



32BJ Health Fund:

# **Price Transparency Compliance Among NYC Hospitals**

July 14, 2021

# Executive Summary

- Healthcare is becoming an ever larger share of employee compensation. Rising hospitals prices are a key driver of these costs, yet these prices remain opaque.
- There is no situation in which consumers purchase goods or services without knowing the price beforehand. Getting a hip replacement is like going to the grocery store to buy milk, bananas and cereal and not being told the price until after you have gone home and eaten breakfast: it could be \$3 or \$30.
- More than 158 million people get their insurance through their employer<sup>1</sup>, yet employers and other commercial purchasers have no prospective insight into healthcare prices paid by similar purchasers in their local markets.
- Federal regulations addressed this issue through a [regulatory requirement](#) that hospitals publish a list of negotiated prices.
- This study analyzed data from hospitals in the greater New York City area and found that the majority of them failed to fully comply with these new transparency regulations. H+H, the New York City public hospital system, was the most compliant, while the private, non-profit medical centers – including Mount Sinai, Montefiore, Northwell, New York Presbyterian, Memorial Sloan Kettering and NYU Langone - were less compliant or fully non-compliant.
- This analysis indicates that further action is needed by federal, state, and city regulators to ensure compliance with hospital price transparency regulations so that purchasers can make informed decisions about the benefits they provide.

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1 <https://www.kff.org/other/state-indicator/total-population> Data for 2019 (accessed May 3, 2021)

# I. Federal Price Transparency Rule

To increase price transparency, the Centers for Medicare & Medicaid Services (CMS) published a final rule that required the disclosure of a list of prices negotiated between hospitals and insurers, which took effect on Jan. 1 of this year.

The regulation requires disclosure of certain information for every covered item and service the hospital provides, including the gross charges, the discounted cash price, the individual rates negotiated with third party insurers, the maximum rate negotiated with any third party, and the minimum rate negotiated with any third party (deidentified maximum and minimum).

In addition, CMS also requires that a consumer-friendly display of at least 300 shoppable services must be made available to patients. A shoppable service is defined as “a service that can be scheduled by a health care consumer in advance.” These lists must use plain language descriptions of the services and group them with any ancillary services. The shoppable services list must also contain the negotiated third-party rates, minimum/maximum negotiated rates, and discounted rates.

# II. Value of Transparency to 32BJ Health Fund

The 32BJ Health Fund (Fund) is a multiemployer plan that provides benefits to union members of 32BJ SEIU and their eligible dependents. The Fund is jointly governed by a board of trustees appointed by the Union and the Employers and provides benefits to 190,000 people in 11 states, including approximately 135,000 people in New York. The Fund is self-insured, which means it uses a Third-Party Administrator (TPA) to provide a network, authorize medical care, and pay claims. The TPA pays those claims with Fund dollars, and the Fund pays the TPA a flat administrative fee. Every dollar the Fund spends on high-priced hospital costs is a dollar that cannot be used to make other kinds of care more affordable.

Due to the fact that neither insurers nor hospitals make their negotiated prices publicly available, the Fund faces significant challenges in prospectively determining how prices compare across the health care landscape. The information required to be disclosed by the new hospital price transparency regulations would provide an opportunity for the Fund to optimize value for its plan participants by enabling it to better understand how prices compare across hospitals in New York City. With this information, the Fund could better develop strategies to encourage or require use of high quality lower-cost providers.

This study was performed to determine whether the several non-profit medical centers in the greater New York City region complied with the federal hospital price transparency regulations. The study assessed: 1) whether hospitals posted a list of shoppable services; and 2) whether they populated the list of shoppable services with the required negotiated rates.

To determine which health systems within the greater New York City region complied with the federal regulation, a cross sectional study of available price transparency negotiated rates from hospitals affiliated with seven major hospital systems in the Hudson Valley, New York City, and Long Island regions of New York was performed. These hospital systems were: NYC Health and Hospitals, Memorial Sloan Kettering Cancer Center, Montefiore, Mount Sinai, NewYork-Presbyterian, NYU Langone, and Northwell.

A list of hospitals was downloaded from the State Health Data website on March 1, 2021. Hospital system status was determined by checking each hospital website to determine ownership, and it was validated based on experience working in the region. Hospital affiliations were defined as a contractual “affiliation” that may result in joint negotiations with providers and payors. This was determined by searching hospital websites and online news articles that contained information about hospitals and systems becoming affiliates.

