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March 28, 2012

Ms. Marilyn Tavenner
Acting Administrator
Centers for Medicare and Medicaid Services
Department of Health and Human Services
Room 445-G, Hubert H. Humphrey Building
200 Independence Avenue, SW
Washington, DC 20201

**RE: CMS-1350-NC: Medicare Program: *Emergency Medical Treatment and Labor Act*:
Applicability to Hospital Inpatients and Hospitals with Specialized Capabilities (42 CFR Part
489)**

Dear Ms. Tavenner,

As an association representing behavioral healthcare provider organizations and professionals, the National Association of Psychiatric Health Systems (NAPHS) appreciates the opportunity to respond to the Centers for Medicare and Medicaid Services' (CMS) request for comments on "Medicare Program: *Emergency Medical Treatment and Labor Act (EMTALA)*: Applicability to Hospital Inpatients and Hospitals with Specialized Capabilities" (CMS-1350-NC) as published in the February 2, 2012, *Federal Register*.

ABOUT NAPHS

Founded in 1933, NAPHS advocates for behavioral health and represents provider systems that are committed to the delivery of responsive, accountable, and clinically effective prevention, treatment, and care for children, adolescents, adults, and older adults with mental and substance use disorders. Our members are behavioral healthcare provider organizations, including more than 700 psychiatric hospitals, addiction treatment facilities, general hospital psychiatric and addiction treatment units, residential treatment centers, youth services organizations, outpatient networks, and other providers of care. Our members deliver all levels of care, including inpatient treatment, residential treatment, partial hospitalization, and outpatient services.

COMMENTS

NAPHS has followed closely the various interpretations of regulations governing the application of EMTALA to hospital inpatients. We have consistently supported the position that the congressional intent of the original legislation is that, once a hospital-patient relationship is established through inpatient admission, the hospital's EMTALA obligation ends. We believe there are strong and sufficient protections already in place through the Medicare Conditions of

Participation, state law, accreditation, and other forms of oversight to protect patients who have been admitted to a hospital. To extend the reach of EMTALA (a statute designed to formalize the responsibility of a hospital to treat a patient presenting to a hospital emergency department for stabilization of an emergency medical condition) to inpatient care would not be consistent with the congressional intent of the law.

In addition, we support the position of CMS to make no proposals with respect to policies regarding the applicability of EMTALA to hospitals with specialized capabilities. We have no “real world” examples, as you requested, that are relevant to this issue.

In our experience, current interpretation of EMTALA combined with the protections in place for inpatients, is serving the interests of Medicare beneficiaries adequately.

Sincerely,

/s/

Mark Covall
President/CEO