


EMTALA Obligations Under The Final Rule Teleconference

Leslie V. Norwalk <i>CMS</i> Speaker	Michael J. Philbrick <i>Honigman Miller Schwartz and Cohn, LLP</i> Speaker
Chris Sangalli <i>Bronson Healthcare Group</i> Speaker	Patrick G. LePine <i>Honigman Miller Schwartz and Cohn, LLP</i> Moderator


October 21, 2003




Agenda Overview

1. Welcome and Introductions
2. EMTALA Update
 - CMS Process / Philosophy
 - Discussion of Final Rule
3. Legal Issues and Analysis
 - Implication of Final Rule
 - Open Issues
4. Practical Implications and Approaches
 - Practical Changes to Policies and Procedures
 - CMS Audit Experience
5. Questions and Answers

EMTALA Obligations Under The Final Rule Teleconference
October 21, 2003



Slide Number: 2




EMTALA Update

Leslie V. Norwalk, Esq.
*Deputy Director, Centers for Medicare and
Medicaid Services*

Please refer to EMTALA Update
presentation.

EMTALA Obligations Under The Final Rule Teleconference
October 21, 2003



Slide Number: 3



Legal Analysis

Michael J. Philbrick, Esq.
Honigman Miller Schwartz and Cohn, LLP

EMTALA Obligations Under The Final
Rule Teleconference
October 21, 2003

HONIGMAN

Slide Number: 4



Application of EMTALA

- ▣ Dedicated Emergency Department
 - ◆ Determination focused on nature of services
 - ◆ Objective and subjective criteria
 - ◆ May include non-traditional "emergency rooms"
 - ◆ Retroactiveness

EMTALA Obligations Under The Final
Rule Teleconference
October 21, 2003

HONIGMAN

Slide Number: 5



Request for Medical Services

- ▣ Dedicated Emergency Department
 - ◆ Request exam and treatment for a medical condition
 - ◆ Prudent layperson observer
- ▣ Other Hospital Campus Location
 - ◆ Request exam and treatment for what may be an emergency medical condition
 - ◆ Prudent layperson observer

EMTALA Obligations Under The Final
Rule Teleconference
October 21, 2003

HONIGMAN

Slide Number: 6



Prudent Layperson Observer Standard

- ⌘ Standard to determine if EMTALA triggered
- ⌘ No interpretation by hospital employees and volunteers
- ⌘ Applicability where person is able to request exam and treatment

EMTALA Obligations Under The Final Rule Teleconference October 21, 2003

HONIGMAN

Slide Number: 7



EMTALA Screening

- ⌘ Performed by Qualified Medical Personnel
- ⌘ Appropriate for any individual presenting in such manner
- ⌘ Extent necessary to determine Emergency Medical Condition
- ⌘ Subjective determination

EMTALA Obligations Under The Final Rule Teleconference October 21, 2003

HONIGMAN

Slide Number: 8



Inpatient Clarification

- ⌘ Definition of inpatient
- ⌘ EMTALA obligations end at admission
 - ◆ Not applicable to elective admissions
- ⌘ State laws and CoPs protect

EMTALA Obligations Under The Final Rule Teleconference October 21, 2003

HONIGMAN

Slide Number: 9



Outpatient Clarification

- ⌘ Definition of outpatient
- ⌘ Applicability of EMTALA
 - ◆ Request at dedicated emergency department
 - ◆ Before and after an encounter
 - ◆ Post screening obligations
- ⌘ State laws and CoPs protect

EMTALA Obligations Under The Final Rule Teleconference October 21, 2003

HONIGMAN

Slide Number: 10



On-Call Requirements

- ⌘ Follows EMTALA statute
- ⌘ Maintained in manner which best meets needs of persons receiving EMTALA services
 - ◆ Seems to prioritize emergency department
- ⌘ Exemptions not a violation
- ⌘ Reliance on Medical Staff Bylaws

EMTALA Obligations Under The Final Rule Teleconference October 21, 2003

HONIGMAN

Slide Number: 11



Registration and Prior Authorization

- ⌘ May follow reasonable registration procedures
 - ◆ Obtain information
 - ◆ Cannot delay screening or treatment
- ⌘ May not seek authorization until after screening exam and stabilization procedures initiated
 - ◆ Must stabilize if authorization denied

EMTALA Obligations Under The Final Rule Teleconference October 21, 2003

HONIGMAN

Slide Number: 12



Conditions of Participation

- ✧ Provide protection to inpatients and outpatients
 - ◆ Governing Body
 - ◆ Emergency Services
 - ◆ Discharge Planning
 - ◆ Medical Staff
 - ◆ Outpatient Services
 - ◆ Quality Assessment and Performance Improvement

EMTALA Obligations Under The Final Rule Teleconference October 21, 2003

HONIGMAN

Slide Number: 13



Practical Implications

Chris Sangalli
 Director of Risk Management, Bronson
 Healthcare Group

EMTALA Obligations Under The Final Rule Teleconference October 21, 2003

HONIGMAN

Slide Number: 14



EMTALA Policy Changes

- ✧ Discussion of Compliance Policy changes
- ✧ Please refer to Sample Compliance Policy

EMTALA Obligations Under The Final Rule Teleconference October 21, 2003

HONIGMAN

Slide Number: 15



CMS Survey

- ☒ Governing Board Policies
- ☒ Contracts
- ☒ Medical Staff Bylaws or Rules and Regulations
- ☒ Hospital-Wide EMTALA Policies

EMTALA Obligations Under The Final
Rule Teleconference
October 21, 2003

HONIGMAN

Slide Number: 16



CMS Survey

- ☒ Department Policies
- ☒ Site-Specific Policies
- ☒ Educational Components
- ☒ Physical Compliance

EMTALA Obligations Under The Final
Rule Teleconference
October 21, 2003

HONIGMAN

Slide Number: 17
