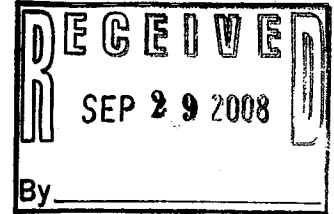


DEPARTMENT OF HEALTH & HUMAN SERVICES
Centers for Medicare & Medicaid Services
7500 Security Boulevard, Mail Stop S2-26-12
Baltimore, Maryland 21244-1850



Center for Medicaid & State Operations

SEP 25 2008



Robert L. Roth
Crowell & Moring LLP
1001 Pennsylvania Avenue, NW
Washington, DC 20004 - 2595

Dear Mr. Roth:

Thank you for your letter which asked whether an ambulance service provider is included in the definition of "provider of emergency services" in section 1932(b)(2)(D) of the Social Security Act (the Act), which imposes new limits on Medicaid managed care organization (MCO) payments for emergency services provided by non-contracting providers. We appreciate this opportunity to clarify our policy on this matter.

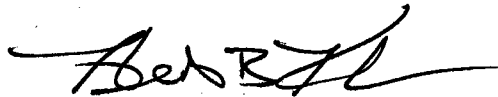
Transportation by ambulance may or may not be considered an emergency service, depending on the provider and the specific circumstances. Ambulance transportation is considered an emergency service when, according to the definition of emergency services in 42 CFR 438.114(a), it is "furnished by a provider that is qualified to furnish these services" and is "needed to evaluate or stabilize an emergency medical condition." For example, a patient who is already stabilized but on life support may need to be transported by an ambulance, but this is not emergency ambulance transportation because the patient is stable. However, if an ambulance provider responds to an accident, determines that an emergency condition exists, and transports the patient to the emergency department, that could be considered an emergency service.

While there is no specific statutory language which specifically includes or excludes emergency ambulance providers as a provider of emergency services under section 1932(b)(2)(D) of the Act, language in the Conference Report on section 6085 of the Deficit Reduction Act of 2005 discusses this provision in the context of "A Medicaid provider that does not have a contract with a Medicaid managed care entity (MCE) that furnishes emergency care to a beneficiary enrolled with that MCO . . ." That language clearly does not limit the type of provider furnishing emergency care to a hospital-based entity. Further, it has always been the Centers for Medicare & Medicaid Services' policy to ensure that Medicaid recipients have appropriate access to medical care. Excluding ambulance service as an emergency service would be inconsistent with that policy.

Therefore, it is our position that the phrase “provider of emergency services” in section 1932(b)(2)(D) of the Act does include providers of emergency ambulance service when the transportation is needed to evaluate or stabilize an emergency condition and the provider is qualified to furnish these services under title XIX of the Act.

If you have any additional questions please contact Jeneen Bell at 410-786-1028.

Sincerely,

A handwritten signature in black ink, appearing to read "Herb B. Kuhn", with a long horizontal flourish extending to the right.

Herb B. Kuhn
Deputy Administrator
Acting Director, Center for Medicaid and State Operations