clearly associates the list with the applicable location of the
5 facility.

6 (f) The list required under subsection (a) of this section must:

7 (1) Be available:

8 (i) Free of charge;

9 (ii) Without having to establish a user account or password;

10 (iii) Without having to submit personal identifying information; and

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

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

16 (3) Be formatted in a manner prescribed by the commission;

17 (4) Be digitally searchable; and

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

20 (i) In prescribing the format of the list under subsection (f)(3) of this section, the
21 commission shall:

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

23 (B) In developing the template under subsection (1) of this section:

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

27 (II) Design the template to be substantially similar to the template used by the Centers for
28 Medicare and Medicaid Services for purposes similar to those of this chapter, if the commission
29 determines that designing the template in that manner serves the purposes of subsection (a) of this
30 section and that the commission benefits from developing and requiring that substantially similar
31 design.

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

1 **23-99-4. Consumer-friendly list of shoppable services.**

2 (a) Except as provided by subsection (c) of this section, a facility shall maintain and make
3 publicly available a list of the standard charges described by §§ 23-99-3 (c)(2)(ii), (iii), (iv), and
4 (v) for each of at least three hundred (300) shoppable services provided by the facility. The facility
5 may select the shoppable services to be included in the list, except that the list must include:

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

8 (2) If the facility does not provide all of the shoppable services described by subsection
9 (a)(1) of this section, as many of those shoppable services the facility does provide.

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

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

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

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

19 (d) The list required under subsection (a) or (c) of this section, as applicable, must:

20 (1) Include:

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

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

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

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

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

34 (vi) Any code used by the facility for purposes of accounting or billing for each shoppable

1 service included on the list and any ancillary service, including the Current Procedural Terminology
2 (CPT) code, the Healthcare Common Procedure Coding System (HCPCS) code, the Diagnosis
3 Related Group (DRG) code, the National Drug Code (NDC), or other common identifier; and
4 (2) If applicable:
5 (i) State each location at which the facility provides the shoppable service and whether the
6 standard charges included in the list apply at that location to the provision of that shoppable service
7 in an inpatient setting, an outpatient department setting, or in both of those settings, as applicable;
8 and
9 (ii) Indicate if one or more of the shoppable services specified by the Centers for Medicare
10 and Medicaid Services is not provided by the facility.
11 (e) The list required under subsection (a) or (c) of this section, as applicable, must be:
12 (1) Displayed in the manner prescribed by § 23-99-3(e) for the list required under that
13 section;
14 (2) Available:
15 (i) Free of charge;
16 (ii) Without having to register or establish a user account or password;
17 (iii) Without having to submit personal identifying information; and
18 (iv) Without having to overcome any other impediment, including entering a code to access
19 the list;
20 (3) Searchable by service description, billing code, and payor;
21 (4) Updated in the manner prescribed by § 23-99-3(h) for the list required under that
22 section;
23 (5) Accessible to a common commercial operator of an Internet search engine to the extent
24 necessary for the search engine to index the list and display the list as a result in response to a
25 search query of a user of the search engine; and
26 (6) Formatted in a manner that is consistent with the format prescribed by the commission
27 under § 23-99-3(f)(3).
28 (f) Notwithstanding any other provision of this section, a facility is considered to meet the
29 requirements of this section if the facility maintains, as determined by the commission, an Internet-
30 based price estimator tool that:
31 (1) Provides a cost estimate for each shoppable service and any ancillary service included
32 on the list maintained by the facility under subsection (a) of this section;
33 (2) Allows a person to obtain an estimate of the amount the person will be obligated to pay
34 the facility if the person elects to use the facility to provide the service; and

1 (3) Is:

2 (i) Prominently displayed on the facility's publicly accessible Internet website; and

3 (ii) Accessible to the public:

4 (A) Without charge; and

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

6 **23-99-5. Reporting requirement.**

7 Each time a facility updates a list as required under §§ 23-99-3(h) and 23-99-4(e)(4), the
8 facility shall submit the updated list to the commission. The commission may prescribe the form in
9 which the updated list must be submitted to the commission.

10 **23-99-6. Monitoring and enforcement.**

11 (a) The commission shall monitor each facility's compliance with the requirements of this
12 chapter using any of the following methods:

13 (1) Evaluating complaints made by persons to the commission regarding noncompliance
14 with this chapter;

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

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

17 (4) Confirming that each facility submitted the lists required under § 23-99-5.

