

113TH CONGRESS  
1ST SESSION

# H. R. 2853

To amend the Public Health Service Act to provide for the public disclosure of charges for certain hospital and ambulatory surgical center treatment episodes.

---

## IN THE HOUSE OF REPRESENTATIVES

JULY 30, 2013

Mr. LIPINSKI (for himself, Mr. MULLIN, Mr. DEFazio, Mr. MICHAUD, Mr. PETERSON, and Mr. POLIS) introduced the following bill; which was referred to the Committee on Energy and Commerce

---

## A BILL

To amend the Public Health Service Act to provide for the public disclosure of charges for certain hospital and ambulatory surgical center treatment episodes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Hospital Price Trans-  
5 parency and Disclosure Act of 2013”.

6 **SEC. 2. PUBLIC DISCLOSURE OF HOSPITAL DATA.**

7 Part B of title II of the Public Health Service Act  
8 (42 U.S.C. 238 et seq.) is amended by adding at the end  
9 the following new section:

1 “DATA REPORTING BY HOSPITALS AND AMBULATORY  
2 SURGICAL CENTERS AND PUBLIC POSTING

3 “SEC. 249. (a) SEMIANNUAL REPORTING REQUIRE-  
4 MENT.—Not later than 80 days after the end of each semi-  
5 annual period beginning January 1 or July 1 (beginning  
6 more than one year after the date of the enactment of  
7 this section), a hospital and an ambulatory surgical center  
8 shall report to the Secretary the following data:

9 “(1) In the case of a hospital—

10 “(A) the frequency of occurrence for such  
11 hospital during such period of each treatment  
12 episode identified under subsection (c)(1) for a  
13 condition or disease selected under subpara-  
14 graph (A) or (B) of such subsection (or up-  
15 dated under subsection (c)(3)), furnished in an  
16 inpatient or outpatient setting, respectively; and

17 “(B) if care was furnished for such a  
18 treatment episode by such hospital during such  
19 period—

20 “(i) the total number of such treat-  
21 ment episodes for which care was so fur-  
22 nished by the hospital during such period;

23 “(ii) the insured individual average  
24 charge (as computed under subsection

1 (e)(3)) by the hospital for such treatment  
2 episode during such period; and

3 “(iii) the uninsured individual average  
4 charge (as computed under subsection  
5 (e)(4)) by the hospital for such treatment  
6 episode during such period.

7 “(2) In the case of an ambulatory surgical cen-  
8 ter—

9 “(A) the frequency of occurrence for such  
10 center during such period of each treatment  
11 episode identified under subsection (c)(1) for a  
12 condition or disease selected under subpara-  
13 graph (C) of such subsection (or updated under  
14 subsection (c)(3)); and

15 “(B) if care was furnished for such a  
16 treatment episode by such center during such  
17 period—

18 “(i) the total number of such treat-  
19 ment episodes for which care was so fur-  
20 nished by the center during such period;

21 “(ii) the insured individual average  
22 charge (as computed under subsection  
23 (e)(3)) by the center for such episode dur-  
24 ing such period; and

1                   “(iii) the uninsured individual average  
2                   charge (as computed under subsection  
3                   (e)(4)) by the center for such episode dur-  
4                   ing such period.

5                   “(b) PUBLIC AVAILABILITY OF DATA.—

6                   “(1) PUBLIC POSTING OF DATA.—The Sec-  
7                   retary shall promptly post, on the official public  
8                   Internet site of the Department of Health and  
9                   Human Services, the data reported under subsection  
10                  (a) and an appropriate link, with respect to a hos-  
11                  pital or center for which the data is reported, to  
12                  other consumer quality information maintained on  
13                  such site (or a site maintained by the Centers for  
14                  Medicare & Medicaid Services) relating to the hos-  
15                  pital or center. Such data shall be set forth in a  
16                  manner that promotes charge comparison among  
17                  hospitals and among ambulatory surgical centers.

18                  “(2) NOTICE OF AVAILABILITY.—A hospital  
19                  and an ambulatory surgical center shall prominently  
20                  post at each admission site of the hospital or center  
21                  a notice of the availability of the data reported  
22                  under subsection (a) on the official public Internet  
23                  site under paragraph (1).

24                  “(c) SPECIFICATION OF TREATMENT EPISODES.—

25 For purposes of this section:

1           “(1) IN GENERAL.—The Secretary shall identify  
2           treatment episodes for each of the following:

3                   “(A) The 100 conditions and diseases selected  
4                   by the Secretary as being the most frequently  
5                   treated conditions and diseases in a  
6                   hospital inpatient setting.

7                   “(B) The 100 conditions and diseases selected  
8                   by the Secretary as being the most frequently  
9                   treated conditions and diseases in a  
10                  hospital outpatient setting.

11                  “(C) The 100 conditions and diseases selected  
12                  by the Secretary as being the most frequently  
13                  treated conditions and diseases in an  
14                  ambulatory surgical center setting.

