Specialty Hospitals to Take On EMTALA Duties

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The technical advisory group examined the Emergency Medical Treatment and Labor Act (EMTALA). The group met seven times over 3 years to address the on-call crisis. The advisory panel met seven times over 3 years to address the on-call crisis.

The advisory panel concluded that participation in community call plans can satisfy hospitals’ call coverage obligations—a notion that CMS is now seeking comment on—is “a new option on the table,” said Ms. Tomar.

“It’s a recognition of the fact that you no longer have full contingencies of on-call doctors waiting at every hospital...that if you can get a community to pull together doctors to serve different hospitals on different days and connect that with your EMS system, you’ve got a potential plan,” she said. In that light, the panel clearly stated in its recommendation that hospitals must have backup plans, and that a community call arrangement does not negate a hospital’s obligation under EMTALA to perform medical screening exams.

The CMS has begun to make clear that specialty hospitals are not exempt from EMTALA obligations. Furthermore, in a draft Inpatient Prospective Payment System rule for fiscal year 2009, the agency is now proposing that hospitals be allowed to group together and form community call to meet their on-call responsibilities. The panel “had a fairly circumscribed charge, in that they weren’t being asked to tackle the big problems lurking behind EMTALA,” said Barbara Tomar, director of federal affairs for the American College of Emergency Physicians. “They did a tremendous job in dealing with some incredibly technical and complex issues...in simplifying and clarifying language, and in refining what [EMTALA] means.”

The panel did not let its limited charge—and the broader issues—go unnoticed. It included in its list of recommendations two “high priority” items: HHS should amend EMTALA to include liability protection, and it should develop a funding mechanism for hospitals and physicians who provide care covered by the statute.

Like other TAG recommendations, the request for CMS to clarify its position on “shared or community call” and permit formal arrangements is a recognition of the need to ensure that the ways the emergency care environment has changed over all since 2003, when EMTALA regulations were revised to allow on-call physicians to serve different hospitals on different days and connect that with your EMS system, you’ve got a potential plan.”

It may not always be possible to implement such plans successfully—at least one solid regional effort recently collapsed, Tomar noted. In that light, the panel clearly stated in its recommendation that hospitals must have backup plans, and that a community call arrangement does not negate a hospital’s obligation under EMTALA to perform medical screening exams.

The 2006 Inpatient Prospective Payment System final rule adopted another related recommendation: Hospitals with specialized care needs but no EDs are now allowed, as part of the law’s “community call” plans that share resources to fulfill their on-call service more workable and im-

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