

### Public Health Series – Part III of IV Crowding vs. Access: Effects of Upfront Emergency Room Payments

In 2011, approximately 80,000 prospective patients chose to leave emergency rooms (ERs) without receiving treatment due to a new hospital cost-cutting policy. The ERs, which were all located within hospitals owned by Hospital Corporation of America (HCA), the United States' largest for-profit hospital chain, have developed a new method to distinguish and charge patients who utilize emergency departments in lieu of routine healthcare providers and those in legitimate need of emergency healthcare services.<sup>1</sup>

#### EMTALA BACKGROUND

Under the Emergency Medical Treatment and Active Labor Act (EMTALA), hospitals are required to provide care to any person needing emergency healthcare.<sup>2</sup> This requirement provides access to all individuals in an emergency situation regardless of citizenship, lack of insurance, or inability to pay the medical costs.<sup>3</sup> EMTALA was enacted in order to prevent “*patient dumping*,” the practice of transferring patients from one hospital’s emergency department to another’s for admission. The statute applies to all hospitals participating in the Centers for Medicare and Medicaid Services’ Medicare reimbursement program.<sup>4</sup> EMTALA defines an emergency medical situation as “*a condition manifesting itself by acute symptoms of sufficient severity (including severe pain) such that the absence of immediate medical attention could reasonably be expected to result in placing the individual's health [or the health of an unborn child] in serious jeopardy, serious impairment to bodily functions, or serious dysfunction of bodily organs.*”<sup>5</sup>

The access to healthcare guaranteed by EMTALA has caused many individuals to rely on ER visits for many of their healthcare needs, even during non-emergency situations. This supply of medical services provided by hospitals’ ERs helps satisfy the incredible demand for healthcare services in the U.S., resulting in crowded waiting rooms with long wait times and potential delays in care.<sup>6</sup>

#### UPFRONT PAYMENT POLICY

Under HCA’s new policy, patients without a true emergency are required to pay \$150 “*upfront*” before receiving any care beyond the screening required under EMTALA.<sup>7</sup> This policy, distinguishing between those patients in need of emergency care and those which are

defined as having non-emergency related ailments or conditions, allows hospitals to divert routine patients away from the ER to ease overcrowding.<sup>8</sup> According to a study published by the Rand Corporation, approximately 17 percent of all ER visits in the U.S. could be treated at retail medical clinics or urgent care centers, potentially saving \$4.4 billion annually in healthcare costs.<sup>9</sup> Some analysts have speculated that at least half of all hospitals in the U.S. are attempting to divert non-emergency patients and are now charging upfront costs for non-emergency ER use.<sup>10</sup>

Though the strategy may ease waiting times for ERs, and lessen the mounting bad debt caused by EMTALA,<sup>11</sup> there are concerns that such policies may cut off healthcare access to many consumers and have a negative effect on overall public health in the U.S. For many, including the 47 million Americans without health insurance, ERs offer the only form of healthcare available for both emergency and routine medical care.<sup>12</sup> In addition, a lack of health insurance is a likely indication that many uninsured patients will be unable to afford the \$150 upfront fee, leaving these patients without a means to receive any treatment for a routine ailment unless the ailment worsens to an emergency medical condition. Some critics fear the strategy will discourage patients from visiting an emergency room even in the event of a true emergency.<sup>13</sup>

Long wait times and overcrowding can potentially delay care in an ER, but for many Americans, ER visits are their only option to access healthcare. While upfront payment policies may have the potential to ease the burden of long waits and bad debts for ERs, there are risks associated with these policies, such as restricting healthcare access for many Americans. Resulting public health deficiencies could make the costs of such strategies outweigh the benefits.

1 “Hospitals Demand Payment Upfront From ER Patients With Routine Problems” By Phil Galewitz, Kaiser Health News, February 20, 2012, <http://www.kaiserhealthnews.org/stories/2012/february/19/hospitals-demand-payment-upfront-from-er-patients.aspx> (Accessed 03/01/12).

2 “EMTALA Main Points” American College of Emergency Physicians, <http://www.acep.org/content.aspx?id=25936> (Accessed 03/01/12).

3 Ibid.

4 “Health Law: Cases, Materials, and Problems” By Barry R. Furrow, et al., Third Edition, West Publishing Co., 1997, p. 761;

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- “EMTALA Main Points” American College of Emergency Physicians, <http://www.acep.org/content.aspx?id=25936> (Accessed 03/01/12).
- 5 42 USCS § 1395dd(e)(1)
- 6 “It’s Official: EMTALA Contributes to Overcrowding, Delays in Care: A General Accounting Office report finds that EMTALA contributed to a decline in physicians’ willingness to provide on-call services to ED patients” By Peggy Eastman, Emergency Medicine News, Vol. 23, No. 9, September 2001, [http://journals.lww.com/em-news/Fulltext/2001/09000/It\\_s\\_Official\\_EMTALA\\_Contributes\\_to\\_Overcrowding\\_.9.aspx](http://journals.lww.com/em-news/Fulltext/2001/09000/It_s_Official_EMTALA_Contributes_to_Overcrowding_.9.aspx) (Accessed 03/01/12), p. 9.
- 7 Galewitz, “Hospitals Demand Payment Upfront From ER Patients With Routine Problems,” February 20, 2012.
- 8 Ibid.
- 9 Rand Corporation, “Some Hospital Emergency Department Visits Could Be Handled by Alternative Care Settings” September 7, 2010, <http://www.rand.org/news/press/2010/09/07.html> (Accessed 03/02/12).
- 10 Galewitz, “Hospitals Demand Payment Upfront From ER Patients With Routine Problems,” February 20, 2012.
- 11 Ibid.
- 12 “Recent Data on Health Insurance” Centers for Disease Control and Prevention, 2009, <http://www.cdc.gov/features/dsInsuranceCoverage/> (Accessed 12/9/11); For more information concerning the growing number of uninsured Americans, see Health Capital Topics, Volume 5, Issue 2, Health Disparities: What is Being Done?, available at [http://www.healthcapital.com/hcc/newsletter/2\\_12/Pub\\_Health\\_Disparities.pdf](http://www.healthcapital.com/hcc/newsletter/2_12/Pub_Health_Disparities.pdf)
- 13 Galewitz, “Hospitals Demand Payment Upfront From ER Patients With Routine Problems,” February 20, 2012.



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