15           “(2) AGREEMENT WITH IOM.—In carrying out  
16           paragraph (1), the Secretary may enter into an  
17           agreement with the Institute of Medicine to define a  
18           treatment episode for any condition or disease selected  
19           by the Secretary under this subsection. Such  
20           a definition may take into account the varying complexity  
21           associated with respect to different treatments.  
22           ments.

23           “(3) UPDATING SELECTION.—The Secretary  
24           shall periodically update the conditions and diseases  
25           selected under paragraph (1).

1       “(d) CIVIL MONEY PENALTY.—The Secretary may  
2 impose a civil money penalty of not more than \$10,000  
3 for each knowing violation of subsection (a) or (b)(2) by  
4 a hospital or an ambulatory surgical center. The provi-  
5 sions of subsection (i)(2) of section 351A shall apply with  
6 respect to civil money penalties under this subsection in  
7 the same manner as such provisions apply to civil money  
8 penalties under subsection (i)(1) of such section.

9       “(e) ADMINISTRATIVE PROVISIONS.—

10           “(1) IN GENERAL.—The Secretary shall pre-  
11 scribe such regulations and issue such guidelines as  
12 may be required to carry out this section.

13           “(2) CLASSIFICATION OF SERVICES.—The regu-  
14 lations and guidelines under paragraph (1) shall in-  
15 clude rules on the classification of different treat-  
16 ment episodes and the assignment of items and pro-  
17 cedures to those episodes.

18           “(3) COMPUTATION OF INSURED INDIVIDUAL  
19 AVERAGE CHARGES.—

20           “(A) IN GENERAL.—For purposes of sub-  
21 sections (a)(1)(B)(ii) and (a)(2)(B)(ii), an in-  
22 sured individual average charge for a treatment  
23 episode, with respect to a hospital or ambula-  
24 tory surgical center during a period, shall be  
25 computed as the average of the rates (including

1 any applicable copayment, coinsurance, other  
2 cost sharing, or other fees, such as facility fees,  
3 associated with treatment in the hospital or  
4 center) for such episode that have been nego-  
5 tiated by the hospital or ambulatory surgical  
6 center, respectively, with the 5 most used health  
7 insurance providers for such hospital or center  
8 during such period.

9 “(B) 5 MOST USED HEALTH INSURANCE  
10 PROVIDERS.—For purposes of subparagraph  
11 (A), the 5 most used health insurance pro-  
12 viders, with respect to a hospital or ambulatory  
13 surgical center during a period, are the 5 group  
14 health plans or insurance issuers offering health  
15 insurance coverage—

16 “(i) that have negotiated with the hos-  
17 pital or center a rate for the treatment epi-  
18 sode involved; and

19 “(ii) the enrollees of which represent  
20 the highest number of patients of the hos-  
21 pital or center, respectively.

22 “(4) COMPUTATION OF UNINSURED INDIVIDUAL  
23 AVERAGE CHARGES.—

24 “(A) IN GENERAL.—For purposes of sub-  
25 sections (a)(1)(B)(iii) and (a)(2)(B)(iii), an un-

1 insured individual average charge for a treat-  
2 ment episode, with respect to a hospital or am-  
3 bulatory surgical center during a period, shall  
4 be computed as the average of the total  
5 amounts charged for such an episode for which  
6 care was furnished to an uninsured individual  
7 by such hospital or ambulatory surgical center  
8 during such period.

9 “(B) UNINSURED INDIVIDUAL DEFINED.—

10 For purposes of subparagraph (A), the term  
11 ‘uninsured individual’ means, with respect to  
12 care furnished to the individual by a hospital or  
13 ambulatory surgical center, an individual who  
14 does not have insurance or other third-party  
15 contractual benefits that provides payment for  
16 costs incurred for such care.

17 “(5) FORM OF REPORT AND NOTICE.—The reg-

18 ulations and guidelines under paragraph (1) shall  
19 specify the electronic form and manner by which a  
20 hospital or an ambulatory surgical center shall re-  
21 port data under subsection (a) and the form for  
22 posting of notices under subsection (b)(2).

23 “(f) RULES OF CONSTRUCTION.—

24 “(1) NON-PREEMPTION OF STATE LAWS.—

25 Nothing in this section shall be construed as pre-



1 emptying or otherwise affecting any provision of  
2 State law relating to the disclosure of charges or  
3 other information for a hospital or an ambulatory  
4 surgical center.

5 “(2) CHARGES.—Nothing in this section shall  
6 be construed to regulate or set hospital or ambula-  
7 tory surgical center charges.

8 “(g) HOSPITAL AND AMBULATORY SURGICAL CEN-  
9 TER DEFINED.—For purposes of this section, the terms  
10 ‘hospital’ and ‘ambulatory surgical center’ have the mean-  
11 ing given such terms by the Secretary.”

○