

**Don Vickers**

**CEO**

**Baytown Medical Center**

**1626 West Baker Road**

**Baytown, TX 77521-2271**

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DEPARTMENT OF HEALTH & HUMAN  
SERVICES

Centers for Medicare & Medicaid Services  
7500 Security Boulevard, Mailstop: C5-15-12  
Baltimore, Maryland 21244-1850



Center for Medicare

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December 19, 2024

Unique Case Number (UCN): 2024HPT003

Don Vickers  
CEO  
Baytown Medical Center  
1626 West Baker Road  
Baytown, TX 77521-2271

Reference Number: 1952021

Location:  
Baytown Medical Center  
1626 West Baker Road  
Baytown, TX 77521-2271

**RE: Hospital Price Transparency Notice of Imposition of a Civil Monetary Penalty (CMP)**

Dear Don Vickers,

The Centers for Medicare & Medicaid Services (CMS) is imposing a civil monetary penalty (CMP) as described in 45 C.F.R. § 180.90. CMS has determined that Baytown Medical Center (formerly known as Altus Baytown Hospital) meets the definition of a hospital specified in 45 C.F.R. § 180.20 and that as of the date of this notice, Baytown Medical Center is noncompliant with the price transparency requirements under Section 2718(e) of the Public Health Service Act, 42 U.S.C. § 300gg-18(e), and 45 C.F.R. Part 180 (<https://www.govinfo.gov/content/pkg/FR-2019-11-27/pdf/2019-24931.pdf>). CMS has determined that your hospital has been noncompliant since at least June 23, 2023.

CMS initially completed a review of Baytown Medical Center's website <https://altushospitals.org> on June 23, 2023. Pursuant to 45 C.F.R. § 180.70(b), CMS issued a Warning Notice dated June 26, 2023. The Warning Notice notified the hospital of the following material violations:

## **Violations - Requirements for Hospital Standard Charges**

1. Failure to update the standard charge information described in 45 CFR §180.50(b) at least once annually as required at 45 CFR §180.50(e).
2. Failure to include all corresponding data elements in the list of standard charges, as applicable, as provided in 45 CFR §180.50(b). Specifically, not all payer specific negotiated rates were posted in the online machine-readable file as required at 45 CFR §180.50(b)(3). If your hospital does not have established payer specific negotiated rates for certain items and services, please respond with an explanation.
3. Failure to make public a machine-readable file containing a list of all standard charges for all items and services as provided in 45 CFR §180.50. Specifically, not all discounted cash prices were posted in the online machine-readable file as required at 45 CFR §180.50(b)(6). If your hospital does not have established discounted cash prices for certain items and services, please respond with an explanation.
4. Failure to include all corresponding data elements in the list of standard charges, as applicable, as provided in 45 CFR §180.50(b). Specifically, the file did not contain all codes used by the hospital for purposes of accounting or billing for the item or service, including, but not limited to the Current Procedural Terminology (CPT) code, the Healthcare Common Procedure Coding System (HCPCS) code, the Diagnosis Related Group (DRG), the National Drug Code (NDC), or other common payer identifiers as required at 45 CFR §180.50(b)(7). If your hospital does not have established codes for certain items or services, please respond with an explanation.

## **Violations - Displaying Shoppable Services in a Consumer-Friendly Manner**

1. Failure to update the standard charge information described in 45 CFR §180.60(b) at least once annually, as required at 45 CFR §180.60(e).

CMS attempted a review of <https://altushospitals.org> on November 29, 2023. At that time, the website was unavailable, and it was determined Baytown Medical Center remained in material violation of the requirements under 45 C.F.R. §§ 180.40-180.60 to make public its list of standard charges. On November 30, 2023 CMS issued a Notice of Violation and Request for Corrective Action Plan (CAP) notifying the hospital of the following material violations:

## **Violations - Requirements for Hospital Standard Charges**

1. Failure to make public a machine-readable file containing a list of all standard charges for all items and services online as required at 45 CFR §180.40(a) and 45 CFR §180.50(a). Specifically, no online machine-readable file was found.

