

The Price Isn't Right:

Policy Options to Strengthen
Health Care Price Transparency



THE PROBLEM OF HIGH AND RISING PRICES

It is well-established that the United States has, by far, the highest per-capita health care spending in the world, about twice that of similarly developed countries.¹ The primary factor contributing to high US spending is higher prices.^{2,3}

Price growth in the US has been fueled by a growing trend of market consolidation, with about 90% of American hospital markets now considered to be highly consolidated.^{4,5} Increased market power allows dominant hospitals, health systems, and large provider groups to command higher prices for their services without an associated increase in quality.⁶ In addition, as hospitals increasingly purchase free-standing medical practices, they define them as hospital facilities and bill for the same services at higher hospital rates. This creates an incentive for further provider consolidation and fuels price inflation.

The burden of high hospital prices, and high overall health care costs, is clear. It makes health insurance coverage less affordable, particularly for the privately insured as they tend to pay the highest prices in the US. High prices and costs also hinder consumer choice about whether, how and where to seek necessary care, and result in people delaying or not getting needed health care due to cost. Moreover, they affect employer decisions about whether to offer health insurance and force a continued trade-off between wage increases and employee health insurance as businesses struggle to manage rising health care costs.

THE ROLE OF PRICE TRANSPARENCY AND WHY IT'S IMPORTANT

A central barrier to creating a more rational and affordable system of health care pricing in the US is the lack of readily available price information. A 2024 review of efforts to illuminate prices summed it up: “the true cost of care delivery is unknown and prices from a patient

¹ Wager, et al. (2024, January 23). How does health spending in the US compare to other countries? [https://www.healthsystemtracker.org/chart-collection/health-spending-u-s-compare-countries/#GDP%20per%20capita%20and%20health%20consumption%20spending%20per%20capita,%202022%20\(U.S.%20dollars,%20PPP%20adjusted\)](https://www.healthsystemtracker.org/chart-collection/health-spending-u-s-compare-countries/#GDP%20per%20capita%20and%20health%20consumption%20spending%20per%20capita,%202022%20(U.S.%20dollars,%20PPP%20adjusted))

² Anderson, et al. (2003, May/June). It's The Prices, Stupid: Why The United States Is So Different From Other Countries. <https://www.healthaffairs.org/doi/10.1377/hlthaff.22.3.89>

³ Anderson et al. (2019, January). It's Still The Prices, Stupid: Why The US Spends So Much On Health Care, And A Tribute To Uwe Reinhardt. <https://pubmed.ncbi.nlm.nih.gov/30615520/>

⁴ Berenson, et al. (2020, January 13). Addressing Health Care Market Consolidation and High Prices. <https://www.urban.org/research/publication/addressing-health-care-market-consolidation-and-high-prices>

⁵ Health Care Cost Institute. (2023, June). Comparing Prices and Use Indicies. <https://healthcostinstitute.org/hcci-originals/hmi-interactive#HMI-Price-and-Use>

⁶ Cutler, et al. (2013, November 13). Hospitals, Market Share, and Consolidation. <https://jamanetwork.com/journals/jama/article-abstract/1769891>

point of view are shrouded in mystery.”⁷ Consumers rarely know the price of a health care service before they purchase it, nor do they know the price of that same service from a different supplier. Negotiations between commercial payers and hospitals and providers are conducted in secret and lead to opaque and wildly variable prices.

Greater price transparency — for consumers, purchasers, health care policymakers and researchers — is a core element of a more rational system, and an important first step toward lowering health care costs. Any effective approach to health care cost constraints in the US must address the high prices we — and particularly the privately insured — face. Reducing unwarranted health care spending starts with pulling back the curtain to unveil the irrational variation in prices and inform action to lower the prices people pay.

A CENTRAL BARRIER to creating a more rational and affordable system of health care pricing in the US is the lack of readily available price information.

There also is ample evidence that prices for the same service vary wildly across the US, even within relatively small geographic areas, without any basis in quality or other outcomes. For example, the Health Care Cost Institute found that national data from employer-sponsored plans revealed as much as three-fold variations in the prices of relatively straightforward and standard services.⁸ Other researchers have found similar dramatic and seemingly unsupported price variations.⁹ For example, the price of a C-section in Boston ranges from \$5,700 to more than \$23,800, while the price of a blood test in El Paso, Texas ranges from \$144 to \$952.

