As patients with coronavirus-like symptoms and the “worried well” flood emergency departments for testing and treatment, hospitals must ensure compliance with the Emergency Medical Treatment and Labor Act. The Centers for Medicare & Medicaid Services has been clear that absent an emergency waiver, hospitals must satisfy EMTALA requirements during the COVID-19 outbreak. The agency recently issued guidance for hospitals, including critical access hospitals, on COVID-19 testing and EMTALA.

The memorandum provides information on alternate test sites, but also makes clear that individuals who come to the ED, as defined under EMTALA, must receive a medical screening exam and stabilizing treatment for any emergency medical condition. Therefore, hospitals may not divert to alternate test sites patients who come to the ED for COVID-19 testing before performing a medical screening exam. However, hospitals are permitted to establish on- and off-campus test sites, and direct patients to them through signage and community education and outreach before individuals arrive at the ED.

If a hospital sets up an alternate screening site on its campus, a medical screening exam must be provided. Individuals may be redirected to such sites from outside the ED entrance, so long as they are appropriately logged by an individual qualified (such as an R.N.) to recognize individuals with obvious emergency conditions who should be treated in the ED. On-campus sites must provide a medical screening exam by a qualified medical professional appropriate to the individual’s symptoms. CMS warns that using signage that presents barriers to or discourages individuals suspected of having or infected with COVID-19 from coming to the ED would violate EMTALA.

Hospitals also may establish off-campus screening sites. Presumably, no dedicated ED exists at such sites, so EMTALA requirements will not apply. Hospitals may not redirect individuals who have come to the ED to an off-site screening location to obtain a medical screening exam. CMS cautions hospitals not to define the locations as providing urgent or emergency care. Rather, it should be described as a screening center for COVID-19 and flu-like illnesses, and should be staffed accordingly.

CMS expects patients who come to the ED and are diagnosed with COVID-19 will be placed in isolation, regardless of whether the facility has a negative pressure room available. CMS states all hospitals will be expected to screen and stabilize COVID-19 patients within their capabilities prior to transfer. Hospitals with specialized capabilities are expected to accept transfers of patients who require stabilizing treatment. It is important to note that most COVID-19 patients will not require inpatient care and will be sent home for recuperation. Hospitals also are expected to adhere to standards for infection control mandated by the Conditions of Participation.

Useful answers to additional questions about hospitals’ EMTALA obligations in treating patients for COVID-19 can be found in a Question and Answer document attached to the CMS guidance.

MHA produced signage that hospitals considering alternate testing locations, hospital-specific hotlines or working to manage patients who may arrive at the hospital for treatment of COVID-19 can customize for their facilities. For help with the files, contact Brian McGeorge at bmcgeorge@mhanet.com, or call 573-893-3700.