**DISCLAIMER**

T

he New Jersey Hospital Association’s (NJHA) Out-of-Network Implementation Toolkit (hereinafter “materials”) are intended to be tools that hospitals may use to implement and comply with the “Out-of-network Consumer Protection, Transparency, Cost Containment and Accountability Act.” The information provided in these materials should not be relied upon or regarded as legal advice. No specific representation is made, nor should be implied, nor shall NJHA or any other party involved in creating, producing or delivering this material be liable in any manner whatsoever for any direct, incidental, consequential, indirect or punitive damages arising out of your use of these materials. NJHA makes no warranties or representations, express or implied, as to the accuracy or completeness of the information contained or referenced herein. This publication is provided “AS IS” WITHOUT WARRANTY OF ANY KIND, EITHER EXPRESSED OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, OR NON-INFRINGEMENT. Some jurisdictions do not allow the exclusion of implied warranties, so the above exclusion may not apply to you. All images and information contained in these materials are copyrighted and otherwise proprietary. No use of this information is permitted without the prior written consent of NJHA. If you have other questions or concerns, please contact NJHA’s Legal Affairs at 609.275.4089.

**Provider Website Out-of-network Requirements**

G

overnor Murphy signed the “Out-of-network Consumer Protection, Transparency, Cost Containment and Accountability Act” (“OON”) June 1, 2018. The law is effective Aug. 29 and requires general acute care hospitals, satellite emergency departments, hospital-based off-site ambulatory facilities that perform ambulatory surgical procedures and ambulatory surgery facilities to provide certain information to consumers, including making available to the public a list of the facility’s standard charges for items and services provided, in a form that is consistent with federal guidelines.

Federal guidelines require hospitals to make public a list of standard charges (i.e., the chargemaster or another form of their choice) or their policies for allowing the public to view a list of those charges in response to an inquiry.

**Update As Of 8/16/18:**

**Under the FY 2019 IPPS final rule adopted on Aug. 2, effective January 1, 2019, CMS is requiring that hospitals make available a list of their current standard charges via the Internet in a machine-readable format and to update this information at least annually, or more often as appropriate. This could be in the form of the chargemaster itself or another form of the hospital’s choice, as long as the information is in machine readable format.**

**The Office of Management and Budget (OMB) defines "machine readable" as follows: "Format in a standard computer language (not English text) that can be read automatically by a web browser or computer system. (e.g.; XML). Traditional word processing documents and portable document format (PDF) files are easily read by humans but typically are difficult for machines to interpret. Other formats such as extensible markup language (XML), (JSON), or spreadsheets with header columns that can be exported as comma separated values (CSV) are machine readable formats."**

**Note that machine readable is not synonymous with digitally accessible. A digitally accessible document may be online, making it easier for humans to access via computers, but its content is much harder to extract, transform and process via computer programming logic if it is not in machine-readable format.**

The OON law also requires website disclosures which must include:

|  |
| --- |
| A list of the health benefits plans in which the facility participates. |
| A statement that physicians who provide healthcare services in the facility may or may not participate in the same health benefit plans as the facility. |
| A statement that the physician services provided in the facility are not included in the facility’s charges. |
| A statement that patients should check with the physician arranging for the facility services to determine the health benefit plans in which the physician participates. |
| A statement that the patient receiving care should contact their insurance company for more information. |
| The names, mailing addresses and telephone numbers of hospital-based physician groups that the facility has contracted with to provide services including but not limited to anesthesiology, pathology and radiology. |
| The names, mailing addresses and telephone numbers of physicians employed by the facility and whose services may be provided at the hospital and the health benefits plans in which those physicians participate. |

**SAMPLE WEBSITE CONTENT**

**Introductory Language**

***[Sample content]*** *[Hospital name] is dedicated to providing consumers with as much information as possible regarding potential healthcare costs. Accordingly, we have listed information on the insurers and products the hospital participates in as well as any exceptions.*

*This list may not be comprehensive. For example, specialty insurers such as workers’ compensation and personal injury protection (“PIP”) are not included because there are a number of different types of insurance products and we may not participate in all of them. If you do not see your plan listed on our website, we strongly recommend that you contact us or your health insurance plan to confirm whether your plan is in-network or out-of-network.*

**Plans we participate in**

***[Sample content]*** *Click here to see a list of the insurance plans that [Hospital name] participates in. It is also important that you contact your insurance company prior to receiving services or care at [Hospital name]. Each plan is different and some provide different levels of coverage that could make a difference in your out-of-pocket costs. It is always best to contact your insurance company to obtain more information.*

*In addition, the physicians who provide care within our hospital might not participate in the same insurance plans as the hospital. You should check with the physician who is arranging your healthcare services to see which insurance plans the physician participates in. You should also know that these healthcare professional(s)’ costs are not included in the facility’s charges. They will bill separately.*

The hospital must also have on its website a list or a link to the employed and contracted physicians or physician groups within the hospital. The list must also include the physicians’ telephone numbers and mailing addresses.

**Physicians and Physicians Groups We Employ**

***[Sample content]*** *Click here to see a list of the physicians or physician groups that are employed by [Hospital name]. While the physicians are hospital employees, you may still receive a separate bill for their services in the event they process their own billing.*

**Physicians and Physicians Groups With Whom We Contract**

***[Sample content]*** *Click here to see a list of the physicians and physician groups that are contracted with [Hospital name]. They are not hospital employees but instead have a contract with the hospital to provide certain healthcare services that prevents us from using any other physicians for these services. You should also know that these healthcare professionals’ costs are never included in the facility’s charges. They will bill you separately.*