EMTALA Obligations Under The Final Rule Teleconference

Leslie V. Norwalk
CMS
Spokesperson

Michael J. Philbrick
Healthcare Payment Software
Spokesperson

Chris Sangalli
American Hospital Association
Spokesperson

Patrick G. LePine
Honigman Miller Schwartz
Moderator

October 29, 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 Update

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

Please refer to EMTALA Update presentation.
Legal Analysis

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

Application of EMTALA

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

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
**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 Screening**

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

---

**Inpatient Clarification**

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

**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

**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
**Conditions of Participation**

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

**Practical Implications**

Chris Sangalli  
*Director of Risk Management, Bronson Healthcare Group*

**EMTALA Policy Changes**

- Discussion of Compliance Policy changes
- Please refer to Sample Compliance Policy
CMS Survey

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