

Page, Wolfberg & Wirth, LLC

Article - "Patient Parking" and EMTALA

On July 13, 2006 CMS officials distributed a memo to all state agencies that enforce EMTALA informing them that the act of allowing EMS patients to be "parked" in a hospital hallway could be a violation of EMTALA.

Patient parking occurs when ambulance services arrive with their patient, but the hospital staff does not immediately come to assess the patient to accept care. In these cases, ambulance services are often directed by ER staff, to "park over there along the hall until we can get to you." But according to CMS Director of Survey and Certification Group Robert Hamilton in this nationwide communication, "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."

Well, it's about time! We have been advocating this point for several years in assisting ambulance services as they end up as the "pawns" in an overcrowded and understaffed emergency department. The CMS letter goes on to state that not only may patient parking be illegal under EMTALA, but hospitals may violate other laws by not promptly accepting ambulance patients, or not promptly conducting medical screenings and stabilization on emergent patients. "...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," Hamilton stated. Hamilton advised all state survey agency directors that a hospital has an EMTALA obligation as soon as a patient "presents" at a hospital's dedicated emergency department, or on hospital property 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. He points out that a patient who arrives via EMS meets this requirement when EMS personnel request treatment from hospital staff. Hospitals 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.

Finally, Hamilton notes that CMS recognizes the "enormous strain and crowding many hospital emergency departments face every day" but that "parking" patients is not the solution and that "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, the memo suggests you contact Donna Smith at (410) 786-3255 or by email at Donna.Smith@cms.hhs.gov. The effective date of the memo is August 13, 2006. CMS states that 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.

Steps to Take NOW:

1. Assess the Problem. Don't always go by rumor and subjective comments. Monitor the time it takes for your EMS staff to transfer care of the patient to the ED staff. Make a list of specific problems with actual times and the impact the delay in the ED had on your operation. In other words, don't scream to your hospital about a problem if you don't have one. Some hospitals have made significant strides in reducing diversion and patient parking issues.
2. Talk With Your EMS Council or State EMS Agency. If you are experiencing the problems, others are too. A coordinated approach to resolution may be the key to fixing the problem---and it takes the heat off of individual ambulance services. Some regions have made great strides and have develop diversion protocols to address the overflow issue and the impact on EMS . These protocols may need to be modified to specifically address the patient parking issue.
3. Provide Information. Meet with your hospital about the patient parking problem (if it exists) and keep it professional. Maintaining a positive approach to the situation is more likely to help you resolve the problem. Provide the hospital with specific data (see step one) and a copy of the new CMS memo as part of your communication with them.
4. Report Specific Problems to the Hospital. If "preplanning" and the proactive approach does not work, begin to provide objective reports of patient parking incidents to the hospital. The best person to contact will likely be the hospital's general compliance officer.
5. Report to the State Survey Agency or CMS. State agencies may investigate potential hospital violations. Most states have a group within the state health department that handles hospital inspections and surveys. These groups may also process EMTALA-related complaints. Complaints can also be filed with the Centers for Medicare and Medicaid Services (CMS) regional office for your area. CMS is the federal agency with EMTALA enforcement responsibilities.



Attachments