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CMS Seeks Comments on Applicability of EMTALA to Hospital Inpatients and to Hospitals with Specialized Capabilities

By: [Leslie Demaree Goldsmith](#)

CMS published an advance notice of rulemaking in the Dec. 23, 2010 Federal Register addressing the applicability of the Emergency Medical Treatment and Labor Act (EMTALA) [PDF]. Specifically, CMS is soliciting public comments by February 20, 2011 on the following two EMTALA issues.

1. The Applicability of EMTALA to Hospital Inpatients

Should EMTALA apply to a patient who has been admitted as an inpatient even if the patient's emergency medical condition remains unstabilized? CMS addressed this issue in the August 19, 2008 IPPS final rule, stating that the EMTALA obligation ends with admission, even if the patient has not been stabilized. However, there have been several cases addressing whether EMTALA requirements continue to apply to patients after they have been admitted as inpatients, with a split in the how the circuit courts ruled on this issue.

2. The Applicability of EMTALA to Hospitals with Specialized Capabilities

Should EMTALA requirements apply to hospitals with specialized capabilities, such as burn units, shock-trauma units, neonatal intensive care units or, with respect to rural areas, regional referral centers? Currently EMTALA does not require hospitals with specialized capabilities to accept an appropriate transfer of a patient who had been admitted in good faith as an inpatient at another hospital

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Comment Request

CMS has requested comments regarding whether it should revisit its current policies. CMS has specifically asked for real world examples that demonstrate whether such action would be beneficial. Comments must be received no later than 5 p.m. EST on February 20, 2011.