To determine if the selected hospital system affiliates were in compliance with the CMS Price Transparency Requirements for Hospitals Final Rule, investigators used the following protocol:

1. From March 14 - 18, 2021, investigators searched hospital websites for downloadable price transparency data, including machine readable files that included payer-specific negotiated rates.<sup>2</sup>
2. If no information was found through a website search, a Google search was conducted using the terms “[hospital name] price transparency,” and/or “[hospital name] negotiated rates” and the first 10 results were examined.
3. Each hospital was double checked by another investigator for the accuracy of price transparency information that was found.
4. Negotiated rates lists were downloaded and compiled into a master database.

The results were reviewed to determine the number of Diagnosis-Related Group (DRG) prices by payer and whether the data included the necessary pricing information set forth in the regulations. Data was reviewed and categorized into high and low quality. The criteria for high quality was including at least 1000 DRGs for inpatient data and including at least one negotiated price per

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2 45 CFR §180.50

code. The criteria for low quality data was that it must be publicly available in a spreadsheet format and include any combination of inpatient and outpatient prices and at least one chargemaster price for each code.

Other metrics collected about each hospital’s negotiated rates list included: data file type, number of rows in the data spreadsheet, the date that the search was conducted, and where the information was found (hospital website or Google search).

### III. Results

Of the 81 hospitals searched, 28 (34.5%) had available negotiated price information with 19 (23.5%) falling into the “high quality” category. Table 1 shows the number and percentage of hospitals with available negotiated price information by hospital system as of March 2021.

NYC Health + Hospitals had 92% (11 of 12) of affiliated hospitals with available negotiated prices; Montefiore had 19% (3 of 16) of affiliated hospitals with available negotiated prices, but none of the hospitals owned directly by Montefiore complied; and Mount Sinai had 36% (5 of 14) of affiliated hospitals with available negotiated prices information. The data quality for these three hospitals was high.<sup>3</sup> New York Presbyterian provided a chargemaster price list for outpatient services for all nine of its owned facilities, but few negotiated rates were listed.

**Table 1. Price Transparency Information by Hospital System**

System	Total Hospitals	Negotiated Rates Found	Percent	Data Quality
NYC H+H	12	11	92%	High
Montefiore	16	3	19%	High
Mount Sinai	14	5	36%	High
NY Presbyterian	13	9	69%	Low
Northwell	20	0	0%	N/A
NYU Langone	5	0	0%	N/A
Mem. Sloan Kettering	1	0	0%	N/A
<b>Total</b>	<b>81</b>	<b>28</b>	<b>35%</b>	

<sup>3</sup> DRG Codes: 470 - Major hip and knee joint replacement; 788 - Cesarean section without sterilization without CC/MCC; 807 - Vaginal delivery without sterilization or D&C; and 234 - Coronary Bypass with CC without MCC; 291 - Heart Failure and Shock with MCC

Northwell, New York University, and Memorial Sloan Kettering hospital systems did not have any available negotiated price information findable by searching the hospital website and a Google search. Table 2 shows the number of hospitals with available negotiated price information by New York State region and county as of March 2021.

**Table 2. Price Transparency Information by NY Region and County**

Region/County	Negotiated Rates Available		Percent Total
	No	Yes	
<b>Hudson Valley</b>	<b>11</b>	<b>6</b>	<b>17</b>
Orange	2	0	2
Rockland	1	0	1
Westchester	8	6	14
<b>Long Island</b>	<b>16</b>	<b>3</b>	<b>19</b>
Nassau	10	0	10
Queens	2	3	5
Suffolk	4	0	4
<b>NYC</b>	<b>26</b>	<b>19</b>	<b>45</b>
Bronx	4	5	9
Kings	6	5	11
New York	14	7	21
Richmond	2	2	4
<b>Total</b>	<b>53</b>	<b>28</b>	<b>81</b>

## IV. Proposed Solutions

While the regulation clearly states penalties for failing to comply with price disclosure - \$300 per day per hospital - it is not clear whether or to what extent CMS will actually apply these penalties. On April 13, 2021, the House Energy and Commerce Committee wrote to Health and Human Services Secretary Xavier Becerra, and urged “HHS to revisit its enforcement tools, including the amount of the civil penalty.”<sup>4</sup> We support the House Energy and Commerce Committee’s concerns, provide additional evidence of non-compliance, and ask for Secretary Becerra to strengthen enforcement of this regulation through penalties and by sharing a list publicly of which hospitals are out of compliance on a quarterly or bi-annual basis.

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4 <https://energycommerce.house.gov/sites/democrats.energycommerce.house.gov/files/documents/HHS.2021.04.13.pdf>

