

November 2023

Outpatient Facility Fee Reform Strategies

A Cheat Sheet on Key Goals and Strategies for Policymakers

Policymakers have several options for reforming hospital outpatient billing practices to better protect consumers, reduce health care costs, and increase transparency. These goals and the strategies outlined below are not mutually exclusive and may be pursued as a complementary package.

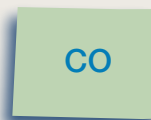
Policies to protect patients are emerging incrementally.

As hospitals acquire or otherwise affiliate with physician practices, they can charge [facility fees](#)—**a second fee in addition to a health care professional's bill**—for outpatient care. This practice results in higher spending, which increases premiums and out-of-pocket costs for consumers without improving quality.

Policymakers are responding with a variety of reforms, with [states leading the way](#).

- States are **prohibiting hospitals from charging fees for certain outpatient services**, such as evaluation and management services or preventive care, **or care provided in certain outpatient settings**, such as off-campus office practices, on the basis that these services and settings do not draw on significant facility resources.
- States are seeking to **shield consumers from out-of-pocket costs** by requiring health plans to treat facility fees as covered benefits, limiting consumer cost-sharing for these charges, and requiring providers and insurers to **disclose facility fee to consumers**.
- States are **improving their data on facility fee payments and practice ownership** to better understand facility billing. These efforts can facilitate policy change, bolster effective implementation and oversight of reforms, and support private payer actions to respond to facility fee billing.
- Federal policymakers have initiated similar payment reforms by requiring Medicare to make “site neutral” payments—the same price for the same service, regardless of setting—for outpatient services in some circumstances and [introduced proposals](#) to **set site-neutral payment caps for certain outpatient services in the commercial market**.

STATES LEADING THE WAY



CO

Colorado

Colorado requires hospital outpatient departments and other hospital-owned or affiliated locations to acquire and use unique National Provider Identifiers (NPI) and expanded its law in 2023 to address ownership transparency and establish a steering committee to study additional reforms.



CT

Connecticut

Connecticut leads the country in the scope and comprehensiveness of its facility fee reforms, including laws that prohibit facility fees for certain services, require public reporting on facility fee charges, protect consumers from out-of-pocket costs, and require facilities to disclose fees to consumer in advance of medical appointments and at the point of service.



IN

Indiana

In 2023, Indiana enacted a law prohibiting large non-profit hospitals from charging facility fees for certain services and requiring hospitals to report on facility fee charges.

What about ERISA?

ERISA limits states' authority to regulate employer-sponsored health plans, but states retain broad authority to regulate health care providers, including what hospitals and other providers may charge for services, what they must report to states, and what they must tell consumers about health care charges.

Facility Fee Reform Strategies: A Closer Look

STRATEGY 1: Site-Neutral Payment Caps

Prohibit hospital-owned and -affiliated facilities from charging facility fees for specified outpatient services **AND** cap provider reimbursement for these services (e.g., at a percentage of Medicare rates or the median price insurers pay independent physician offices in the same area).

STRATEGY 2: Facility Fee Billing Prohibitions

Prohibit hospital-owned and -affiliated facilities from charging facility fees for specified outpatient services, such as those that can be safely and effectively provided outside of a hospital-setting.

STRATEGY 3: Billing & Ownership Transparency

Require hospital-owned and -affiliated providers to acquire and include unique National Provider Identifiers specific to the location of care on all claims. Monitor health care provider affiliations and acquisitions.

