




MEMORANDUM

Date: March 1, 2010

To: Christopher Straub
Chief Civil Deputy County Attorney

From: C.H. Huckelberry
County Administrator 

Re: Arizona Department of Corrections Inmates Presenting at University Physicians
Healthcare Hospital (UPHH) at the Kino Campus

The Arizona Department of Corrections (ADOC) decision to limit payment to Arizona Health Care Cost Containment System (AHCCCS) tier rates has resulted in their contract for medical services with St. Mary's Hospital not being renewed. It appears St. Mary's may have cancelled the contract due to the fact they knew they would lose money on the provision of medical services to the ADOC. Because of the lack of a contracted local medical service provider, ADOC has begun transporting emergency and urgent cases to UPHH at the Kino campus. UPHH reports that they are receiving between 200 and 250 patients in their emergency department monthly. ADOC patients are now representing five to six of the average daily inpatient census. ADOC represents they are limited in their reimbursement to AHCCCS rates.

As ADOC is clearly making a decision to transport inmates to this facility, they are forcing a disproportionate burden of insufficiently compensated care onto the hospital.

The Emergency Medical Treatment and Active Labor Act (EMTALA, 42 USC § 1395dd, Section 1867 of the Social Security Act) was enacted to prevent the denial of service to indigent patients requiring urgent medical attention. It states, in part, "...if any individual...comes to the emergency department and a request is made on the individual's behalf for examination or treatment for a medical condition, the hospital must provide" an appropriate screening (not simply a nurse triage) and any subsequent medical treatment required to stabilize the patient prior to attempting transfer or release.

Questions for consideration are as follows:

1. Does EMTALA provide ADOC blanket authority to present their inmates as patients to UPHH for services in the emergency department?
2. Does EMTALA provide a similar blanket authority to make requests for treatment on the inmate's behalf?

Mr. Christopher Straub

Re: ADOC Inmates Presenting at UPHH at the Kino Campus

March 1, 2010

Page 2

3. Is there recourse available to prevent this disproportionate use of UPHH emergency services?
4. Without a contract for services for the ADOC, can the hospital seek reimbursement for standard hospital charges?

When the patient is a prisoner of ADOC, they are not privately insured and are not required to pay for services. The patient is under the direct control and authority of ADOC. They cannot voluntarily present at an emergency department. The ADOC, however, as a solvent organization, does have the ability to pay. The decision by ADOC to unilaterally limit payment led to the termination of their contract with another local hospital. Because some ADOC inmates are admitted to the hospital through the emergency department, the seriousness of their illness will undoubtedly cause the hospital to lose significant sums of money if reimbursement of costs is limited.

Current AHCCCS guidance (AHCCCS Claims Clues, February 2010) indicates that all claims for payment must be processed directly through AHCCCS and ARS § 41-1608(2) states:

"2. For health and medical services, the department shall reimburse at a level that does not exceed the capped fee-for-service schedule that is adopted by the Arizona health care cost containment system administration pursuant to title 36, chapter 29, article 1 and that is in effect at the time the services are delivered."

It has been suggested by a Deputy County Attorney during discussions on Title 36 Court Ordered Evaluation contract disputes that Pima County could be liable for full billed charges from the four evaluating agencies instead of paying at the AHCCCS tier rates the County was paying while under contract. Would this rationale not hold true for ADOC and hospital services as well under a non-contracted circumstance so that UPHH could pursue payment for full billed charges first from ADOC; and if not successful, then through the courts, particularly given the disproportionate burden placed on UPHH?

While UPHH is under the control and management of University Physicians Healthcare (UPH), the County provides significant financial resources to UPH, a portion of which compensates them for disproportionate emergency care. We never envisioned subsidizing the state by paying for state prisoner healthcare for medical and hospital services as is now occurring.

CHH/mjk

c: The Honorable Chairman and Members, Pima County Board of Supervisors
Dennis Douglas, Deputy County Administrator for Medical and Health Services
Honey Pivrotto, Assistant County Administrator for Health Policy
Larry Aldrich, President and CEO, University Physicians Healthcare
Diane Rafferty, President and CEO, University Physicians Healthcare Hospital