



Approved April 2020

## *Freestanding Emergency Departments*

Revised April 2020

Originally approved  
June 2014

A freestanding emergency department (FSED) is a licensed facility that is structurally separate and distinct from a hospital and provides emergency care. There are two distinct types of FSEDs: a hospital outpatient department (HOPD), also referred to as an off-site hospital-based or satellite emergency department (ED), and independent freestanding emergency centers (IFECs). The number of FSEDs has increased in an ever-changing regulatory and health care environment.

HOPDs are owned and operated by medical centers or hospital systems. By federal regulations, if the medical center or hospital system accepts Medicare or Medicaid payments for emergency services at a HOPD, the HOPD falls under the same rules and regulations of the Centers for Medicare & Medicaid Services (CMS) as the ED of the medical center or hospital and must comply with all CMS Conditions of Participation (CoPs). State licensing rules and regulations governing facilities that do not seek CMS approval for Medicare/Medicaid reimbursement for the technical component of their services are often inconsistent, unclear or non-existent.

IFECs can be owned by any individual or business entity. Some states have created licensing criteria to govern IFECs that closely follow the intent of the Emergency Medical Treatment & Labor Act (EMTALA) and other rules and regulations. Many states do not currently address licensing rules for IFECs. At this time, CMS does not recognize IFECs as EDs. Therefore, CMS does not allow for Medicare or Medicaid payment for the technical component of services provided by IFECs.<sup>1</sup>

The American College of Emergency Physicians (ACEP) believes that any FSED facility that presents itself as an ED, regardless of whether it is a HOPD or an IFEC, should:

- be available to the public 24 hours a day, seven days a week, and 365 days per year.
- be staffed by appropriately qualified emergency physicians.
- have adequate medical and nursing personnel qualified in emergency care to meet the written emergency procedures and needs anticipated by the facility.

- be staffed at all times by a registered nurse (RN) with a minimum requirement of current certification in advanced cardiac life support and pediatric advanced life support.
- have policy agreements and procedures in place to provide effective and efficient transfer to a higher level of care if needed (ie, cath labs, surgery, ICU).
- receive the same level of reimbursement for both the physician and technical component fee as a traditional hospital-based emergency department.

ACEP believes that all FSEDs must follow the intent of the EMTALA statute and that all individuals arriving at a FSED should be provided an appropriate medical screening examination (MSE) by qualified medical personnel including ancillary services, to determine whether or not an emergency exists.

The FSED should provide stabilizing treatment within the capability of the facility and should have a mechanism in place to arrange an appropriate transfer to the definitive care facility, if appropriate, for the patient to receive necessary stabilizing treatment regardless of the patient's ability to pay or method of payment.

FSEDs should have the same standards as hospital based EDs for quality improvement, medical leadership, medical directors, credentialing, and appropriate policies for referrals to primary and specialty physicians for aftercare. Value-based payments should consider the intrinsic differences between FSEDs and hospital-based EDs.

ACEP encourages all states to have regulations regarding FSEDs that are developed in close relationship with the ACEP chapter in the state. ACEP believes that all FSEDs (both HOPDs and IFECs) that adhere to the standards set forth in this policy should be reimbursed by Medicare, Medicaid, and third-party payers.

## **Reference**

1. CMS S&C Memo 08-08, 2008 [Requirements for Provider-based Off-campus Emergency Departments and Hospitals that Specialize in the Provision of Emergency Services](#). January 11, 2008.