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WHA: Insurance, Third-Party Administrator Transparency Regulations “glaringly ignored by some here in Wisconsin”

The Trump Administration released a new executive order on Feb. 25 charging the federal Departments of Health and Human Services, Labor and Treasury with identifying opportunities to “enhance transparency efforts and better equip patients with meaningful price information.”

While hospital compliance data with federal price transparency regulations is widely available by several sources, including directly from the Centers for Medicare and Medicaid Services, data related to insurer and TPA compliance is either non-existent or sparse.

In 2023, state-level legislation solely targeting hospitals was proposed in Wisconsin under the false premise that hospitals were intentionally ignoring federal price transparency regulations and would “pay their fines and walk away.” While 18 hospitals in the country have received fines from CMS of up to \$1 million for non-compliance, not one Wisconsin hospital has been fined. Wisconsin hospitals have among the strongest compliance rates in the country. Meanwhile, the proposed state-level legislation was silent on insurance companies and third-party administrator obligations under federal regulations.

“What’s most notable to us about President Trump’s executive order is that he is one of the only people acknowledging that insurance companies, which include health insurers, third-party administrators and self-funded employers in Wisconsin, are also subject to the federal price transparency law, but you’d barely know it,” said WHA in a statement to the media following the executive order. “The mega health insurance companies, the impact they have on health care cost and their obligations under the federal health care price transparency law has been and continues to be glaringly ignored by some here in Wisconsin. Hopefully, that’s now changing, at least in Washington, D.C.”

As WHA stated in October 2023, the Association’s opposition to state-level legislation predicted more changes in federal regulation, like those proposed by the Trump Administration this week. As stated by WHA in testimony before the Wisconsin State Senate Health Committee, “To impose state level rules and requirements on top of all that, actual state statutes that will become outdated with every update to federal rules and law, will only add to confusion and resource intensive administrative burdens already inundating hospitals.”

WHA opposed the creation of a state-level bureaucracy when hospitals are already drowning in federal regulations. The American Hospital Association's 2017 Regulatory Overload Report found that the average size hospital dedicates 59 FTEs to federal regulatory compliance, which has undoubtedly grown in the last decade.

"Here's what's also noteworthy about the executive order – it's clear that the creation of, changes to and enforcement of the health care price transparency law rests with the federal government rather than a hodgepodge of state transparency laws that are doomed to always be misaligned with, while heaped on top of, the federal transparency laws," continued WHA.

The executive order instructs the agencies to take action within the next 90 days to:

- Ensure that "actual prices"—not just estimates—are disclosed to consumers.
- Standardize pricing information to facilitate easier comparisons between hospital and insurer data.
- Increase enforcement of existing price transparency requirements.

"The WHA has been a key partner, working closely with hospitals to ensure they stay ahead of ever-changing federal transparency requirements. We remain dedicated to supporting hospitals in maintaining this leadership. At the same time, we call on federal regulators to enforce transparency laws fairly. It's time to hold mega health insurers and middlemen accountable, entities that extract billions from the health care system while avoiding the increased scrutiny they deserve," stated WHA.

While the executive order emphasizes the need for stronger implementation and oversight, it does not specify what additional actions the agencies may take. WHA will continue to monitor developments on this issue and provide updates to members as more details emerge.