



KANSAS HOSPITAL ASSOCIATION

EMTALA & SIMULTANEOUS CALL

October 2003

Second in a series of EMTALA updates.

CMS published the Final EMTALA Rule in the *Federal Register* on September 9, 2003, and it will become effective November 10, 2003. One of the issues was hospital obligations under EMTALA and “simultaneous call” regarding physicians. Hospitals must maintain an on-call list of physicians on its medical staff that best meets the needs of the hospital’s patients who are receiving EMTALA services with the resources available to the hospital, including the availability of on-call physicians.

THE RULE: The EMTALA rule at 42 C.F.R. 489.24(j) requires that a hospital have written “policies and procedures” in place to respond to situations in which a particular specialty is not available or the on-call physician cannot respond because of circumstances beyond the physician’s control. Additionally, the hospital must have policies and procedures in place to provide that emergency services are available to meet the needs of patients with emergency medical conditions if the hospital elects to permit on-call physicians to schedule elective surgery during the time that the physician is on-call or to permit physicians to have simultaneous on-call duties.

CMS POSITION: In the September 9, 2003 *Federal Register* CMS stated that it agreed that it is important that the hospital policy regarding simultaneous call and scheduling of elective surgery while on call be clearly communicated to, and understood by, affected hospitals and physicians. CMS does not mandate any minimum level of on-call coverage nor does it specify that on-call coverage is required for all services offered by the hospital. This is left to the hospital.

JUNE 13, 2002 CMS LETTER CONTENTS ADOPTED: CMS in explaining the simultaneous call issue in the *Federal Register* referred to its previously issued June 13, 2002 letter [S&C-02-35] which explained simultaneous call issues under EMTALA. Hospitals have the flexibility to meet EMTALA obligations by managing on-call physician coverage in a manner that maximize patient stabilizing treatment as efficiently and effectively as possible.

HOSPITAL OBLIGATIONS: The hospital is not required but is permitted to allow for simultaneous call and may allow for “elective surgery” conflicts with the hospital’s on-call physician schedule. **THE HOSPITAL MUST HAVE A BACK-UP PLAN.** If the hospital permits simultaneous call then all hospitals involved must be aware of the on-call schedule as each hospital independently has an EMTALA obligation. As an example CMS has stated that the hospital policy can provide for back-up on-call coverage or for implementation of an appropriate EMTALA transfer. See 68 Fed. Reg. 53253-56.