

Emergency Medical Treatment & Labor Act (EMTALA)

On Dec. 23, 2010, CMS published (PDF) an Advanced Notice of Proposed Rulemaking on the Emergency Medical Treatment and Labor Act (EMTALA). That ANPRM indicated that CMS was reconsidering its current policy which provides that: 1) a hospital's EMTALA obligation ends upon the admission of a patient as an inpatient, and 2) EMTALA does not apply to the transfer of an inpatient to a hospital with specialized capabilities.

The AMA submitted comments (PDF) in response to the ANPRM that strongly objected to the extension of EMTALA to the inpatient setting or to the transfer of an inpatient to a hospital with specialized capabilities. The AMA reasoned that physicians are already bound by a host of legal and ethical obligations to provide necessary patient care, and take those obligations seriously. Further, the AMA asserted that EMTALA obligations often result in overutilization of physician resources, uncompensated care and administrative hurdles.

On Feb. 2, 2011, CMS published a Request for Comment (PDF) in which CMS states that it is maintaining its current policy that EMTALA does not extend to inpatients or to the transfer of inpatients to hospitals with specialized capabilities. CMS says that it will continue to monitor whether it may be appropriate in the future to reconsider the inapplicability of EMTALA to the transfer of inpatients to hospitals with specialized capabilities, and invites comment on that issue. The AMA commented (PDF) in support of CMS' decision not to extend EMTALA.