

Key Points for Emergency Medical Services Regarding the Emergency Medical Treatment and Labor Act (EMTALA) Requirements for Pandemic Influenza

The following information is based on a memorandum provided to the State Survey Agency Directors from the Centers of Medicare and Medicaid Services (CMS) dated August 14, 2009 (http://www.cms.hhs.gov/SurveyCertificationGenInfo/downloads/SCLetter09_52.pdf) related to EMTALA and the current H1N1 pandemic. State EMS offices and/or EMS medical directors may determine the need to provide protocols and/or interim guidance to EMS agencies that transport patients with an influenza related illness or "ILI" to the emergency department.

1. The current Centers for Disease Control and Prevention (CDC) Case Definition for H1N1 Influenza A can be found at <http://www.cdc.gov/h1n1flu/casedef.htm>.
2. EMTALA is a Federal law that requires all Medicare-participating hospitals with dedicated EDs to perform a Medical Screening Exam (MSE) for **all** individuals who come to their EDs, regardless of their ability to pay. Any person who presents to a hospital emergency department is entitled to a medical screening exam (MSE) to determine if an individual has an Emergency Medical Condition (EMC.)
3. MSEs must be conducted by qualified personnel, which may include physicians, nurse practitioners, physician's assistants, or RNs trained to perform MSEs and acting within the scope of their State Practice Act.
4. Depending upon an individual's presenting symptoms, an appropriate medical screening examination can range from a simple process involving only a brief history and physical examination to a complex process that also involves performing ancillary studies and procedures such as (but not limited to) lumbar puncture, clinical laboratory tests, CT scans and other diagnostic tests and procedures.
5. If an Emergency Medical Condition (EMC) is present, the hospital must treat and stabilize the patient within its capability prior to transfer to another (appropriate) facility.
6. Hospitals with specialized capabilities (with or without an ED) may not refuse an appropriate transfer under EMTALA if they have the capacity to treat the transferred individual.
7. Hospitals (and communities) may set up off-site alternative screening sites (for influenza-like illness or ILI); however, "9-1-1" or emergency ambulance patients should not triage, divert, or deliver suspected ILI patients to off-site screening sites unless the local health department and EMS medical director have approved a written emergency plan for handling ILI. Patients that meet the case definition for H1N1 Influenza A—or are SUSPECTED of having an H1N1-related illness-- should be transported to the ED, logged in to the Emergency Department registration system, and provided an MSE. Hospitals that use ambulance diversion policies to avoid contact with patients with ILI would seem to be in conflict with EMTALA per the CMS memo.
8. Hospitals can establish alternative screening sites ON CAMPUS to perform MSE's for persons presenting to the ED with ILI. Individuals (and ambulances) may be redirected to these sites after being

logged in. The redirection and logging can even take place outside the entrance to the ED. The person doing the directing should be qualified (e.g., an RN) to recognize individuals who are obviously in need of immediate treatment in the ED.

9. ILL screening centers should NOT be used to screen patients for other urgent, unscheduled illnesses or conditions.

10. A hospital may not tell individuals who have already come to its ED—including individuals transferred via ambulance-- to go to an off-site location for the MSE without an EMTALA Waiver authorized by the CMS Regional Office or the State Survey Agency (under the conditions described by the CMS memorandum of August 19, 2009.)

11. Above all, EMS practitioners are encouraged to provide quality care to patients and avoid confrontational exchanges with hospital personnel. Questions about assessment, treatment, and/or referral decisions can be reviewed with the EMS medical director AFTER the patient has received care in an appropriate medical facility.