

Center for Medicaid and State Operations/Survey and Certification Group

Ref: S&C-09-52

DATE: August 14, 2009

TO: State Survey Agency Directors

FROM: Director
Survey and Certification Group

SUBJECT: **Emergency Medical Treatment and Labor Act (EMTALA) Requirements and Options for Hospitals in a Disaster**

Memorandum Summary

- **Planning for Surge in Emergency Department Services:** A brief summary of EMTALA requirements and options for hospitals experiencing an extraordinary surge in demand for ED services has been developed to assist hospitals and their communities in planning for a potential surge in ED volume this fall related to H1N1 influenza.
- **Waiver Description:** Rules governing EMTALA waivers are also described.
- **Availability and Distribution of Summary Sheet:** State Survey Agencies (SAs) are requested to distribute this summary sheet widely to hospital and emergency response planning officials.

In anticipation of a possible significant increase in demand for emergency services due to H1N1 influenza resurgence this fall several Federal agencies, State health departments, and hospitals have expressed significant concerns about compliance with EMTALA requirements during an outbreak. Many stakeholders perceive that EMTALA imposes significant restrictions on hospitals' ability to provide adequate care when EDs experience extraordinary surges in demand. The attached fact sheet clarifies options that are permissible under EMTALA and should reassure the provider community and public health officials that there is existing flexibility under EMTALA. Among other things, the fact sheet notes that an EMTALA-mandated medical screening examination (MSE) does not need to be an extensive work-up in every case, and that the MSE may take place outside the ED, at other sites on the hospital's campus.

The fact sheet also summarizes the provisions governing EMTALA waivers. Surveyors and managers responsible for EMTALA enforcement are expected to be aware of the flexibilities hospitals are currently afforded under EMTALA and to assess incoming EMTALA complaints accordingly in determining whether an on-site investigation is required. They are also expected to keep these flexibilities in mind when assessing hospital compliance with EMTALA during a survey.

Page 2 – State Survey Agency Directors

To help dispel misconceptions among the provider community concerning EMTALA requirements, SAs are requested to distribute the attached fact sheet widely to the provider community in their State, as well as to State and local public health officials responsible for emergency preparedness.

Questions about this document should be addressed to CDR Frances Jensen, M.D., at frances.jensen@cms.hhs.gov.

Training: The information contained in this letter should be shared with all survey and certification staff, their managers, and the State/RO training coordinators immediately

/s/
Thomas E. Hamilton

cc: Survey and Certification Regional Office Management

Attachment