



January 13, 2017

Hospitals and medical providers in Oregon are encountering a high number of patients seeking medical care due to flu symptoms. Hospitals are seeking guidance from the Oregon Health Authority (OHA) related to surge capacity, variances, and EMS requirements. This document was developed to explain regulatory limitations and to outline potentially useful options as they respond to the current situation.

***Medical Surge:***

***“The ability to provide adequate medical evaluation and care during events that exceed the limits of the normal medical infrastructure of an affected community. It encompasses the ability of the health care system to survive an event and maintain or rapidly recover operations that were compromised.”***

**Q. What options does a hospital have to provide care beyond the hospital’s normal capacity during a flu epidemic or inclement weather event?**

**A.** Most hospitals may place beds in hallways to manage short-term needs, particularly during emergencies or surge situations. However, hospitals must have the capacity to maintain infection control standards and meet other Centers for Medicare and Medicaid (CMS) conditions of participation.

Critical access hospitals are not allowed to go over their bed limit. There are creative ways critical access hospitals can manage volume through discharges, use of observation, and holding patients in the ED.

Patients entering emergency departments must be given a medical screening examination even if the facility is at capacity and even if the patient is subsequently transferred. No patient should be simply turned away once they have presented at an Emergency Department.

**Q. Who has the authority to make the decision to divert patients to another hospital when resources are temporarily unavailable?**

**A.** This is determined at the health system level. Hospitals should refer to their diversion policy for the emergency department to divert patients to another hospital.

**Q. Can a hospital apply for an 1135 waiver under this current situation?**

**A.** Not unless there is a federal emergency declaration. An 1135 waiver requires a prior Presidential and Health and Human Services Secretary declaration. As of January 12, 2017 there is no declaration.

The purpose of an 1135 waiver is to ensure sufficient health care items and services are available to meet the needs of Medicare, Medicaid and CHIP beneficiaries. Health care providers who provide such services in good faith can be reimbursed for them and not subjected to sanctions for noncompliance, absent any fraud or abuse.

**Q. If a hospital has prospective payment system (PPS) Exempt Psych or Rehab Units, can those beds be converted to Med Surg beds?**

**A.** If the beds are part of an Inpatient Psych or Rehab PPS Exempt Unit, those beds cannot be used for med surgical patients.

**Q. Can EMS transport individuals to an urgent care clinic rather than to a hospital emergency room when they know resources – beds and people – have been exhausted?**

**A.** Oregon allows EMS to transport patients to urgent care clinics. However, they must follow their Medical Director protocols in doing so.

Please see attached Memo (S&C-09-52) and Fact Sheet for additional guidance. Hospitals may send questions to [ORES8.ExternalOPsHospEMS@dhsosha.state.or.us](mailto:ORES8.ExternalOPsHospEMS@dhsosha.state.or.us).