



Alerts

CMS Announces No Change to EMTALA Obligations Toward Hospital Inpatients

February 21, 2012

Health Law Alert

On February 2, 2012, the Centers for Medicare & Medicaid Services (CMS) [published a notice in the Federal Register](#) announcing that it would not change current regulations on hospitals' obligations to inpatients under the Emergency Medical Treatment and Labor Act (EMTALA).

EMTALA was enacted in 1986 and imposes obligations on Medicare-participating hospitals that offer emergency services to provide treatment for an emergency medical condition (EMC), including active labor, regardless of an individual's ability to pay for that treatment. EMTALA requires hospitals to provide stabilizing treatment for a patient with an EMC or to transfer the patient to an appropriate medical facility where stabilization can occur. EMTALA also requires hospitals with specialized capabilities to receive appropriate transfers from other hospitals if they have the capacity to do so.

However, over the years there has been disagreement over the obligations imposed by EMTALA once patients are admitted as inpatients. Specifically, questions have arisen as to whether hospitals continue to owe obligations to inpatients under EMTALA and whether specialty hospitals have an obligation under EMTALA to receive transfers of inpatients. As a result of disagreement on these questions, in August of 2008, CMS published a final rule stating that a hospital with specialized capabilities has no obligation under EMTALA to accept an appropriate transfer of an individual who has been admitted in good faith as an inpatient at the first hospital.

Due to continued litigation and controversy on the topic, in December of 2010, CMS published an advance notice of proposed rulemaking, soliciting comments on whether it should reconsider these rules. After reviewing and considering the comments it received, CMS announced on February 2, 2012, that it would not make any changes to EMTALA regulations on hospital inpatients.

Noting that Medicare conditions of participation and state malpractice laws already provided safeguards to hospital inpatients, CMS stated that it was maintaining its current policy that, if an individual comes to a hospital emergency department is found to be suffering from an EMC, and is admitted by the hospital in good faith for stabilization of that EMC, the hospital has satisfied its obligations to the patient under EMTALA. CMS further stated that if such a patient is admitted and continues to have an unstabilized EMC that requires the specialized capabilities of another hospital, the EMTALA obligation for the admitting hospital has ended and the hospital with specialized capabilities also does not have an EMTALA obligation toward that patient.

CMS is accepting comments regarding its policies on the applicability of EMTALA to hospitals with specialized capabilities until April 2, 2012. It is specifically interested in hearing about any "data or real world examples" relevant to this issue.