



**HAWAII HEALTH SYSTEMS**  
C O R P O R A T I O N

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## ***COMPLIANCE ALERT 12-02***

### ***CMS Solicits Input on Possible EMTALA Changes***

CMS has announced solicitation of input for the need for CMS to publish a proposed rule to address two policies related to the Emergency Medical Treatment and Labor Act (EMTALA). Comments are due by February 22.

**SUMMARY:** CMS wants to know if the following policies need to be re-visited:

- September 9, 2003: Applicability of EMTALA to hospital inpatients
- August 19, 2008: Responsibilities of hospitals with specialized capabilities

These policies concern the applicability to EMTALA to individuals who are determined in the hospital's dedicated emergency department to have an emergency medical condition who, prior to being stabilized, are subsequently admitted to the hospital as inpatients, and then need to be transferred to another hospital with specialized capabilities to accept the transfer of inpatients whose emergency medical condition remains unstabilized or any other unintended consequences.

**BACKGROUND:** Current policy ends a hospital's EMTALA obligation ends when the patient is admitted. Under the 2008 policy, Hospitals with specialized capabilities do not have an EMTALA obligation to accept an appropriate transfer of an individual who has been admitted in good faith as an inpatient at the first hospital. However, this rule was finalized with concerns from CMS that patients might receive disparate care. CMS is now considering revisiting that rule given more recent court cases.

The current solicitation is being done because there are still various opinions—even at the circuit court level—of how to apply EMTALA to these types of patient emergency conditions.

**ACTION NEEDED:** Administrators concerned about the transfer of patients and this policy need to consider soliciting comments to CMS no later than February 22, 2012.

Source: <http://www.medicarefind.com/searchdetails/ManualData/Attachments/2010-32267.pdf>