STRATEGY 4: Outpatient Facility Fee Reporting Requirements

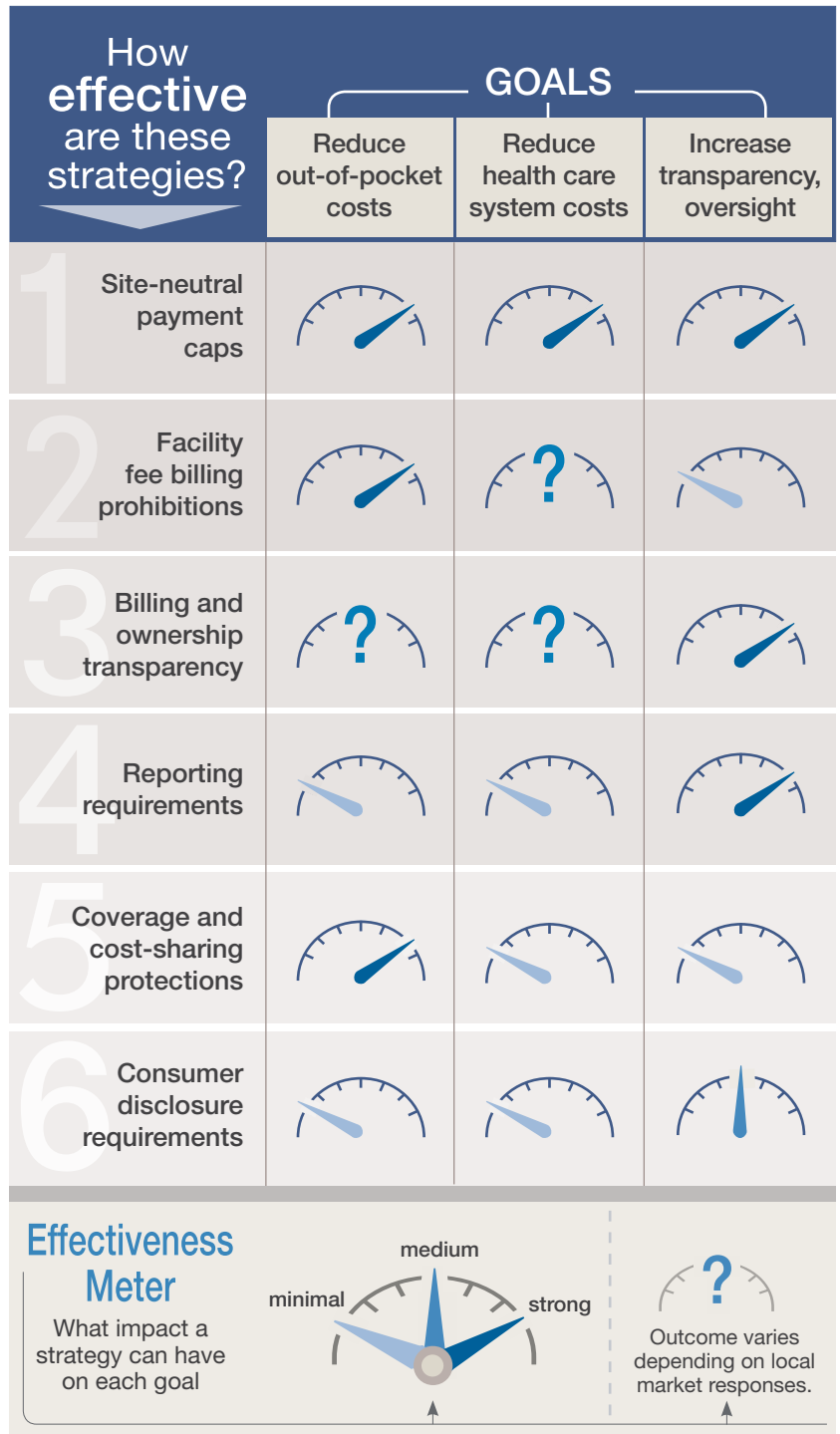
Require hospitals to report on outpatient facility fee billing, including the locations charging facility fees and the revenue from those fees, as well as the volume and amounts of facility fees by service, payer, and location.

STRATEGY 5: Coverage and Cost-Sharing Protections

Require state-regulated insurance policies to cover and limit consumer cost-sharing for outpatient facility fees.

STRATEGY 6: Consumer Disclosure Requirements

Require health care providers and state-regulated insurers to notify consumers before charging outpatient facility fees, including through physical signs and written and oral communications.



Want to learn more?

For more detailed information on state actions to regulate outpatient facility fee billing, see the recent [report](#) and [issue brief](#) from the [Center on Health Insurance Reforms \(CHIR\)](#) and [West Health](#).

Policymakers and advocates considering facility fee reforms are encouraged to contact [CHIR experts](#) for technical assistance at FacilityFeeTA@georgetown.edu.