



Center for Medicaid and State Operations/Survey and Certification Group

Ref: S&C-06-21

DATE: July 13, 2006

TO: State Survey Agency Directors

FROM: Director
Survey and Certification Group

SUBJECT: EMTALA - "Parking" of Emergency Medical Service Patients in Hospitals

Letter Summary

- The Centers for Medicare & Medicaid Services (CMS) has received reports from hospital emergency departments concerning patients being left on stretchers for extended periods of time with emergency medical service personnel in attendance, possibly in violation of the Emergency Medical Treatment and Labor Act.
- CMS recognizes the enormous strain and crowding many hospital emergency departments face every day; however, this practice is not a solution.
- "Parking" patients in hospitals impacts the ability of the emergency medical service personnel to provide emergency services to the rest of the community.

The Centers for Medicare & Medicaid Services (CMS) has learned that several hospitals routinely prevent Emergency Medical Service (EMS) staff from transferring patients from their ambulance stretchers to a hospital bed or gurney. Reports include patients being left on an EMS stretcher (with EMS staff in attendance) for extended periods of time. Many of the hospital staff engaged in such practice believe that unless the hospital "takes responsibility" for the patient, the hospital is not obligated to provide care or accommodate the patient. Therefore, they will refuse EMS requests to transfer the patient to hospital units.

This practice may result in a violation of the Emergency Medical Treatment and Labor Act (EMTALA) and raises serious concerns for patient care and the provision of emergency services in a community. Additionally, this practice may also result in a violation of 42 CFR 482.55, the Conditions of Participation for Hospitals for Emergency Services, which requires that a hospital meet the emergency needs of patients in accordance with acceptable standards of practice.

A hospital has an EMTALA obligation as soon as a patient "presents" at a hospital's dedicated emergency department, or on hospital property (as defined at 42 CFR 489.24(b)) other than the dedicated emergency department, and a request is made on the individual's behalf for examination or treatment of an emergency medical condition. A patient who arrives via EMS meets this requirement when EMS personnel request treatment from hospital staff. Therefore, the hospital must provide a screening examination to determine if an emergency medical condition exists and, if so, provide stabilizing treatment to resolve the patient's emergency medical condition. Once a patient presents to the dedicated emergency department of the hospital, whether by EMS or otherwise, the hospital has an obligation to see the patient, as determined by the hospital under the circumstances and in accordance with acceptable standards of care.

EMTALA obligations would also apply to a hospital that has accepted transfer of a patient from another facility, as long as it is an "appropriate transfer" under EMTALA. An appropriate transfer is one in which the transferring hospital provides medical treatment that minimizes risks to an individual's health and the receiving hospital has the capability and capacity to provide appropriate medical treatment and has agreed to accept transfer (42 CFR 489.24(e)(2)). Therefore, the expectation is that the receiving facility has the capacity to accept the patient at the time the transfer is effectuated. A hospital that delays the medical screening examination or stabilizing treatment of a patient who arrives via transfer from another facility, by not allowing EMS to leave the patient, could also be in violation of EMTALA.

CMS recognizes the enormous strain and crowding many hospital emergency departments face every day. However, this practice is not a solution. "Parking" patients in hospitals and refusing to release EMS equipment or personnel jeopardizes patient health and impacts the ability of the EMS personnel to provide emergency services to the rest of the community.

For questions on this memo, please contact Donna Smith at (410) 786-3255 or by email at Donna.Smith@cms.hhs.gov.

Effective Date: Immediately. The State agencies should disseminate this information within 30 days of the date of this memorandum.

Training: The information contained in this announcement should be shared with all survey and certification staff, surveyors, their managers, and with managers who have responsibility for processing EMTALA complaints.

/s/

Thomas E. Hamilton

cc: Survey and Certification Regional Office Management (G-5)