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Insights

OIG Settles Cases Involving Allegations of EMTALA Violations

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In December 2017, the Office of Inspector General ("OIG") entered into settlement agreements with four hospitals to resolve allegations of violations of the Emergency Medical Treatment and Labor Act ("EMTALA"). [1] EMTALA requires hospitals to provide an appropriate screening examination and necessary stabilizing treatment when a patient comes to the emergency department ("ED"), and to accept appropriate transfers from other hospitals when the recipient hospital has the capacity to accept such transfer.

A review of the recent OIG settlements finds that hospitals are penalized for a variety of EMTALA violations:

1) Failing to adequately screen patients and provide the necessary stabilizing treatment in violation of EMTALA.

The OIG determined a Massachusetts hospital did not appropriately screen a patient when it failed to conduct a reasonable search for a patient who presented on hospital property. The patient attempted to access the ED through a locked and unattended ambulance bay. An emergency dispatch notified staff of the patient's location, but the hospital's search efforts failed to immediately locate the patient. The patient was later found unresponsive near the ambulance bay by emergency responders, and died six days later. The OIG alleged that the hospital failed to conduct a reasonable search for the patient and thus failed to provide an appropriate screening examination. The Massachusetts hospital entered into a $90,000 settlement agreement with OIG to resolve these allegations.

2) Failing to adequately provide the necessary stabilizing treatment in violation of EMTALA.

OIG alleged that a Tennessee hospital failed to appropriately screen and provide stabilizing treatment to a patient by allegedly failing to perform a neurological check on a patient until nine hours after the patient was initially evaluated in the ED. Once the neurological check was performed, a CT scan was ordered, but the hospital did not have the appropriate CT machine for the patient. The hospital contacted additional hospitals in order to transfer the patient, however, the patient did not receive the CT scan until approximately two and a half hours after the Tennessee hospital's neurological check. The patient died later that day. EMTALA requires that once an appropriate medical screen is performed and an emergency medical condition is identified, the hospital must then provide the necessary stabilizing treatment or appropriately transfer the patient. The stabilizing treatment should be within the capabilities of the staff and facilities available at the hospital, and includes such medical treatment as may be necessary to assure that no material deterioration of the condition is likely to result from or occur during a transfer. The Tennessee hospital entered a $45,000 settlement agreement with OIG as a result of violating these EMTALA requirements.

3) Failing to adequately screen patients and provide the necessary stabilizing treatment in violation of EMTALA.

An OIG investigation found that an Alabama hospital failed to appropriately screen and provide stabilizing treatment to a pregnant patient who presented to the hospital's ED. The OIG alleged the hospital failed to provide a medical screen to the patient before discharging and instructing her to go to the hospital where her obstetrician was located, approximately 55 miles from the hospital. On the way to the other hospital, the patient's family called emergency medical services to transport the patient the remaining distance due to the patient's condition. Upon arrival at the other hospital, the patient delivered a stillborn infant. The OIG determined that the hospital ultimately failed to screen and stabilize the patient as required by EMTALA. The Alabama hospital entered into a $20,000 settlement agreement with OIG to resolve the allegations of the EMTALA violations.

4) Failing to adequately accept an appropriate transfer of a patient in violation of EMTALA.

OIG alleged a Georgia hospital violated EMTALA when it failed to accept the transfer of a patient. The transferring hospital determined the patient needed an evaluation by a neurosurgeon, and attempted to transfer the patient to the Georgia hospital. The Georgia hospital had previously treated the patient, but refused to accept the transfer, although it had the capacity to treat the patient. The patient was then transferred to a different hospital and required admission to the neuro intensive care unit. As the OIG noted, EMTALA requires a hospital with specialized capabilities or facilities to accept an appropriate transfer of a patient who requires such specialized capabilities or facilities, if the hospital has the capacity to treat the patient. The Georgia hospital entered into a $50,000 settlement agreement to resolve the EMTALA violations.

Such recent enforcement actions by the OIG are an important reminder that hospitals must ensure their policies and procedures for assessing and treating patient emergencies are in compliance with EMTALA. If you have any questions about EMTALA or related compliance efforts, please contact Thomas N. Hutchinson at thutchinson@kdlegal.com or your regular Krieg DeVault attorney.

[1] Office of Inspector General, U.S. Department of Health & Human Services, Civil Monetary Penalties and Affirmative Exclusions, https://oig.hhs.gov/fraud/enforcement/cmp/cmp-ae.asp