American College of Emergency Physicians®
ADVANCING EMERGENCY CARE

February 23, 2026

The Honorable Robert F. Kennedy Jr.
Secretary
U.S. Department of Health and Human Services
200 Independence Avenue, SW
Washington, D.C., 20201

The Honorable Scott Bessent
Secretary
U.S. Department of the Treasury
1500 Pennsylvania Avenue, NW
Washington, D.C., 20220

The Honorable Lori Chavez-DeRemer
Secretary
U.S. Department of Labor
200 Constitution Ave. NW
Washington, D.C., 20210

RE: **Transparency in Coverage Proposed Rule (CMS-9882-P)**

Dear Secretary Kennedy, Secretary Chavez-DeRemer, and Secretary Bessent:

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On behalf of our nearly 40,000 members, the American College of Emergency Physicians (ACEP) appreciates the opportunity to respond to the *Transparency in Coverage* proposed rule from the Departments of Health and Human Services, Labor, and Treasury ("the Departments").[1] Overall, ACEP supports the Trump Administration's commitment to improving price transparency. However, we believe that it is extremely important that the Departments keep in mind issues that are unique to emergency care as they consider modifications to current price transparency requirements. We also believe that the Departments must take additional action to ensure that individuals can fully benefit from the important patient protections that are embedded within the *No Surprises Act*. It is with that perspective in mind that we offer comments on the proposed rule and the Administration's price transparency strategy more holistically.

Application of Price Transparency Requirements to Emergency Care

On February 28, 2025, President Trump issued an Executive Order, "Making America Healthy Again by Empowering Patients with Clear, Accurate, and Actionable Healthcare Pricing Information," highlighting specific actions the Administration should take to ensure patients can make informed decisions about their health care.[2] The proposed rule carries out Section 3(b) of the Executive Order: specifically, the Departments' proposals to make information more transparent and accessible to patients, and to uphold patient protections in line with the requirements of the *No Surprises Act*.

[1] 90 FR 60432
[2] Exec. Order No. 14221, 90 FR 11005 (2025), https://www.federalregister.gov/d/2025-03440

Overall, ACEP supports all the steps that the Departments are taking to make it easier for enrollees to have access to information about the cost of their services and their cost sharing information. However, we ask that the Departments provide additional clarifications with respect to how the new requirements apply to emergency care.

During emergencies, a patient's concern should be focused on receiving timely and appropriate care, rather than choosing their emergency care based on cost. Patients who have life-threatening illnesses and injuries obviously do not have the ability to shop around for the "lowest cost" provider, and emergency physicians are often required to exercise their best clinical judgement quickly to deliver lifesaving care.

As emergency physicians, we are subject to the Emergency Medical Treatment and Labor Act (EMTALA), which guarantees that we provide patients with emergency medical care (i.e., a medical screening examination and stabilizing treatment) regardless of their insurance status or ability to pay. ACEP strongly supports the patient protections embedded within the EMTALA requirements. EMTALA stipulates that a hospital may not place any signs in the ED regarding the prepayment of fees or payment of co-pays and deductibles which could have the chilling effect of dissuading patients from seeking care at the ED, or leaving prior to being screened and stabilized, taking away a foundational principal of an important patient protection. If we attempt to provide patients with pricing information prior to stabilizing them, not only would that be a likely EMTALA violation, but it could also delay the patient from receiving critical care and potentially cause their health to deteriorate. While the penalties for violating EMTALA are steep, our deeper concern is that if transparency for emergency care is not approached carefully, we could inadvertently put our patients in a position of making life-or-death health care decisions based on costs – a choice no one should have to make.

Furthermore, in delivering acute care, knowing what patients' total out-of-pocket costs will be before they are diagnosed and stabilized is nearly impossible until a proper course of medical assessment, care, and progression is followed. A sizable proportion of emergency care involves the acute diagnosis, treatment, and stabilization of diffuse and undifferentiated clinical conditions. For example, two of the most common patient presentations are "chest pain" and "abdominal pain." These initial symptoms have a large range of ultimate diagnoses and require a large variety of patient-specific lab tests, radiology exams, and other interventions. In many cases, emergency physicians only decide to order a particular test once they have seen the result of another test already performed. This is vastly different from being able to figure out total costs for an urgent care patient with a small, clean, superficial laceration or a sore throat. Further complicating the issue is the fact that emergency care is billed in two separate components: the facility fee and the professional fee. Therefore, patients must sort through costs included in at least two different bills, each of which may have different cost-sharing obligations associated with it (not to mention additional potential bills from other specialists who might be involved in an emergency encounter, such as a radiologist and an orthopedist in the case of a fractured limb).

