

PART 482—CONDITIONS FOR PARTICIPTION FOR HOSPITALS

■ B. Part 482 is amended as follows:

■ 1. The authority citation for Part 482 continues to read as follows:

Authority: Secs. 1102 and 1871 of the Social Security Act (42 U.S.C. 1320 and 1395hh).

■ 2. Section 482.12 is amended by adding a new paragraph (f)(3) to read as follows:

§ 482.12 Condition of participation: Governing body.

* * * * *

(f) *Standard: Emergency services.*

* * *

(3) If emergency services are provided at the hospital but are not provided at one or more off-campus departments of the hospital, the governing body of the hospital must assure that the medical staff has written policies and procedures in effect with respect to the off-campus department(s) for appraisal of emergencies and referral when appropriate.

PART 489—PROVIDER AGREEMENTS AND SUPPLIER APPROVAL

■ C. Part 489 is amended as follows:

■ 1. The authority citation for Part 489 continues to read as follows:

Authority: Secs. 1102 and 1871 of the Act (42 U.S.C. 1302 and 1395hh).

■ 2. Section 489.24 is amended by—

■ A. Revising paragraph (a).

■ B. Republishing the introductory text of paragraph (b) and revising the definitions of “Comes to the emergency department” and “Hospital with an emergency department”.

■ C. Adding definitions of “Dedicated emergency department”, “Hospital property”, “Inpatient”, and “Patient” in alphabetical order under paragraph (b).

■ D. Under the definition of “Emergency medical condition” under paragraph (b), redesignating paragraphs (i), (i)(A), (i)(B), (i)(C), (ii), (ii)(A), and (ii)(B) as paragraphs (1), (1)(i), (1)(ii), (1)(iii), (2), (2)(i), and (2)(ii), respectively.

■ E. Under the definition of “Participating hospital” under paragraph (b), redesignating paragraphs (i) and (ii) as paragraphs (1) and (2), respectively.

■ F. Under the definitions of “Stabilized” and “To stabilize” under paragraph (b), “paragraph (i)” is removed and “paragraph (1)” is added in its place; and “paragraph (ii)” is removed and “paragraph (2)” is added in its place.

■ G. Removing paragraph (i); and redesignating paragraph (c) through (h) as paragraphs (d) through (i), respectively.

■ H. Adding new paragraphs (c) and (j).

■ I. Revising newly redesignated paragraph (d).

■ J. Making the following cross-reference changes:

■ i. In redesignated paragraph (e)(1)(i), “paragraph (d)(2)” is removed and “paragraph (e)(2)” is added in its place.

■ ii. In redesignated paragraph (e)(1)(ii)(C), “paragraph (d)(1)(ii)(B)” is removed and “paragraph (e)(1)(ii)(B)” is added in its place.

■ iii. In redesignated paragraph (e)(2)(iii), “paragraph (d)(1)(ii)” is removed and “paragraph (e)(1)(ii)” is added in its place.

■ iv. In redesignated paragraph (e)(2)(iii), “paragraph (f)” is removed and “paragraph (g)” is added in its place.

■ v. In redesignated paragraph (e)(3), “paragraph (d)(1)(ii)(C)” is removed and “paragraph (e)(1)(ii)(C)” is added in its place.

■ vi. In redesignated paragraph (g), “paragraph (a) through (e)” is removed and “paragraphs (a) through (f)” is added in its place.

■ vii. In redesignated paragraph (h)(1), “paragraph (g)(3)” is removed and “paragraph (h)(3)” is added in its place; and “paragraph (g)(2)(iv) and (v)” is removed and “paragraphs (h)(2)(iv) and (v)” is added in its place.

■ viii. In redesignated paragraph (h)(2) introductory text, “paragraph (g)(1)” is removed and “paragraph (h)(1)” is added in its place.

■ ix. In redesignated paragraph (h)(2)(iii)(B), “paragraph (g)(2)(iii)(A)” is removed and “paragraph (h)(2)(iii)(A)” is added in its place.

■ x. In redesignated paragraph (h)(2)(vi), “paragraph (g)(2)(v)” is removed and “paragraph (h)(2)(v)” is added in its place.

■ xi. In redesignated paragraph (h)(4), “paragraph (g)” is removed and “paragraph (h)” is added in its place; and “paragraph (g)(2)(v)” is removed and “paragraph (h)(2)(v)” is added in its place.

The additions and revisions read as follows:

§ 489.24 Special responsibilities of Medicare hospitals in emergency cases.

(a) *Applicability of provisions of this section.* (1) In the case of a hospital that has an emergency department, if an individual (whether or not eligible for Medicare benefits and regardless of ability to pay) “comes to the emergency department”, as defined in paragraph (b) of this section, the hospital must—

(i) Provide an appropriate medical screening examination within the capability of the hospital’s emergency department, including ancillary services routinely available to the emergency

department, to determine whether or not an emergency medical condition exists. The examination must be conducted by an individual(s) who is determined qualified by hospital bylaws or rules and regulations and who meets the requirements of § 482.55 of this chapter concerning emergency services personnel and direction; and

(ii) If an emergency medical condition is determined to exist, provide any necessary stabilizing treatment, as defined in paragraph (d) of this section, or an appropriate transfer as defined in paragraph (e) of this section. If the hospital admits the individual as an inpatient for further treatment, the hospital’s obligation under this section ends, as specified in paragraph (d)(2) of this section.

(2) *Nonapplicability of provisions of this section.* Sanctions under this section for inappropriate transfer during a national emergency do not apply to a hospital with a dedicated emergency department located in an emergency area, as specified in section 1135(g)(1) of the Act.

(b) *Definitions.* As used in this section—

* * * * *

Comes to the emergency department means, with respect to an individual who is not a patient (as defined in this section), the individual—

(1) Has presented at a hospital’s dedicated emergency department, as defined in this section, and requests examination or treatment for a medical condition, or has such a request made on his or her behalf. In the absence of such a request by or on behalf of the individual, a request on behalf of the individual will be considered to exist if a prudent layperson observer would believe, based on the individual’s appearance or behavior, that the individual needs examination or treatment for a medical condition;

(2) Has presented on hospital property, as defined in this section, other than the dedicated emergency department, and requests examination or treatment for what may be an emergency medical condition, or has such a request made on his or her behalf. In the absence of such a request by or on behalf of the individual, a request on behalf of the individual will be considered to exist if a prudent layperson observer would believe, based on the individual’s appearance or behavior, that the individual needs emergency examination or treatment;

(3) Is in a ground or air ambulance owned and operated by the hospital for purposes of examination and treatment for a medical condition at a hospital’s