

	Policy No.: 307	
	Created: 1/2000	Reviewed: 9/2020

ANTI-DUMPING AND ANTI-EXCLUSION

ETHICS & COMPLIANCE DEPARTMENT

SCOPE:

Applies to all Envision Physician Services colleagues associated with providing care in the Emergency Department. For purposes of this policy, all references to “colleague” or “colleagues” include temporary, part-time and full-time associates, independent contractors, clinicians, officers and directors.

PURPOSE:

The purpose of this policy is to ensure all providers of Envision Physician Services and its subsidiaries and affiliates (the “Company”) follow the “patient dumping” and “patient exclusion” regulations.

POLICY:

The patient dumping statute is also commonly referred to as the Consolidated Omnibus Budget Reconciliation Act (COBRA) or the Emergency Medical Treatment and Active Labor Act (EMTALA). The provisions of these regulations apply to all hospitals that participate in Medicare and provide emergency services. These regulations are very complex but basically dictate that:

Medicare participating Hospitals providing emergency services are required to:

- Provide an appropriate medical screening examination.
- Provide necessary stabilizing treatment for emergency medical conditions and labor.
- Provide an appropriate transfer of the patient if the hospital does not have the capability or capacity to provide the treatment necessary to stabilize the emergency medical condition.
- Not delay the screening exam in order to inquire about the patient’s insurance or payment status.
- Accept appropriate transfers of patients with emergency medical conditions if the hospital has the specialized capabilities not available at the transferring hospital and has the capacity to treat those individuals.
- If the patient refuses examination, treatment, or transfer, to obtain or attempt to obtain a written statement from the patient refusing examination, treatment or an appropriate transfer.

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- Not take adverse action against a physician or qualified medical personnel who refuses to transfer a patient with an emergency medical condition that has not been stabilized, or against an employee who reports a violation of these requirements.

The patient exclusion statute states that:

A hospital cannot knowingly fail to provide covered services or necessary care to members of a health maintenance organization (HMO).

While these statutes govern hospitals, the Company’s healthcare practitioners working in client hospitals’ emergency departments must ensure that their actions and medical services are in accordance with these statutes and regulations. The Company’s client hospitals should have policies and procedures that enforce the COBRA/EMTALA and patient exclusion regulations that the Company’s healthcare practitioners must follow. If any of the Company’s healthcare practitioners or employees have concerns regarding the application of these regulations, contact the Chief Compliance Officer.

As part of the Company’s compliance/risk management policy and procedure training, the Company will provide an annual course for all healthcare practitioners regarding the COBRA/EMTALA and patient exclusion statutes, cases, and regulations.

COBRA/EMTALA PENALTIES

If a COBRA/EMTALA violation exists, the Office of Inspector General will, in all likelihood, impose civil liabilities and/or monetary penalties. Monetary penalties are **not** covered by any professional liability insurance policy and would be the sole responsibility of the healthcare provider. CMS also has the authority to terminate a healthcare professional’s and a hospital’s Medicare/Medicaid provider agreement, and/or withholding all payments from Medicare and Medicaid. Finally, the individual who believes he/she has suffered harm as a result of an inappropriate transfer may sue the healthcare professional for damages. Likewise, a hospital that suffers economically as a result of another hospital’s violation may also sue the hospital for damages.

RECOMMENDATIONS TO PREVENT AN ALLEGATION OF A COBRA/EMTALA VIOLATION

- Don’t seek pre-authorization for the medical screening examination.
- Require on-call physicians to come to the Emergency Department within a reasonable time-frame.
- Provide accurate and complete documentation, including if/when the patient leaves the Emergency Department or refuses care before the medical screening examination/treatment is complete.

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- Comply with the major points for unstable transfers.
- Specify in the hospital bylaws or rules and regulations who is to conduct medical screening examinations.
- Qualified medical personnel must perform a medical screening exam to all individuals who present to the Emergency Department.
- Develop a comprehensive EMTALA policy and be active in its development.
- Include components of the EMTALA policy in the hospital’s Performance Improvement Program.
- Educate the entire medical staff on EMTALA policies and procedures.

POLICY REVIEW

The Ethics & Compliance Department will review and update this policy when necessary in the normal course of its review of the Company’s Ethics & Compliance Program.