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DATE: January 16, 2002

FROM: Director
Survey and Certification Group
Center for Medicaid and State Operations

SUBJECT: Certification of False Labor-EMTALA

TO: Associate Regional Administrators, DMSO

The purpose of this memorandum is to clarify the Centers for Medicare & Medicaid Services (CMS) policy regarding the Emergency Medical Treatment and Labor Act (EMTALA) requirements for women in labor. The regulations at 42 C.F.R. § 489.24 (a) and § 489.24 (b) provide that a physician or qualified medical personnel (QMP) can examine an individual to determine whether or not an emergency medical condition exists.

The regulation at § 489.24 (a) states:

"... In the case of a hospital that has an emergency department, if any individual...comes by him or herself to the emergency department and a request is made on the individual's behalf for examination or treatment of a medical condition by qualified medical personnel (as determined by the hospital in its rules and regulations), the hospital must provide for an appropriate medical screening examination within the capacity of the hospital's emergency department...to determine whether or not an emergency medical condition exists. The examinations must be conducted by individuals determined qualified by hospital by-laws or rules and regulations and who meet the requirements of § 482.55 concerning emergency services personnel and direction."

Thus, under § 489.24 (a), medical personnel who are qualified by a hospital to conduct "appropriate medical screening examinations" including QMPs can examine a woman and make a diagnosis that a woman is in "true" labor since "true labor" is considered an emergency medical condition.

The regulation at § 489.24 (b) specifies, however, that " a woman experiencing contractions is in "true labor" unless a physician certifies that... the woman is in false labor." Therefore, when a QMP diagnoses a woman to be in "false labor," a physician is required to certify that diagnosis before the patient can be discharged. This clarification will be added to the SOM, Appendix V the next time it is revised.

Please share this memorandum with your States.

If you have further questions, please contact Doris M. Jackson of my staff at (410) 786-0095.

/s/

Steven A. Pelovitz