



Price Transparency & The PATIENT Act

Separating Fact from Fiction

FICTION:

Transparency will harm insurers by forcing them to disclose privately contracted rates.



FACT:

Insurers already disclose contracted rates—but only after treatment.

Insurance companies already disclose contracted pricing information in every state. Unfortunately, this disclosure frequently only happens after treatment, through an explanation of benefits mailed to the enrollee (aka “surprise billing”). This illustrates that insurers do release this information, just not in a manner or at a time enabling consumers to use it to find the best value. This practice debunks the false claim that pricing data is proprietary data that cannot and should not be released to enrollees.

FICTION:

The PATIENT Act imposes a new requirement for insurers to disclose privately negotiated rates.



FACT:

The price transparency provisions in the PATIENT Act primarily codify existing regulations that already require disclosure of rates.

The PATIENT Act codifies existing legal requirements that insurers provide a tool to their enrollees that allows them to see how much shoppable services cost at various providers, based on the enrollees’ plans and public disclosure of in-network rates. In both cases, the idea is simply that patients can see the price the patient would pay.

FICTION:

Asking insurers to disclose privately negotiated rates is a violation of free market principles.



FACT:

There is also no “free market principle” that allows a seller to hide prices from a customer until after a service has been provided.

Transparency of prices is considered an essential condition for markets to function. Keeping negotiated price information from consumers has no meaningful public benefit and even allows some providers to charge above-market prices, arguably harming consumers with higher out-of-pocket costs and making care more difficult to access.



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FICTION:

These prices never make it to the patient. The negotiated rates and hospital list prices are not the price that the patient would pay.



FACT:

To compare options, patients need to know what their specific health plan pays for a given service.

Without information on estimated out-of-pocket costs, what a plan will pay a specific provider, and the average real price paid for other providers (or some other form of pricing anchor, such as a median in-network rate), patients simply cannot compare rates and decide if they are getting the best value before making a health care decision.

Companies and apps are being developed to help patients use this data and customize it for their own plans so decisions based on real prices can be made.

FICTION:

Revealing prices could increase health costs overall by revealing to providers that they could be charging patients more.



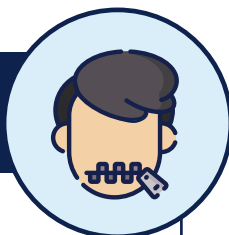
FACT:

Health care costs are high because patients pay through intermediaries and have no ability to shop based on price.

In every other market for services, when prices are known, businesses compete, in part, on price. Providers, not patients, benefit from a lack of transparency. When gas stations post their prices publicly, they don't raise their prices—if they do, they'll lose customers. They lower their prices.

FICTION:

Price transparency forces insurers to disclose "trade secrets."



FACT:

There is little basis for health care prices to be considered "trade secrets."

Trade secret protections have historically been used to help spur innovation and promote competition in the marketplace. There is growing economic and legal recognition that trade secret protections do not apply to health care prices. Why? Because pricing data does not meet common standards used to justify such protection. Trade secret protection is normally applied to information like "formulas, techniques, designs and processes not generally known or easily ascertainable by others," and that courts protect trade secrets "to promote vigorous competition between rivals." The secrecy of health care prices is not designed to promote competition, but instead "to take advantage of the consumer's lack of pricing information."

FICTION:

There is minimal evidence that making prices more transparent for consumers will drive down health care costs.



FACT:

Price transparency efforts have already increased shopping and pushed prices down.

Kentucky's price transparency tool put more than \$1.9 million in cash benefits into the pockets of users in its first three years. New Hampshire consumers who used price information to shop saved a great deal, with average savings of 36 percent for medical imaging services, for example.

FICTION:

Americans don't believe in price transparency.



FACT:

An overwhelming majority of all likely voters—nearly 90 percent—support health care price transparency.

Price transparency gives patients the ability to know what their costs are prior to receiving non-emergency care and gives patients the information they need to make health care decisions. This is not a partisan issue: Republicans (86 percent), Democrats (89 percent), and Independents (88 percent) are united in their support for greater price transparency in health care.

FICTION:

We already have total price transparency.



FACT:

The Trump administration made real progress through regulatory action. But those regulations can be undone by a different administration and, in fact, have been poorly enforced by the Biden administration.

Since 2021, federal law has required hospitals to publish the cost of medical services to give consumers full pricing information, but insurers are closest to the right information for patients and should provide this information to their enrollees. Additionally, the Centers for Medicare & Medicaid Services (CMS) is the federal agency charged with enforcing the 2021 rule, however, there is evidence the Biden administration is enabling hospitals to violate price transparency requirements, harming patients and their families.

BOTTOM LINE

Price transparency allows consumers to compare prices, which promotes competition and drives down costs for patients, and America still has a long way to go. **That effort must begin with congressional action like the Patient Act.**