#507
Do It Yourself
EMTALA Auditing
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<table>
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<th>LEARNING OBJECTIVES</th>
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<td>• Understand the background and basics of EMTALA</td>
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<td>• Learn how to prepare, conduct and report EMTALA audits</td>
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<td>• Develop an auditing check list</td>
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<td>• Foster relationships with key leaders</td>
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<td>• Focus on the right messages</td>
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<td>• Plan for follow up audits</td>
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Seattle—the hype:

Seattle—the reality:
EMTALA—the law

EMTALA—The Law

- EMTALA—the Emergency Medical Treatment and Active Labor Act
- Part of COBRA, originally passed in 1986 in response to concerns of “patient dumping”
- Enforced by CMS and OIG
  - CMS can terminate the Hospital’s Medicare agreement
  - The OIG has exclusion authority
  - Civil Money Penalties (CMP) on both the hospital and a “responsible physician” up to $50,000 per violation
  - Patients may bring civil lawsuits for damages
- Very specific meanings/definitions
- Requires 68-page State Operations Manual to interpret
EMTALA APPLIES TO:

- Participating Medicare Hospitals
  - Hospitals with Emergency Departments
  - Hospital-owned ground or air ambulance services
  - Certain Provider-based Urgent Care Centers

*...a dedicated emergency department is defined as meeting one of the following criteria regardless of whether it is located on or off the main hospital campus:

The entity: (1) is licensed by the State in which it is located under applicable State law as an emergency room or emergency department; or (2) is held out to the public by name, posted signs, advertising, or other means as a place that provides care for emergency medical conditions (EMC) on an urgent basis without requiring a previously scheduled appointment; or (3) during the preceding calendar year, (i.e., the year immediately preceding the calendar year in which a determination under this section is being made), based on a representative sample of patient visits that occurred during the calendar year, it provides at least one-third of all of its visits for the treatment of EMCs on an urgent basis without requiring a previously scheduled appointment.

EMTALA—the basics:

- A person who “comes to the emergency department” for examination or treatment for a medical condition must receive a “medical screening examination” to determine whether an “emergency medical condition” exists
- If there is an emergency medical condition, the hospital must provide either
  - Further medical examination and treatment to “stabilize” the medical condition, or an
  - “Appropriate transfer”
Getting Your Audit Organized

Define your audit’s purpose and scope
- By-laws
- Policies and Procedures
- On-Call List
- Training Materials
- ED, Urgent Care, L&D
- EHR—number of records
- Workflow
- Signage

Getting Your Audit Organized

Coordinate with Leadership
- Compliance
- Hospital Administration
- HIM
- ED
- Medical Staff
- Patient Access
- Risk Management
- Others?
Getting Your Audit Organized

Set Expectations

• Introductory meeting or e-mail
• Establish connection through the relationship
• Explain the audit process
• Lay the groundwork for follow-up audits
  • Part of an ongoing, regular review and tune-up
• Frequency
• Duration
• Thank them for the opportunity

Getting Your Audit Organized

Obtain copies of:

• EMTALA policies and procedures
• Medical Staff By-Laws
• On-Call policy/procedures & on-call list
• ED Transfer form
• Transfer policies
Getting Your Audit Organized

Get access (user ID and password, and any training needed) to all pertinent systems

- EHR
- ED-specific system(s)

Arrange meeting with ED Nurse Manager/Director

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Getting Your Audit Organized

Request data—import into your own auditing xls

- Patient name
- Patient encounter ID
- Patient DOB
- Patient MRN
- Patient status
- Reason for transfer
- Destination facility
- Mode of transportation
- Any other fields that will help…
The Audit--Policies

EMTALA Policy Review

- To whom does it apply?
- When was it last updated?
- Review for completeness
- Anything outdated or incorrect?
- Does it address all aspects of EMTALA?
  - Check-in, triage, screening, stabilizing treatment, transfers, on-call requirements, LAMA, LWBS, what to do if there is a suspected violation, etc…
The Audit—Policies and Procedures

Other policies and procedures—Triage, Transfer, etc…

- Are policies up-to-date? Do they mesh with the main EMTALA policy?
- Is there duplication of effort?
- Conduct your own internal and external web search for EMTALA policies/procedures for your institution to see what comes up

The Audit--By-Laws

Who can perform the MSE?
The Audit—ED Work Flow

Meet with the ED Nurse Manager, ED Director, or ED Medical Director
• Have them walk you through the ED experience
• Note signage—is it adequate? In the appropriate languages? Wording matches the CMS requirements?
• Diagram the ED work flow
• Let them know you’ll follow up after you’ve audited the claims

The Audit—Claims

• Set aside time to audit claims—it can be a long process
• Establish the sample size
• Determine which aspects you will audit—Transfers only? LWBS? LAMA? LBFD?
• Review On-call lists—do they reflect coverage of services available to inpatients? Individual Practitioner Names?
• You may find that you have to systematically search all the records—including discharge notes, progress notes, external documentation, etc…
The Audit—Claims

Auditing transfers is easier if they use a good transfer form:

The Audit—Summary

- Share preliminary data with ED Nurse Manager and Director, HIM Director and any others whose departments will be impacted
- Have them propose corrective actions and deadlines
- Draft the report to include your findings and the proposed corrective actions
- Route through appropriate channels for final review
- Publish final report as PDF, counter-signed by Compliance Officer; specify date of next audit
The Audit Report

Audit Report

Title: The data that maintenance workers are supposed to take is not accurate.

Data of Audit: 3/17/2015

State of Audit: The data that maintenance workers are supposed to take is not accurate. The data is not accurate for the following reasons:

1. Maintenance workers are not using the equipment properly.
2. The equipment is not functioning properly.
3. The data is not being recorded accurately.

Background/Other: The data that maintenance workers are supposed to take is not accurate. The data is not accurate for the following reasons:

1. Maintenance workers are not using the equipment properly.
2. The equipment is not functioning properly.
3. The data is not being recorded accurately.

Scope:

A. Audit Objective
B. Audit Procedure
C. Audit Findings
D. Audit Recommendations

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Resources

EMTALA Regulations:  http://www.ssa.gov/OP_Home/ssaact/title18/1867.html#

State Operations Manual:

AHILA EMTALA Checklist:

Provider-based Urgent Care Centers are subject to EMTALA (page 54)