



DEPARTMENT OF HEALTH & HUMAN SERVICES
Health Care Financing Administration

Center for Medicaid and State Operations
7500 Security Boulevard
Baltimore, MD 21244-1850

DATE: September 13, 2000

FROM: Deputy Director
Division of Laboratories and Acute Care Services, SCG

SUBJECT: Policy Clarification: Hospital Owned And Operated Ambulance
Participating in Emergency Medical Services (EMS)

TO: Associate Regional Administrator
Division for Medicaid and State Operations
Regions I - X

The purpose of this program memorandum is to clarify the Health Care Financing Administration's (HCFA) policy regarding hospital owned ambulances that operate within the Emergency Medical System (EMS). The guidance set forth in this memorandum applies to helicopter ambulance as well as ground ambulance.

The policy clarifies Appendix V, Interpretive Guidelines and Investigative Procedures for Responsibilities of Medicare Participating Hospitals in Emergency Cases, Page V-24. The current State Operations Manual (SOM) reads as follows:

In some cases, local, State or regionally approved emergency medically systems (EMS), point-of-entry, and/or system protocols are in place. Compliance with EMS protocols with respect to the transport of emergent patients is usually deemed to indicate compliance with §1867; however a copy of the protocol should be obtained and reviewed at the time of the survey.

The interpretative guidelines make no mention of hospital owned and operated ambulances participating in the EMS; therefore, HCFA is issuing guidance to address hospital-owned ambulance that operates within the EMS.

We clarify here that a hospital-owned ambulance is not a hospital-owned and -operated ambulance, as referenced in 42 C.F.R. 489.24 (b), if the home hospital lacks the authority to determine the destination of the emergency patient, because that function is controlled by the EMS.

Page 2 - ARA, DMSO, Regions I - X, EMS

Under this interpretation, the individual in the hospital-owned ambulance has not “come to the emergency department,” and the home hospital does not incur an Emergency Medical Treatment and Labor Act (EMTALA) obligation to that individual. If an individual is transported by an ambulance **owned and operated** by a hospital, the patient has “come to the hospital emergency department” for the purposes of EMTALA, and the hospital has incurred an EMTALA obligation as to that patient.

These interpretative guidelines will be added to the SOM, Appendix V the next time they are revised. Please share additional copies of this memorandum as necessary. If you have further questions, please contact Doris M. Jackson of my staff at (410) 786-0095.

/s/

Josephine A. Simmons