## **Violations - Displaying Shoppable Services in a Consumer-Friendly Manner**

1. Failure to make available a consumer-friendly list of standard charges for a limited set of shoppable services as provided in 45 CFR §180.60, as required at 45 CFR §180.40(b). Specifically, no consumer-friendly list of standard charges was found.

CMS called the hospital on December 8, 2023 and was told there was a new CEO. A voicemail message was left requesting a return call. The new CEO, Don Vickers, called CMS on December 11, 2023 and he stated he never received the compliance notices mailed to the hospital. CMS emailed a copy of the CAP request to the new CEO and he confirmed receipt on December 12, 2023. The CEO also notified CMS they were working on getting their new website up.

CMS completed a review of Baytown Medical Center's website <https://altushospitals.org> on March 19, 2024. The following material violations were identified:

### **Violations - Requirements for Hospital Standard Charges**

1. Failure to include all corresponding data elements in the list of standard charges, as applicable, as provided in 45 CFR §180.50(b). Specifically, the file did not contain all codes used by the hospital for purposes of accounting or billing for the item or service, including, but not limited to the Current Procedural Terminology (CPT) code, the Healthcare Common Procedure Coding System (HCPCS) code, the Diagnosis Related Group (DRG), the National Drug Code (NDC), or other common payer identifiers as required at 45 CFR §180.50(b)(7). If your hospital does not have established codes for certain items or services, please respond with an explanation.

### **Violations - Displaying Shoppable Services in a Consumer-Friendly Manner**

1. Failure to update the standard charge information described in 45 CFR §180.60(b) at least once annually, as required at 45 CFR §180.60(e).

CMS provided technical assistance to the hospital on March 21, 2024, April 26, 2024 and June 3, 2024.

CMS completed a review of Baytown Medical Center's website <https://altushospitals.org> on June 28, 2024. The following material violation was identified:

### **Violations - Displaying Shoppable Services in a Consumer-Friendly Manner**

1. Failure to update the standard charge information described in 45 CFR §180.60(b) at least once annually, as required at 45 CFR §180.60(e).

CMS completed a review of Baytown Medical Center's website <https://altushospitals.org> on July 12, 2024. On July 16, 2024 CMS issued an additional Notice of Violation and Request for Corrective Action Plan (CAP) notifying the hospital of the following material violations:

### **Violations - Requirements for Hospital Standard Charges**

1. Failure to include the affirmation statement in the machine-readable file, as required at 45 CFR 180.50(a)(3)(ii).
2. Failure to ensure that the public website the hospital selected to host its machine-readable file establishes and maintains, in the form and manner specified by CMS a .txt file in the root folder as required by 45 CFR 180.50(d)(6)(i).

3. Failure to conform the machine-readable file to the CMS template layout, data specifications, and data dictionary for purposes of making public the standard charge information, as required at 45 CFR 180.50(c)(2).
4. Failure to ensure that the public website the hospital selected to host its machine-readable file establishes and maintains a link in the footer on its website that is labeled “Price Transparency” and links directly to the publicly available web page that hosts the link to the machine-readable file as required by 45 CFR 180.50(d)(6)(ii)
5. Failure to comply with 45 CFR §180.50(b)(2)(i)(A) requiring that the hospital name, license number, and location name(s) and address(es) under the single hospital license to which the list of standard charges applies be encoded in the machine-readable file.
6. Failure to ensure that the standard charge information is accessible to automated searches, as provided in 45 CFR §180.50(d)(3)(iv). Specifically, the accessibility of a web page is hindered by “nofollow” tags.
7. Failure to ensure that the standard charge information is accessible to automated searches, as provided in 45 CFR §180.50(d)(3)(iv). Specifically, the accessibility of a web page is hindered by “noindex” tags.
8. Failure to update the standard charge information described in 45 CFR §180.50(b) at least once annually as required at 45 CFR §180.50(e).