This price variation, and the lack of corresponding information about quality of care, make it almost impossible for consumers and employers to discern the “right price” for any given service.

THE TRUE COST OF CARE delivery is unknown and prices from a patient point of view are shrouded in mystery.

Price transparency can enhance competition and market forces to allow consumers, employers, and purchasers to select lower-priced and higher-value providers. While price transparency can help support and inform consumer decision-making, it can also enhance

⁷ Bernstein, et al. (2024, May 26). Price Transparency in United States’ Health Care: A Narrative Policy Review of the Current State and Way Forward. Inquiry. <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC11129567/>

⁸ Health Care Cost Institute. (2024, June) Price Transparency Tool. <https://healthcostinstitute.org/data>

⁹ Kranz, et al. (2022, May 10). Variation in prices for an evidence-based pediatric preventive service. <https://pubmed.ncbi.nlm.nih.gov/35467008/>

market oversight over consolidating transactions and anticompetitive conduct by dominant providers and hold hospitals accountable for fair, reasonable pricing. Price transparency is critical to ensuring:

- Consumers can make informed decisions about their health care, engage in their care in an informed way, and choose high-value providers;
- Purchasers, including employers, can design more affordable coverage;
- Clinicians can work closely with their patients to engage in well-informed decision-making about their care;
- Federal and state policymakers and researchers can develop effective solutions to address high health care spending, lower costs, and improve patient care; and
- Policymakers can understand and track the effect of market consolidation on prices.

For these reasons, continued expansion and refinement of price transparency efforts are important to addressing the limitations of the current marketplace and supporting additional policy and purchaser interventions to lower costs.

THE CURRENT STATE OF PLAY FOR PRICE TRANSPARENCY

Policymakers at all levels have directed more attention to health care price transparency in recent years. In fact, to date, more than half of states have passed some form of health care price transparency legislation¹⁰ and there have been significant breakthroughs in federal policy. The Biden and Trump administrations both took steps to improve health care price transparency. These include:

- ***The Hospital Price Transparency Rule:*** A regulation took effect in 2021 that requires hospitals to post all prices, including their negotiated rates, online for the 200 most common shoppable services. The regulation has been implemented in phases, with some changes to the hospital price transparency regulations effective January 1, 2024, and additional hospital compliance and enforcement requirements applicable at a later date.¹¹ Unfortunately, nothing close to full compliance with the rule has been achieved. One study of short-term acute care hospitals found that 57% of hospitals were fully

¹⁰ Frakt, et al. (2019, April 16). What Type of Price Transparency Do We Need in Health Care? <https://pubmed.ncbi.nlm.nih.gov/30934087/>

¹¹ Centers for Medicare and Medicaid Services. (2023, November 11). Medicare Program: Hospital Outpatient Prospective Payment and Ambulatory Surgical Center Payment Systems; Quality Reporting Programs; Payment for Intensive Outpatient Services in Hospital Outpatient Departments, Community Mental Health Centers, Rural Health Clinics, Federally Qualified Health Centers, and Opioid Treatment Programs; Hospital Price Transparency; Changes to Community Mental Health Centers Conditions of Participation, Changes to the Inpatient Prospective Payment System Medicare Code Editor; Rural Emergency Hospital Conditions of Participation Technical Correction. <https://www.federalregister.gov/documents/2023/11/22/2023-24293/medicare-program-hospital-outpatient-pros>

compliant and 31% were partially compliant. Another analysis of 2,000 US hospital websites found that only 36% of hospitals were compliant with the requirements. The majority of the remaining 64% of hospitals had posted the necessary files, but they were found to be incomplete or did not clearly associate prices with both payer and plan.¹²

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- **The Transparency in Coverage Final Rule:** This regulation requires most insurers and group health plans to make available to members personalized out-of-pocket cost information, including the underlying negotiated rates, for all covered health care items and services through an internet-based self-service tool and in paper form if requested. It also requires most insurers and group health plans to make available to the public three separate machine-readable files containing detailed pricing information. These data are meant to support research studies and data analysis and to offer third-party developers and innovators the ability to create new platforms for price comparison. This regulation has also had a phased implementation with different requirements effective as of January 1, 2022 (machine-readable files), January 1, 2023 (data on an initial list of 500 shoppable services), and January 1, 2024 (data on all remaining items and services). While compliance rates have been higher than hospital compliance with the price transparency rule, challenges with the usability of the data remain.

