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CMS Clarifies the Emergency Services Requirements for Participating Hospitals

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Adrienne E. Marting, Esq.
Epstein Becker & Green, P.C.
amarting@ebglaw.com
(404) 869-5346

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CMS Guidance

- Memo dated April 27, 2007
- Clarifies the emergency services requirements for hospitals participating in the Medicare program
- Emphasizes that the requirements apply to <u>all</u> hospitals (except CAHs), including those with and <u>without</u> emergency departments

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CMS Guidance Summary

- Focus on 9 Medicare Conditions of Participation (CoPs) that apply to all hospitals (except CAHs) and provide a foundation for safe care for all persons, including those in need of emergency care.
- All hospitals (except CAHs) are required to appraise medical emergencies, provide initial treatment and referral when appropriate, regardless of whether the hospital has an emergency department.
- A hospital may not rely on 911 services to provide individuals appraisal or initial treatment in lieu its own ability to do so.

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Leslie V. Norwalk, Esq., Acting Administrator of CMS:

- "Any hospital participating in Medicare, regardless of the type of hospital and apart from whether the hospital has an emergency department, must have the capability to provide basic emergency care interventions."

- "The guidance we are issuing today is part of an overall strategy to ensure quality care by assuring the rapid response to emergencies for all people with Medicare."

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Defining "Medical Emergency"

- CoPs do not define "medical emergency"
- CMS uses the definition of an emergency medical condition under EMTALA as a guide
- CMS emphasizes that the CoPs do not mandate the use of the EMTALA definition

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EMTALA Definition

"Emergency medical condition" means –

(1) A medical condition manifesting itself by acute symptoms of sufficient severity such that the absence of immediate medical attention could reasonably be expected to result in

(i) placing the health of the individual in serious jeopardy;

(ii) serious impairment to bodily functions; or

(iii) serious dysfunction of any bodily organ or part; or

(2) With respect to a pregnant woman who is having contractions

(i) that there is inadequate time to effect a safe transfer to another hospital before delivery; or

(ii) that transfer may pose a threat to the health or safety of the woman or the unborn child.

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- ***Physician On Duty or On Call***

Medicare participating hospitals must have a physician either on duty (onsite) or on call at all times.

42 CFR 482.12(c)(3)

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- ***A Responsible Physician for Each Patient***

A physician must be responsible for the care of each Medicare patient with respect to any medical or psychiatric problem that is present on admission or develops during the hospital stay.

42 CFR 482.12(c)(4)

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- ***RN Supervision & Availability 24/7***

24-hour nursing services must be provided by or supervised by an RN. An RN must supervise and evaluate the care of each patient, and be immediately available, when needed, to provide bedside care to any patient.

42 CFR 482.23(b)

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- ***Right to Care in a Safe Setting***

Patients have the right to "receive care in a safe setting."

42 CFR 489.13(c)(2)

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- ***Governing Body Ensures Accountability***

The Governing body of the hospital must ensure that the medical staff is accountable to the governing body for the quality of care provided to patients.

42 CFR 482.12(a)(5)

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- ***Organized & Accountable Medical Staff***

"The medical staff must be well organized and accountable to the governing body for the quality of care provided to patients."

42 CFR 482.22(b)

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- ***Quality Assessment & Performance Improvement (QAPI)***

The hospital's governing body, medical staff, and administrative officials must ensure that clear expectations for safety are established and that adequate resources are allocated for reducing risk to patients.

42 CFR 482.21(e)(3) & (4)

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▪ *Appraisal, Initial Treatment, Referral*

If the hospital does not have an emergency department, the governing body must assure that the medical staff has written policies and procedures for appraisal of emergencies, initial treatment, and referral when appropriate.

Policies should provide that:

- an RN is immediately available and capable of assessing need for emergency care; and
- physicians onsite appraises emergencies or, if on call, provides medical direction to onsite staff conducting appraisals.

42 CFR 482.12(f)(2)

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▪ *Off-Campus Locations*

Off campus hospital locations that do not have an emergency department, must have written medical staff policies and procedures for the appraisal of emergencies and referral when appropriate.

42 CFR 482.12(f)(3)

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Now Lowell Brown will discuss

- Requirements specific to hospitals with emergency departments and
- Best practices for compliance with the emergency services requirements

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