We believe that the best time for health plans to inform consumers about the potential costs of emergency care is when consumers obtain their coverage—before an emergency occurs. This information includes up-to-date provider directories, and network adequacy standards that include adequate patient access to care, including access to hospital-based physician specialties. However, the Departments do not include any specific requirements for health plans to help patients better understand emergency care costs. Therefore, we urge the Departments to include an added requirement in the final rule for health plans to provide consumers with information they need to fully understand their cost-sharing obligations for emergency services at the time they obtain their coverage.

We also request that the Departments add a requirement for health plans or issuers to provide their enrollees with meaningful and simple explanations regarding coverage for emergency care that they are guaranteed under federal law. This includes informing them of the prudent layperson standard, which states that payors must cover any medical condition, "manifesting itself by acute symptoms of sufficient severity (including severe pain) such that a prudent layperson, who possesses an average knowledge of health and medicine, could reasonably expect the absence of immediate medical attention to result in: 1) placing the health of the individual (or a pregnant woman or her unborn child) in serious jeopardy; 2) serious impairment to bodily functions, or 3) serious dysfunction of any bodily organ or part."[3] While this requirement is already in federal law for all commercial plan types, over the past several years, insurers such as Anthem, United, and Blue Cross Blue Shield of Texas, have all implemented policies that to varying degrees can retroactively deny a range of emergency care for policyholders who seek it for symptoms that turn out to be nonemergent.

Lastly, we request that the Departments highlight the differences between emergency care and non-emergency care and clearly explain that some of the price requirements are only applicable during non-emergency situations.

No Surprises Act Implementation

ACEP remains steadfast in our support of the *No Surprises Act's* goals of eliminating surprise medical bills for certain out-of-network services and removing patients from the middle of out-of-network reimbursement disputes. In the rule, the Departments reference the patient protections embedded within the *No Surprises Act* and include a proposal specifically related to section 107 of the Act. This provision requires a health plan to include, in clear writing, on any physical or electronic plan or insurance identification card issued to the enrollees in the plan or coverage the following:

1. Any deductible applicable to such plan or coverage.
2. Any out-of-pocket maximum limitation applicable to such plan or coverage.
3. A telephone number and Internet website address through which such individual may seek consumer assistance information, such as information related to hospitals and urgent care facilities that have in effect a contractual relationship with such plan or coverage for furnishing items and services under such plan or coverage.

[3] 42 Code of Federal Regulations (CFR) 438.114(a).

In the rule, the Departments propose to require plans and issuers to make available to enrollees, at their request, cost-sharing estimates and other price disclosures via the same telephone number that is required under this section of the *No Surprises Act*. While ACEP supports this proposal, we do note that the Departments have not yet fully implemented Section 107 of the *No Surprises Act*. In August 2021, the Departments issued a guidance document stating that they did not plan to implement certain requirements by the statutory deadline of January 1, 2022, including this section. In response to question 4 in the document, the Departments state that they do not intend to go through rulemaking before January 1, 2022, to implement Section 107 but, "pending future rulemaking," they expect "plans and issuers… to implement the ID card requirements using a good faith, reasonable interpretation of the statute." Although the Departments reference the possibility of rulemaking going forward, no rulemaking has ever been initiated to implement this section. Since this section has not been fully enforced, we do not believe that all plans and issuers are in fact including all required information on insurance ID cards. ACEP strongly believes that the Departments should issue regulations and enforce this section of the *No Surprises Act* to ensure broad and uniform compliance with these important consumer protections. Doing so would directly align with the Trump Administration's important goal of promoting price transparency and would further empower patients to have all the information they need to make the best decisions for their healthcare.

Finally, we strongly recommend that the Departments take additional steps to make sure the law operates as Congress intended. Improving the federal dispute resolution process and augmenting enforcement efforts are immediate actions the Departments could take. To that end, we urge the Departments to finalize the Federal Independent Dispute Resolution (IDR) Operations Rule (CMS-9897-P). We believe the policies included in the proposed rule would promote greater price transparency, encourage negotiations prior to the start of the IDR process, reduce the number of initiated disputes later determined to be ineligible, help speed up payment determinations by certified IDR entities, and, with proper enforcement, hold the potential to reduce reliance on initiation of the IDR process overall.

Thank you again for providing the opportunity to comment on this proposed rule. If you have any questions, please contact Annalane Miller, ACEP's Manager of Regulatory and External Affairs, at amiller1@acep.org.

Sincerely,



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President
American College of Emergency Physicians