There also has been increasing research into price variation, pricing strategies, and the impact of rising prices, but data sources for such analyses are limited either geographically or by payer type and do not provide a complete or timely picture of pricing behavior. On the research front, investigators have found a myriad of evidence that shows prices vary widely for privately insured individuals and groups. Variation in prices across tests, procedures and hospital inpatient services is well-documented.¹³ However, researchers remain frustrated by the lack of readily available data to compare prices and the relative complexity of using available data to support price comparisons. This includes the lack of standards for defining and comparing the price of health care services. Lack of compliance with current federal rules also undermines the integrity and usefulness of transparency datasets for purposes of research that can inform policymakers and regulators.

¹² Patient Rights Advocate. New Report Shows Just 14.3% of Hospitals Complying with Hospital Price Transparency Rule. <https://www.patientrightsadvocate.org/press-release-semi-annual-compliance-report-2022>

¹³ The Hilltop Institute UMBC. Price Transparency. <https://www.hilltopinstitute.org/our-work/price-transparency/>

FEDERAL POLICY OPTIONS FOR STRENGTHENING PRICE TRANSPARENCY

There are a number of options available to advance the state of health care price transparency efforts in the US. These include:

- ***Codify the federal hospital and insurer price transparency requirements***

to prevent future administrations from weakening existing price transparency requirements and make it clear they must post the underlying price of health care services, to give this and future administrations stronger enforcement tools, and to improve the accessibility and usability of the price transparency data sets for consumers, employers, researchers, and policymakers.

> ***The Lower Costs, More Transparency Act:*** This legislation passed the US House late in 2023 with overwhelming bipartisan support. If passed by the Senate, it would codify and strengthen requirements for hospitals and insurance companies to post price information in a machine-readable and consumer-friendly format. It would also enhance price transparency for labs, imaging providers and ambulatory surgical centers.

> ***The Health Care PRICE Transparency Act 2.0:*** Introduced in 2024 in the US Senate by Senators Mike Braun (R-Indiana) and Bernie Sanders (I-Vermont), this bill would also codify and improve the price transparency requirements and expands price transparency requirements to ambulatory surgery, clinical diagnostic labs and imaging. It would also give group health plans the right to access, audit, and review claims encounter data.

- ***Enforce existing rules.*** Centers for Medicare & Medicaid Services (CMS) has taken steps to shorten its hospital compliance review process and increase monetary penalties. However, as noted earlier, few hospitals are fully compliant with price transparency rules and policy enforcement has been relatively weak to date. CMS should be more proactive and move quickly from threatening monetary penalties to imposing them. The administration should also consider stiffer financial penalties to further incentivize compliance.
- ***Strengthen reporting requirements.*** More work is needed to standardize how hospitals present standard charges for services to facilitate consumers' access to and

LACK OF COMPLIANCE

with current federal rules also undermines the integrity and usefulness of transparency datasets for purposes of research that can inform policymakers and regulators.

understanding of prices and enhance CMS's enforcement capabilities. This need was partially addressed in the 2020 Transparency in Coverage Final Rule.

- ***Improve the accessibility and usability of transparency data sets.*** The federal government should continue to invest in transparency data and analytics and could provide incentives for payers and self-insured employers to do the same. They could also support efforts, such as those undertaken by the Hilltop Institute, to make price transparency data more accessible and user-friendly to consumers and researchers.
- ***Improve requirements for other types of transparency, including ownership transparency and site-of-service billing transparency.*** Transparency of ownership information across sectors (e.g., merger/acquisition, owner type, and parent company data) can help policymakers and researchers understand the implications of consolidation across the health care system. In addition, site-of-service billing transparency will help provide insight into where patients receive care and address the challenge of patients being charged excessively high hospital prices for care that is actually being provided in a lower-cost setting, such as an off-site clinic or outpatient department.

WHAT'S NEXT FOR PRICE TRANSPARENCY?

Price transparency in health care is foundational and is widely supported by the public and policymakers. The federal executive and legislative branches, in collaboration with consumer groups, purchasers, states, researchers, and clinicians, should continue to bolster price transparency by strengthening reporting requirements, refining the tools available to make transparency data available to consumers, purchasers, and researchers, and fostering greater awareness of and sensitivity to irrational and rising health care prices.

In the near term, there is an urgent need and opportunity for policymakers to codify current price transparency rules and expand transparency to ownership and site-of-service billing. These are critical building blocks to reduce high prices, unwarranted price variation and high costs in the US health care system.