

Appendix C: Recommendations from June 2002 Meeting. Report Number 40 regarding Emergency Medical Treatment and Active Labor Act (EMTALA)

The following recommendations regarding EMTALA will be taken into consideration and PPAC will receive CMS response when the final rule is published.

(Key: Numeric and Alpha organization refer to the following: 42 refers to the meeting number; A, B, etc. refers to agenda item; and 1, 2...,refers to number of recommendation under each agenda item.)

42-A: Emergency Medical Treatment and Active Labor Act (EMTALA)

42-A-1: PPAC recommends the following language be added to the current proposed revisions to the on-call regulations for EMTALA: “Physicians are not required to restrict their activity while on call solely to cover their on-call responsibility. EMTALA does not prohibit, for example, doctors being in the operating room while on call, being on call simultaneously at more than one hospital, or tending to other responsibilities of their practice while on call.”

42-A-2: PPAC recommends the following language be added to the current proposed revisions to the regulations for EMTALA: “EMTALA does not apply to patients coming to the emergency department to obtain previously scheduled or follow-up care.” This recommendation is intended to obviate the need for personnel in the emergency department to screen patients coming in for scheduled or follow-up care to determine that such patients do not have an emergency medical condition.

42-A-3: PPAC supports the recommendation of the Secretary’s Advisory Committee (as presented by Dr. Wood) that the current proposed revisions to the EMTALA regulations limit the term “hospital property” to mean the emergency department or a clinic that holds itself forth to the public as a place to obtain emergency care.

42-A-4: PPAC supports the recommendation of the Secretary’s Advisory Committee to create an Emergency Services Cooperative Project to address such issues as reimbursement mechanisms for EMTALA-related services when patients don’t have insurance.

42-A-5: PPAC recommends the EMTALA regulations be revised at some time in the future to include the following concept: “Compliance with preestablished community protocols for triage, treatment, and distribution of patients during a declared multi-casualty incident (as predefined by community needs) does not violate EMTALA.” PPAC agreed to consider how best to word such a statement to prevent hospitals from misusing the regulation to avoid treating Medicare patients.

42-A-6: PPAC recommends the EMTALA regulations include a mechanism to insulate peer review from discoverability in the context of EMTALA.

