LEGAL CORNER

The Emergency Medical Treatment and Active Labor Act (EMTALA): A Brief Overview

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EMTALA is a federal statute regulating providers that operate a dedicated emergency department and receive payments under the federal Medicare program. Specifically, EMTALA requires these providers to give appropriate medical screening to any person who comes to their dedicated emergency departments requesting examination and treatment of a medical disease, and to stabilize any patient who is determined to have an emergency medical condition. While most healthcare facilities and providers are likely familiar with EMTALA, the following is a brief overview of EMTALA and its requirements.

Dedicated Emergency Department

A hospital or provider is considered to have a "dedicated emergency department" if: (1) it holds a state license as an emergency department; (2) it holds itself out to the public, through advertising or the use of signs, as a source of treatment for emergency conditions on an urgent basis without requiring a previously scheduled appointment; or (3) one-third of its patient visits in the prior calendar year were for the treatment of an emergency medical condition without an appointment. Urgent care centers and acute care centers, for example, may be subject to EMTALA.

Patient Screening Requirements

Under EMTALA, an individual who comes to a dedicated emergency department and makes a request for examination and treatment of a medical condition must be appropriately screened. Further, if the individual is determined to have an emergency medical condition, he or she must be stabilized. If the individual presents with a request for non-emergent care, however, hospitals and other providers are *not* obligated to provide screening services beyond those needed to determine that there is no emergency medical condition.

EMTALA is also triggered if an individual comes onto hospital property, but not into its dedicated emergency department, and either (1) requests examination or treatment for an emergency medical condition, or (2) a prudent layperson observer believes, based on the individual's appearance or behavior, that the individual needs emergency examination or treatment. Hospital property includes the entire main hospital campus (including structures that are not strictly contiguous to the main buildings but are located within 250 yards of the main buildings), parking lot, sidewalk, or driveway. Hospital property does *not* include physician offices, rural health centers, skilled nursing facilities, other entities that separately participate under Medicare, restaurants, shops, or other non-medical facilities.

EMTALA does not apply to an individual whose emergent condition occurs while he or she is actively receiving outpatient services at the facility. Further, EMTALA does not apply to an individual who has been admitted to a hospital. However, a hospital cannot circumvent EMTALA by admitting a patient to end its EMTALA obligations and then immediately discharge the patient.

Ambulance Services

If a person is in an ambulance owned and operated by a hospital, he or she is deemed to have come to that hospital's dedicated emergency department for purposes of EMTALA, regardless of whether the ambulance is on hospital grounds.

EMTALA does not apply to a hospital-owned ambulance service if such ambulance service is operated under community-wide emergency medical service protocols and is directed to transport individuals to other facilities.

An individual in a non-hospital-owned ambulance located off a hospital's property is not considered to have come to that hospital's emergency department, even if the ambulance staff contacts the hospital and requests that the patient be transported there. However, the hospital may only direct an ambulance to another facility if it is on diversionary status. If the ambulance disregards the hospital's diversion instructions and transports the individual onto hospital property, EMTALA applies.

On-Call Requirements

EMTALA requires each hospital to maintain a list of physicians who are "on call" to treat and stabilize individuals with emergency medical conditions. This list must be maintained in a manner that best meets the needs of the hospital's patients and in accordance with the resources available to the hospital. A hospital must have policies and procedures to ensure that on-call coverage to its emergency department is adequate, in both scope of available specialties and number of available physicians in the on-call rotation, to meet emergency care needs.

The Centers for Medicare & Medicaid Services (CMS) has not mandated any particular minimum level of on-call coverage that must be maintained, nor has it specified for which medical specialties on-call coverage is required. While hospitals must determine the appropriate on-call coverage required to ensure that the needs of its patients are met, there is little guidance to assist with this decision-making process.

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