

EMTALA
Anti-dumping Update

Uninsured Audioconference

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So Where are We Today?

CMS EMTALA Enforcement Data

National Data	FY 04	FY 05	FY 06
# Complaints	658	738	744
# Surveys	616	649	642
% with Violations	30%	38%	40%

FY 06 Enforcement Actions

Putting EMTALA in Perspective

EMTALA

- 642 surveys
- 40% substantiated (258)

Hospital/CAH Complaint Surveys

- 4,743 surveys
- 3.1% substantiated at condition-level (147)
 - 27% substantiated deficiencies at any level (1281)

Regional FY 06 EMTALA Complaint Volume

RO 1	11	RO 6	131
RO 2	13	RO 7	64
RO 3	34	RO 8	52
RO 4	329	RO 9	24
RO 5	64	RO 10	22

National Total: 744

*Regional FY 06 EMTALA Complaint Rates**

RO 1	4.2%	RO 6	12.0%
RO 2	3.2%	RO 7	12.3%
RO 3	6.8%	RO 8	15.0%
RO 4	28.7%	RO 9	4.1%
RO 5	6.0%	RO 10	9.4%

National Rate: 12.1%

* Rate = # Complaints divided by # Hospitals

State Complaint Rates

- Only 1 State had consistently high complaint rates over time:

	FY 04	FY 05	FY 06
<i>State A</i>	83.7%	97.0%	92.1%

*State A had 3.9% of all US hospitals in FY 06,
but 29.8% of all EMTALA complaints*

2006 EMTALA Data for California and Florida

	California	Florida
Total Hospitals	419	239
Total Complaints	10	220
Disapproved Investigations	0	49
Approved Investigations	10	171
Percent Approved	100%	78%
Substantiated	8	40
Percent Substantiated	80%	23%
Terminated	0	0

What does this data tell us about enforcement consistency?

- Since EMTALA enforcement is complaint-driven, a major source of regional variation is beyond CMS control
- Regional and state variation in the rate of EMTALA complaints causes different levels of enforcement activity

Source of FY 06 Complaints

Patient/family	241	36.0%
Self-report	58	8.7%
Other provider	215	32.1%
Staff	13	1.9%
CMS	5	0.8%
Other	137	20.5%
Total	669*	100.0%

* Total ≠ total complaints. 10 states had 22 more sources than complaints; 14 states identified no source in 91 cases.

Distribution of FY 06 EMTALA Allegations & Violations

	Allegations (N=1349)	Violations (N=473)
Overall	11.0%	14.8%
On-call	6.2%	6.3%
Screening	26.2%	30.4%
Delay	5.5%	3.0%
Stabilization	20.0%	13.3%
Transfer/dis.	17.9%	16.1%
Recipient Hospital	8.2%	8.7%
Signage	0.9%	1.1%
Log	2.3%	3.6%

CMS Enforcement Data

- Since inception of EMTALA 13 hospitals have been terminated from Medicare.

Regulatory Enforcement Process: OIG

2006

- 21 cases resulting in \$715,000 in recoveries

2005

- 18 cases resulting in \$455,500 in recoveries

2004

- 21 cases resulting in \$535,000 in recoveries

2003

- 28 cases resulting in \$737,000 in recoveries

2002

- 22 cases resulting in \$501,000 in recoveries

What does this data tell us about enforcement consistency?

- Distribution of types of violations generally correlates with distribution of allegations
 - Reinforces that EMTALA enforcement is complaint-driven
- Screening, stabilizing treatment, & transfer are the big problem areas
 - CMS enforcement is not focused on administrative violations



$$x + 2 = 5$$
$$x = 3$$

Baloo

"Just a darn minute! Yesterday you said X equals two!"

Evolution of EMTALA

- **1985 - EMTALA enacted (42 U.S.C. §1395 dd)**
- **1989 - Statutory “enhancements”**
- **1990 - More statutory “enhancements”**
- **1994 - Interim final Regulations**
- **1998 - Interpretive Guidelines**
- **1999 - Special Advisory Bulletin**
- **2000 - OPPS Regulations**
- **2001 - OPPS Q&A**
- **2002 - CMS Guidance Letters, Proposed Regulations**
- **2003 - Final Regulations**
- **2003 - S/C Guidance Letter**
- **2003 - Medicare Modernization Act**
- **2004 - Revised Interpretive Guidelines**
- **2005-2007 – EMTALA TAG**
- **2006-2008 Updated S/C Guidance Letters**



Okay, okay, okay . . . everyone just calm down
and we'll try this thing one more time."