Enforcement of the Emergency Medical Treatment and Labor Act, 2005 to 2014

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Study objective: We determine the incidence of and trends in enforcement of the Emergency Medical Treatment and Labor Act (EMTALA) during the past decade.

Methods: We obtained a comprehensive list of all EMTALA investigations conducted between 2005 and 2014 directly from the Centers for Medicare & Medicaid Services (CMS) through a Freedom of Information Act request. Characteristics of EMTALA investigations and resulting citation for violations during the study period are described.

Results: Between 2005 and 2014, there were 4,772 investigations, of which 2,118 (44%) resulted in citations for EMTALA deficiencies at 1,498 (62%) of 2,417 hospitals investigated. Investigations were conducted at 43% of hospitals with CMS provider agreements, and citations issued at 27%. On average, 9% of hospitals were investigated and 4.3% were cited for EMTALA violation annually. The proportion of hospitals subject to EMTALA investigation decreased from 10.8% to 7.2%, and citations from 5.3% to 3.2%, between 2005 and 2014. There were 3.9 EMTALA investigations and 1.7 citations per million emergency department (ED) visits during the study period.

Conclusion: We report the first national estimates of EMTALA enforcement activities in more than a decade. Although EMTALA investigations and citations were common at the hospital level, they were rare at the ED-visit level. CMS actively pursued EMTALA investigations and issued citations throughout the study period, with half of hospitals subject to EMTALA investigations and a quarter receiving a citation for EMTALA violation, although there was a declining trend in enforcement. Further investigation is needed to determine the effect of EMTALA on access to or quality of emergency care. [Ann Emerg Med. 2016;■:1-8.]

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INTRODUCTION

Background

In 1986, Congress passed the Emergency Medical Treatment and Labor Act (EMTALA) in response to publicized incidents of inadequate, delayed, or denied treatment of uninsured patients by emergency departments (EDs).[1,2] The intent of EMTALA was to ensure access to emergency medical services and to prevent patient "dumping," the practice of refusing or transferring financially disadvantaged patients without authorization or stabilization. EMTALA requires that all patients presenting to an ED receive timely medical screening evaluation and stabilizing care regardless of ability to pay. If specialty services required to stabilize an identified emergency condition are unavailable, patients must be transferred to an alternate hospital for a higher level of care. Receiving hospitals have a duty to accept transfer of patients requiring available specialized services (eg, neurosurgery, burn care) if the facility has capacity to treat the patient.

EMTALA enforcement is delegated to the 10 regional offices of the Centers for Medicare & Medicaid Services (CMS). CMS regional offices are responsible for authorizing EMTALA investigations, determining whether a violation occurred, and enforcing corrective actions when violations are identified. Hospitals that fail to implement acceptable corrective action plans after an EMTALA violation have their provider agreements terminated by CMS, which has severe financial implications and can ultimately result in facility closure. The Office of the Inspector General of the Department of Health and Human Services is responsible for assigning civil monetary penalties or physician exclusion from CMS participation when EMTALA violations are reported.

Editor's Capsule Summary

What is already known on this topic

The Emergency Medical Treatment and Labor Act (EMTALA) requires that all emergency department patients receive a medical screening examination and stabilization regardless of ability to pay. The Centers for Medicare & Medicaid Services investigate and cite hospitals for violations.

What question this study addressed

How often, and why, are hospitals investigated and cited for EMTALA violations?

What this study adds to our knowledge

During the last decade, approximately 9.0% of hospitals were investigated and 4.3% were cited annually. Citations are decreasing overall, but violations for medical emergencies, psychiatric emergencies, failure to provide a medical screening examination, and restricting transfer to stabilize patients are increasing in proportion.

How this is relevant to clinical practice

These data show that violations related to administrative (nonclinical) components of the law are decreasing in proportion but that those related to clinical components may be increasing in proportion.

Importance

EMTALA is one of the most important pieces of federal legislation specific to the provision of emergency medicine. Despite its importance, there has been relatively little published on EMTALA enforcement activities. The current literature on EMTALA is mostly limited to summaries and interpretations of the EMTALA statute,[3-5] reviews of case law,[6,7] assessments of patient and provider knowledge about EMTALA,[8,9] indirect measures of effect of the statute,[10-13] and limited descriptions of EMTALA enforcement before 2001.[14-16] We were unable to identify any recent original peer-reviewed longitudinal studies of epidemiology of EMTALA enforcement. To understand the influence of this law on emergency care, it is critical to understand how actively CMS pursues EMTALA enforcement and the characteristics of the incidents for which facilities were cited.

Goals of This Investigation

The goal of this investigation is to describe the incidence, characteristics of, and trends in enforcement of EMTALA during the past decade.

MATERIALS AND METHODS

Study Design

This is a retrospective study of observational data on EMTALA enforcement activities obtained from CMS. Complaints about potential EMTALA violation can be made by any individual or institution to a state survey agency or CMS regional office. All complaints are forwarded to the designated CMS regional office for review.

In accordance with findings of an initial inquiry, the CMS regional office may authorize an investigation, but state survey agencies are responsible for conducting it.[15] Once authorized, an investigation must be completed within 5 working days, and once it is completed, state survey agencies have 10 to 15 working days to provide findings to the CMS regional office.[15] State survey agencies investigating EMTALA complaints often review hospital compliance with all aspects of the EMTALA statute (Table E1, available online at http://www.annemergmed.com) and may identify deficiencies unrelated to the specific complaint triggering the investigation. Findings of investigations with actual medical concerns identified (ie, those unrelated to technical components of the statute such as posting of signs) are sent to physicians for review and recommendations. CMS regional offices make the final determination about whether violation of EMTALA has occurred and whether the affected hospital will be cited with an immediate, 23-, or 90-day termination notice. Hospitals failing to implement acceptable corrective action plans to resolve identified deficiencies within the designated timeframes have their CMS provider agreements terminated.

We obtained a comprehensive list of all EMTALA investigations conducted between 2005 and 2014 directly from CMS through a Freedom of Information Act request. Our evaluation of EMTALA enforcement starts at the investigation level because allegations of EMTALA violations are not systematically recorded in the absence of an investigation. Although not specifically tracked by CMS, nearly all allegations are authorized by CMS regional offices for investigation (personal communication, Mary Ellen Palowitch, EMTALA Technical Lead, CMS, 2015). The provided data set included the name and location of the hospital and the date of investigation. Additionally, the data included the service type that was alleged to be deficient (medical, trauma, other surgical, labor, other obstetric, or psychiatric) and deficiency type (eg, delay in medical screening examination, inadequate stabilization before transfer). Investigations resulting in a citation for EMTALA violation were identified with CMS's EMTALA-specific deficiency codes (Table E1, available online at http://www.annemergmed.com). We also