### **Violations - Displaying Shoppable Services in a Consumer-Friendly Manner**

1. Failure to update the standard charge information described in 45 CFR §180.60(b) at least once annually, as required at 45 CFR §180.60(e).

On August 9, 2024, CMS called the hospital to confirm receipt of the additional CAP request. The hospital CEO stated he did not receive the additional CAP request and a copy was emailed to him. The CEO confirmed receipt of the additional CAP request on August 10, 2024.

CMS completed a review of Baytown Medical Center's new website <https://bmchospitals.care/> on October 7, 2024. On October 8, 2024 CMS issued another additional Notice of Violation and Request for Corrective Action Plan (CAP) notifying the hospital of the following material violations:

### **Violations - Requirements for Hospital Standard Charges**

1. Failure to include the affirmation statement in the machine-readable file, as required at 45 CFR 180.50(a)(3)(ii).
2. Failure to ensure that the public website the hospital selected to host its machine-readable file establishes and maintains, in the form and manner specified by CMS a .txt file in the root folder that includes the source page URL that hosts the machine-readable file as required by 45 CFR 180.50(d)(6)(i).
3. Failure to ensure that the public website the hospital selected to host its machine-readable file establishes and maintains, in the form and manner specified by CMS a .txt file in the root folder that includes a direct link to the machine-readable file (the machine-readable file URL) as required by 45 CFR 180.50(d)(6)(i).

4. Failure to conform the machine-readable file to the CMS template layout, data specifications, and data dictionary for purposes of making public the standard charge information, as required at 45 CFR 180.50(c)(2).
5. Failure to ensure that the public website the hospital selected to host its machine-readable file establishes and maintains a link in the footer on its website that is labeled “Price Transparency” and links directly to the publicly available web page that hosts the link to the machine-readable file as required by 45 CFR 180.50(d)(6)(ii).
6. Failure to comply with 45 CFR §180.50(b)(2)(i)(A) requiring that the hospital name, license number, and location name(s) and address(es) under the single hospital license to which the list of standard charges applies be encoded in the machine-readable file.
7. Failure to update the standard charge information described in 45 CFR §180.50(b) at least once annually as required at 45 CFR §180.50(e).

### **Violations - Displaying Shoppable Services in a Consumer-Friendly Manner**

1. Failure to update the standard charge information described in 45 CFR §180.60(b) at least once annually, as required at 45 CFR §180.60(e).

CMS sent the hospital another request via email on November 26, 2024 requesting a CAP. No CAP was submitted.

CMS completed a review of Baytown Medical Center's website <https://bmchospitals.care/> on December 2, 2024. The following material violations were identified:

### **Violations - Requirements for Hospital Standard Charges**

1. Failure to include the affirmation statement in the machine-readable file, as required at 45 CFR 180.50(a)(3)(ii).
2. Failure to ensure that the public website the hospital selected to host its machine-readable file establishes and maintains, in the form and manner specified by CMS a .txt file in the root folder that includes the source page URL that hosts the machine-readable file as required by 45 CFR 180.50(d)(6)(i).
3. Failure to ensure that the public website the hospital selected to host its machine-readable file establishes and maintains, in the form and manner specified by CMS a .txt file in the root folder that includes a direct link to the machine-readable file (the machine-readable file URL) as required by 45 CFR 180.50(d)(6)(i).
4. Failure to conform the machine-readable file to the CMS template layout, data specifications, and data dictionary for purposes of making public the standard charge information, as required at 45 CFR 180.50(c)(2).
5. Failure to ensure that the public website the hospital selected to host its machine-readable file establishes and maintains a link in the footer on its website that is labeled “Price Transparency” and links directly to the publicly available web page that hosts the link to the machine-readable file as required by 45 CFR 180.50(d)(6)(ii).
6. Failure to comply with 45 CFR §180.50(b)(2)(i)(A) requiring that the hospital name, license number, and location name(s) and address(es) under the single hospital license to which the list of standard charges applies be encoded in the machine-readable file.

