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**DATE:** June 13, 2002

**FROM:** Director  
Survey and Certification Group  
Center for Medicaid and State Operations

**SUBJECT:** Simultaneously On-Call

**TO:** Associate Regional Administrators, DMSO  
State Survey Agency Directors

The purpose of this program memorandum is to provide guidance to regional offices, state survey agency personnel, physicians and hospitals regarding the Emergency Medical Treatment and Labor Act (EMTALA). It has come to our attention that the medical community has concerns about the enforcement of EMTALA's policy concerning physicians simultaneously being on-call at several hospitals.

After lengthy discussions with the medical community, and understanding the impact of this policy, CMS is revising its policy to allow on-call physicians to provide coverage simultaneously at several hospitals to maximize patient access to care.

This change of policy is being established to promote the timely and economic delivery of appropriate quality of care to all patients in need of the specialty service in question. The implementation of this policy however, does not relieve individual hospitals of its EMTALA obligations.

We wish to reaffirm that the current interpretive guidelines in the State Operations Manual (SOM), Appendix V, page V-15 continue to apply. They state:

“The medical staff by-laws or policies and procedures must define the responsibilities of on-call physicians to respond, examine and treat patients with emergency medical conditions.”

“...the hospital must have policies and procedures to be followed when a particular specialty is not available or the on-call physician cannot respond because of situations beyond his or her control.”

CMS believes hospitals should continue to have the flexibility to meet their EMTALA obligations by managing on-call physician coverage in a manner that maximizes patient stabilizing treatment as efficiently and effectively as possible. When the on-call physician is simultaneously on-call at more than one hospital in the geographic area, all hospitals involved must be aware of the on-call schedule as each hospital independently has an EMTALA obligation.

As required in the SOM, hospitals must have policies and procedures to follow when an on-call physician is simultaneously on-call at another hospital and are not available to respond. Hospital policies may include, but are not limited to procedures for back-up on-call physicians, or the implementation of an appropriate EMTALA transfer according to 42 C.F.R. 489.24 (d). The policies and procedures a hospital adopts to meet its EMTALA obligation is at the hospital's discretion, so long as they meets the needs of the patients who present for emergency care.

On May 9, 2002 CMS released the Notice of Proposed Rule Making (NPRM) for Medicare Program; Changes to the Hospital Inpatient Prospective Payment Systems and Fiscal Year 2003 Rates which proposes to implement changes to EMTALA. We expect to receive numerous comments concerning EMTALA and on-call requirements and may have to address this issue in the final rule.

I am committed to improved and effective communication between CMS, hospitals and physicians to resolve EMTALA issues. Please feel free to contact Doris M. Jackson of my staff at (410) 786-0095 if you have any further questions or concerns.

This clarification will be added to the SOM, Appendix V the next time it is revised.

/s/  
Steven A. Pelovitz

cc: American Hospital Association  
American Health Lawyers Association  
American Federation of Lawyers  
American Medical Association  
American Osteopathic Association  
American College of Surgeons  
American Society of General Surgeons  
American Association of Neurological Surgeons  
Congress of Neurological Surgeons