18 (b) If the commission determines that a facility is not in compliance with a provision of
19 this chapter, the commission may take any of the following actions, without regard to the order of
20 the actions:

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

23 (2) Request a corrective action plan from the facility if the facility has materially violated
24 a provision of this chapter, as determined under § 23-99-7; and

25 (3) Impose an administrative penalty on the facility and publicize the penalty on the
26 commission's Internet website if the facility fails to:

27 (i) Respond to the commission's request to submit a corrective action plan; or

28 (ii) Comply with the requirements of a corrective action plan submitted to the commission.

29 **23-99-7. Material violation; corrective action plan.**

30 (a) A facility materially violates this chapter if the facility fails to:

31 (1) Comply with the requirements of § 23-99-2; or

32 (2) Publicize the facility's standard charges in the form and manner required by §§ 23-99-
33 3 and 23-99-4.

34 (b) If the commission determines that a facility has materially violated this chapter, the

1 commission may issue a notice of material violation to the facility and request that the facility
2 submit a corrective action plan. The notice must indicate the form and manner in which the
3 corrective action plan must be submitted to the commission, and clearly state the date by which the
4 facility must submit the plan.

5 (c) A facility that receives a notice under subsection (b) of this section must:

6 (1) Submit a corrective action plan in the form and manner, and by the specified date,
7 prescribed by the notice of violation; and

8 (2) As soon as practicable after submission of a corrective action plan to the commission,
9 act to comply with the plan.

10 (d) A corrective action plan submitted to the commission must:

11 (1) Describe in detail the corrective action the facility will take to address any violation
12 identified by the commission in the notice provided under subsection (b) of this section; and

13 (2) Provide a date by which the facility will complete the corrective action described by
14 subsection (d)(1) of this section.

15 (e) A corrective action plan is subject to review and approval by the commission. After the
16 commission reviews and approves a facility's corrective action plan, the commission may monitor
17 and evaluate the facility's compliance with the plan.

18 (f) A facility is considered to have failed to respond to the commission's request to submit
19 a corrective action plan if the facility fails to submit a corrective action plan:

20 (1) In the form and manner specified in the notice provided under subsection (b) of this
21 section; or

22 (2) By the date specified in the notice provided under subsection (b) of this section.

23 (g) A facility is considered to have failed to comply with a corrective action plan if the
24 facility fails to address a violation within the specified period of time contained in the plan.

25 **23-99-8. Administrative penalty.**

26 (a) The commission may impose an administrative penalty on a facility in accordance with
27 this chapter if the facility fails to:

28 (1) Respond to the commission's request to submit a corrective action plan; or

29 (2) Comply with the requirements of a corrective action plan submitted to the commission.

30 (b) The commission may impose an administrative penalty on a facility for a violation of
31 each requirement of this chapter. The commission shall set the penalty in an amount sufficient to
32 ensure compliance by facilities with the provisions of this chapter subject to the limitations
33 prescribed by subsection (c) of this section.

34 (c) For a facility with one of the following total gross revenues as reported to the Centers

1 for Medicare and Medicaid Services or to another entity designated by commission rule in the year
2 preceding the year in which a penalty is imposed, the penalty imposed by the commission may not
3 exceed:

4 (1) Ten dollars (\$10.00) for each day the facility violated this chapter, if the facility's total
5 gross revenue is less than ten million dollars (\$10,000,000);

6 (2) One hundred dollars (\$100) for each day the facility violated this chapter, if the facility's
7 total gross revenue is ten million dollars (\$10,000,000) or more and less than one hundred million
8 dollars (\$100,000,000); and

9 (3) One thousand dollars (\$1,000) for each day the facility violated this chapter, if the
10 facility's total gross revenue is one hundred million dollars (\$100,000,000) or more.

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

12 (e) In determining the amount of the penalty, the commission shall consider:

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

14 (2) The seriousness of the violation;

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

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

17 (f) An administrative penalty collected under this chapter shall be deposited to the credit
18 of an account in the general revenue fund administered by the commission. Money in the account
19 may be appropriated only to the commission.

20 **23-99-9. Legislative recommendations.**

21 The commission may propose to the legislature recommendations for amending this
22 chapter, including recommendations in response to amendments by the Centers for Medicare and
23 Medicaid Services to 45 C.F.R. Part 180.

24 SECTION 2. This act shall take effect upon passage.

=====
LC001939
=====

EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

A N A C T

RELATING TO HEALTH AND SAFETY -- DISCLOSURE OF PRICES -- MEDICAL
FACILITY ITEMS

- 1 This act would provide a procedure requiring that health care facilities maintain a list with
- 2 all standard charges for all facility items.
- 3 This act would take effect upon passage.

=====
LC001939
=====