7. Failure to update the standard charge information described in 45 CFR §180.50(b) at least once annually as required at 45 CFR §180.50(e).

## **Violations - Displaying Shoppable Services in a Consumer-Friendly Manner**

1. Failure to update the standard charge information described in 45 CFR §180.60(b) at least once annually, as required at 45 CFR §180.60(e).

Baytown Medical Center continues to be out of compliance with 45 C.F.R. §§ 180.40 - 180.60. Therefore, CMS is imposing the CMP set forth below.

### **I. Amount of the CMP**

Based on the foregoing findings of noncompliance with requirements for standard hospital charges and displaying shoppable services in a consumer-friendly manner, CMS is imposing a total CMP of \$50,711.00, pursuant to 45 C.F.R. § 180.90. The CMP is calculated as follows:

\$323.00 per day for hospitals with a bed count<sup>1</sup> of 30 or fewer = \$323.00 x (157 days) = \$50,711.00. This CMP is calculated from July 16, 2024 to and including December 19, 2024, the date of this notice.

CMS may issue subsequent notices imposing additional CMPs for continuing violation(s) as described at 45 C.F.R. § 180.90(b)(2)(iv), (f). **CMS may impose additional CMPs until CMS determines your hospital is in full compliance with 45 C.F.R. §§ 180.40 - 180.60 as appropriate. Your hospital should notify CMS via email at [HPTCompliance@cms.hhs.gov](mailto:HPTCompliance@cms.hhs.gov) when it makes any necessary corrections to be compliant with the relevant sections of 45 C.F.R. §§ 180.40 - 180.60, as indicated above.**

### **II. Payment of CMP**

Pursuant to 45 C.F.R. §180.90(d), your hospital must pay the CMP in full within 60 calendar days<sup>2</sup> from the date of this notice of imposition of CMP.

If your hospital decides to request a hearing, and a final and binding decision upholds the CMP in whole or in part as described in 45 C.F.R. Part 180, Subpart D, then your hospital must pay the CMP amount that was upheld within 60 calendar days from the date of the final and binding decision, as specified in 45 C.F.R. § 180.90(d)(2). More information regarding Appeal Rights can be found in Section III.

The CMP may be paid by federal ACH wire transfer.

*To Pay via Federal ACH Wire Transfer*

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<sup>1</sup> Pursuant to 45 C.F.R. §180.90(c)(2)(ii)(D)(1), CMS used the most recently available, finalized Medicare hospital cost report to determine the number of beds.

<sup>2</sup> Pursuant to 45 C.F.R. §180.90(d)(3), if the 60th calendar day is a weekend or a Federal holiday, then the timeframe is extended until the end of the next business day.



Subtype/Type Code:	10 00
Amount:	\$50,711.00
Sending Bank Routing Number:	[REDACTED]
ABA Number of Receiving Institution:	[REDACTED]
Receiver Name:	Treasury NYC
Receiving Institution Name:	Federal Reserve Bank of New York
Receiving Institution Address:	33 Liberty Street, New York, NY 10045
Beneficiary Account Number:	[REDACTED]
Beneficiary Name:	Centers for Medicare & Medicaid Services (CMS)
Beneficiary Physical Address:	7500 Security Blvd., Baltimore, MD 21244
CMS Tax ID Number:	[REDACTED]
Credit Gateway Customer Care Number	1-877-815-1206
Re: Unique Case Number and Hospital Price Transparency CMP	[REDACTED]

### III. Appeal Rights

Pursuant to 45 C.F.R. Part 180, Subpart D, your hospital may appeal CMS' CMP determination by requesting a hearing before an Administrative Law Judge (ALJ) of the U.S. Department of Health and Human Services' Departmental Appeals Board (DAB). To request a hearing, your hospital must submit its hearing request within 30 calendar days<sup>3</sup> of the issuance of the notice of imposition of CMP in accordance with the procedures outlined in 45 C.F.R., Part 150, Subpart D. The request for a hearing must comply with the requirements described in 45 C.F.R. § 150.407.

