

Report on Medicare Compliance Volume 28, Number 27. July 29, 2019 Hospital Settles EMTALA Case Over Suicidal Patient With Insurance

By Nina Youngstrom

Park Royal Hospital in Fort Myers, Florida, agreed to settle allegations of violating the Emergency Medical Treatment and Labor Act (EMTALA) when it refused to accept the transfer of a suicidal patient because the patient's insurance was out of network. The hospital agreed to pay \$52,414, according to its civil monetary penalty settlement with the HHS Office of Inspector General.

That's one of two recent EMTALA settlements in which the hospitals allegedly violated basic EMTALA requirements, and both involved transfers, an attorney says.

Under EMTALA, hospitals must give all patients who show up at the emergency room a medical screening exam (MSE) regardless of their ability to pay, and stabilize them if they present with an emergency medical condition (EMC). Patients may be transferred if hospitals lack the capacity or capability to treat them, and receiving hospitals must accept transfers unless they lack the capacity or capability.

Park Royal, which has specialized psychiatric capabilities, refused the transfer of the patient from another emergency room, where the patient had presented after a suicide attempt "and was diagnosed with lacerations to the wrist and an emergency psychiatric condition," the settlement states.

OIG: 'No Reason' Not to Accept Transfer

There was no reason for Park Royal not to accept the transfer, says OIG Senior Counsel Geeta Taylor. "It had the capability and capacity to accept the transfer," she says. The patient wound up receiving care at a different hospital.

"EMTALA expressly requires hospitals with specialized capability to accept appropriate transfers," adds Katie Arnholt, deputy branch chief of the OIG's Administrative and Civil Remedies Branch.

Hospitals shouldn't send away patients based on their insurance or ability to pay, says attorney Catherine Greaves, with King & Spalding in Austin, Texas. "It's the very purpose EMTALA was written." It's curious, though, from a purely financial perspective, to turn patients away when the hospital is out of network. "In some states, typically in emergencies, insurance companies are required to treat the care provided like it's in network, but after that, when there is no longer an emergency, it's out of network. Once the patient is stabilized, you can transfer," she notes. And whether it's in or out of network, the hospital will still get paid something. But there aren't enough details available about the case to know exactly what the circumstances were or draw any conclusions about the hospital's actions, Greaves says.

Park Royal Hospital didn't admit liability in the settlement. It did not comment by press time.

Meanwhile, CMS on July 2 issued guidance on EMTALA and psychiatric hospitals, partly because surveyors have been applying it differently in different regions, attorneys say ("CMS: With EMTALA, ED Doctors Can Do Psych MSE; Transfers May Be OK Despite Open Bed," RMC 28, no. 25). The guidance addresses capacity and transfers,

among other things.

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