

JOSH STEIN
ATTORNEY GENERAL



REPLY TO:
LLOGAN WALTERS
ASSISTANT ATTORNEY GENERAL
LWALTERS@NCDOJ.GOV
114 W. EDENTON ST.
RALEIGH, NC 27603

June 2, 2021

Via E-Mail and U.S. Mail

Dear Hospital Administrator,

For too long, consumers confronted with difficult medical situations have been forced to navigate the healthcare system with little, if any, information about the price of services they are told are necessary. This layers needless anxiety and uncertainty on top of what are already some of the most stressful and uncertain circumstances a person can face. It also creates the potential for abusive business practices. And the lack of price transparency can place upward pressure on hospital pricing, which, in turn, is largely responsible for driving out-of-control healthcare cost growth.¹

As you are aware, on January 1, 2021, federal hospital pricing transparency regulations went into effect. Those regulations require that hospitals make publicly available a machine-readable file containing a list of prices for all items and services as well as a consumer-friendly list with prices for shoppable services. 45 C.F.R. § 180.40. For each item or service, both lists must include the hospital's chargemaster price, its cash-discount price, all payer-negotiated prices, and the minimum and maximum payer-negotiated prices. *Id.* § 180.20. In lieu of a consumer-friendly list of shoppable services, a hospital may instead make available an online cost-estimator tool. *Id.* § 180.60(a)(2).

The federal regulations require that this information be “displayed in a prominent manner” on the hospital's website and that it be “easily accessible, without barriers.” *Id.* § 180.50(d). To this end, the information must be available free-of-charge, without requiring the registration of a user account, and—except as necessary to compute a price in the event the hospital uses a cost-estimator tool—without collecting personally identifiable information (PII). *Id.*; *see also id.* § 180.60(a)(2), (b). It also must be updated at least annually. *Id.* § 180.50(e), 180.60(e).

The North Carolina Department of Justice is focused on keeping healthcare costs as low as possible for North Carolina patients. Therefore, your compliance with these regulations is of significant interest to our office. Unfortunately, media reports have already indicated that a number of hospitals—including some hospitals and hospital systems in North Carolina—have attempted to avoid full compliance.² We have engaged, and will continue to engage, with the Centers for Medicare and Medicaid Services (CMS) and the federal

¹ See Alex Kacik, *Hospital Price Growth Driving Healthcare Spending*, MODERN HEALTHCARE (Feb. 4, 2019), <https://www.modernhealthcare.com/article/20190204/NEWS/190209984/hospital-price-growth-driving-healthcare-spending>.

² See Tom McGinty, Anna Wilde Mathews & Melanie Evans, *Hospitals Hide Pricing Data from Search Results*, WALL ST. J. (Mar. 22, 2021), <https://www.wsj.com/articles/hospitals-hide-pricing-data-from-search-results-11616405402>.

Department of Health and Human Services (HHS) to understand the ways in which NCDOJ can best assist in enforcing the regulations in order to protect North Carolina consumers. Our office is also exploring whether potential changes to state law are warranted to expand upon and better enforce hospital price transparency requirements.

In order to understand how North Carolina's hospitals are complying with the federal regulations, we ask that you provide us with the following information:

- (1) the URL of the webpage containing the machine-readable list of all items and services described in 45 C.F.R. § 180.50;
- (2) the URL of the webpage containing either: (a) the consumer-friendly list of shoppable services described in 45 C.F.R. § 180.60, or (b) the online cost-estimator tool described in the same section;
- (3) an explanation of why, as to each webpage responsive to requests (1) and (2), you believe the information is "prominently displayed" on the hospital's website, focusing in particular on ease-of-access to the information from the hospital's "home" webpage;
- (4) as to each webpage responsive to requests (1) and (2), whether the hospital utilizes a "robots.txt" file, and, if so, in plain language, what instructions the robots.txt file(s) give(s) to web crawlers from search engines.

Thank you for your cooperation. We look forward to your response by June 30, 2021.

Sincerely,

Llogan Walters
Assistant Attorney General