The DAB no longer accepts requests for a hearing submitted by U.S. Mail or commercial carrier unless your hospital is unable to file electronically. Otherwise, the hospital must use the DAB's Electronic Filing System ("DAB E-File") located at <https://dab.efile.hhs.gov> within the time frame described above to electronically submit an appeal. Further instructions are located at [https://dab.efile.hhs.gov/appeals/to\\_crd\\_instructions](https://dab.efile.hhs.gov/appeals/to_crd_instructions). The DAB's Civil Remedies Division (CRD) requires all hearing requests to be signed and accompanied by this notice letter from CMS that addresses the action taken and the respective appeal rights. Submitted documents are accepted in Portable Document Format (PDF), image, audio, or video files. All electronic documents must be formatted so that they will print on standard 8.5 x 11-inch paper. The ALJ will consider documents uploaded to the DAB E-File on any day on or before 11:59 p.m. Eastern Time, to have been received on that day. Your hospital must accept electronic service of any appeal-related documents filed by CMS or that the CRD issues on behalf of the ALJ via DAB E-File.

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<sup>3</sup> Pursuant to 45 C.F.R. §180.110(a), if the 30th calendar day is a weekend or a Federal holiday, then the timeframe is extended until the end of the next business day.

Please contact the CRD at (202) 565-9462 for questions regarding the DAB E-File. If your hospital experiences technical issues with the DAB E-File, please contact the E-File System Support at [OSDABImmediateOffice@hhs.gov](mailto:OSDABImmediateOffice@hhs.gov) or at (202) 565-0146 before 4 p.m. Eastern Time. If your hospital is unable to file electronically, your hospital may request a waiver from e-filing by contacting the CRD at (202) 565-9462 and providing an explanation as to why your hospital cannot file electronically

Should your hospital file an appeal, CMS requests that copies of the appeal documents be emailed to [HPTCompliance@cms.hhs.gov](mailto:HPTCompliance@cms.hhs.gov) and also mailed to the address listed below. Documents or first-class mail replies may be sent to:

Hospital Price Transparency  
ATTN: John Pilotte  
7500 Security Blvd, Mail Stop C5-15-12  
Baltimore, MD 21244-1850

Pursuant to 45 C.F.R. § 180.110, failure to request a hearing in the manner and timeframe described above permits CMS to impose the CMP indicated in this notice and CMS may impose any subsequent penalties pursuant to continuing violations without right of appeal. The hospital has no right to appeal a penalty to which it has not requested a hearing in accordance with 45 C.F.R. § 150.405, unless the hospital can show good cause, as determined at 45 C.F.R. § 150.405(b), for failing to timely exercise its right to a hearing. If the CMP is upheld, in part, by a final and binding decision as described in 45 C.F.R. Part 180, Subpart D, CMS will issue a modified notice of imposition of CMP to conform to the adjudicated finding as described in 45 C.F.R. § 180.90(b)(3).

#### **IV. Publication of CMP**

In accordance with 45 C.F.R. § 180.90(e), CMS will post this notice on a CMS website. If your hospital elects to request a hearing, CMS will indicate in its posting that the CMP is under review. If the CMP is upheld, in whole, by a final and binding decision, CMS will maintain this notice on a CMS website. If the CMP is upheld, in part, by a final and binding decision, CMS will issue a modified CMP notice to conform to the adjudicated finding and post the modified notice publicly on a CMS website. If the CMP is overturned, in full, by a final and binding decision, CMS will remove this notice from the CMS website.

If you have questions, please contact us at [HPTCompliance@cms.hhs.gov](mailto:HPTCompliance@cms.hhs.gov). We appreciate your prompt attention to this matter.

Sincerely,

John Pilotte  
Director  
Performance-based Payment Policy Group  
Center for Medicare