

# **Emergency Medical Treatment and Active Labor Act (EMTALA)**

## **What is EMTALA?**

The Emergency Medical Treatment and Active Labor Act (EMTALA) is a statute which governs when and how a patient may be (1) refused treatment or (2) transferred from one hospital to another when he is in an unstable medical condition.

In 1986, Congress enacted the Emergency Medical Treatment & Labor Act to ensure public access to emergency services regardless of ability to pay. Section 1867 of the Social Security Act imposes specific obligations on Medicare-participating hospitals that offer emergency services to provide a medical screening examination (MSE) when a request is made for examination or treatment for an emergency medical condition (EMC), including active labor, regardless of an individual's ability to pay. Hospitals are then required to provide stabilizing treatment for patients with EMCs. If a hospital is unable to stabilize a patient within its capability, or if the patient requests, an appropriate transfer should be implemented.

EMTALA applies only to "participating hospitals" -- i.e., to hospitals which have entered into "provider agreements" under which they will accept payment from the Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS) under the Medicare program for services provided to beneficiaries of that program. In practical terms, this means that it applies to virtually all hospitals in the U.S., with the exception of the Shriners' Hospital for Crippled Children and many military hospitals. Its provisions apply to all patients, and not just to Medicare patients.

The purpose of the statute is to prevent hospitals from rejecting patients, refusing to treat them, or transferring them to "charity hospitals" or "county hospitals" because they are unable to pay or are covered under the Medicare or Medicaid programs. This purpose, however, does not limit the coverage of its provisions.

EMTALA is primarily but not exclusively a non-discrimination statute. One would cover most of its purpose and effect by characterizing it as providing that no patient who presents with an emergency medical condition and who is unable to pay may be treated differently than patients who are covered by health insurance. That is not the entire scope of EMTALA, however; it imposes affirmative obligations which go beyond non-discrimination.

## **What are the provisions of EMTALA?**

The essential provisions of the statute are as follows: Any patient who "comes to the emergency department" requesting "examination or treatment for a medical condition" must be provided with "an appropriate medical screening examination" to determine if he is suffering from an "emergency medical condition". If he is, then the hospital is obligated to either provide him with treatment until he is stable or to transfer him to another hospital in conformance with the statute's directives.

If the patient does not have an "emergency medical condition", the statute imposes no further obligation on the hospital.

A pregnant woman who presents in active labor must, for all practical purposes, be admitted and treated until delivery is completed, unless a transfer under the statute is appropriate. The statute explicitly provides that this must include delivery of the placenta.

In essence, then, the statute:

- imposes an affirmative obligation on the part of the hospital to provide a medical screening examination to determine whether an "emergency medical condition" exists;
- imposes restrictions on transfers of persons who exhibit an "emergency medical condition" or are in active labor, which restrictions may or may not be limited to transfers made for economic reasons;
- imposes an affirmative duty to institute treatment if an "emergency medical condition" does exist.

Source: emtala.com and CMS.gov (<https://www.cms.gov/Regulations-and-Guidance/Legislation/EMTALA/index.html?redirect=/EMTALA/> )