



Greater New York Hospital Association

555 West 57th Street / New York, N.Y. 10019 / (212) 246-7100 / FAX (212) 262-6350
Kenneth E. Raske, President

September
Eight
2005

ML-157

TO: Chief Executive Officers
FROM: Kenneth E. Raske, President
RE: Residency Trainee Issues Related to Hurricane Katrina

I am writing to update you regarding physician resident issues and the relief efforts associated with Hurricane Katrina. Specifically, this memo concerns the following issues:

- Resident work hours issues;
- Necessity for standard agreements for deployed residents;
- Residency program expansion for displaced residents; and
- Medicare rules related to program expansion.

Resident Working Hours Issues

As you know, both the New York State Department of Health (DOH) and the Accreditation Council for Graduate Medical Education (ACGME) mandate a general limit of 80 hours of work per week for physician residents. We have been in contact with representatives from both DOH and the ACGME regarding their positions on working hour limitations for physician residents who remain at the “home institution” while staff are deployed to assist with the relief effort.

Neither organization is providing a general waiver from resident work hours limitations for institutions that send medical teams to the affected regions. Both DOH and the ACGME expect that hospitals will use their judgment and only deploy as much medical staff as can be spared while ensuring that remaining physician residents are not overworked and patient safety is not compromised. Both organizations recognize that this extraordinary event has the potential to create isolated incidents whereby physician residents in specific instances may not be in technical compliance with every aspect of the requirements.

For your information, DOH has communicated to its contracted surveyor, IPRO, to expect situations of resident cross-coverage at teaching hospitals that send teams of medical staff to the site. DOH has indicated that they will take those situations into account when reviewing the results of resident working hours surveys. If your hospital is sending teams to the affected regions, that fact and plans for maintaining appropriate coverage should be documented and communicated to the IPRO staff when they survey your hospital.

Agreements to Support Resident Assignments to the Affected Regions

Consistent with ACGME regulations, neither an affiliation agreement outlining the terms of the assignment nor special permission is necessary for an assignment that is of one month or less in duration. The ACGME has noted to us that it is their expectation that physician residents working in the affected regions will be under the supervision of a faculty member or members of the physician residents' existing program. Specific issues or concerns regarding particular programs should be communicated to the individual residency review committee (RRC).

In addition, the Medicare requirement that a teaching hospital enter into a written agreement with a non-hospital setting in order to claim a resident's time for Medicare GME reimbursement has been somewhat relaxed by the Centers for Medicare & Medicaid Services (CMS). To review, the general rule is that the hospital must enter into a written agreement with the nonhospital entity and incur the actual direct costs or show evidence of incurring all or substantially all of the direct costs within three months of the assignment in order for the hospital to claim Medicare direct GME and indirect medical education (IME) payments for the time the resident spends in a nonhospital setting.

If a hospital continues to pay the salary and fringe benefits for a physician resident who is assigned to the affected regions, the agency's expectation is that the hospital would also continue to incur any of the expected supervising physician costs in order to claim the resident's time for Medicare GME payment purposes. However, the agency does not expect in the short term for hospitals to develop written agreements that specify compensation arrangements being entered into between the hospital and the nonhospital entity that meet the usual standards for Medicare GME reimbursement. Should the teaching hospital still be assigning residents to the affected region for an extended period of time (for example, more than one month), the agency's expectation is that the usual Medicare rules will be followed.

Taking on Additional Physician Residents from the Affected Regions

The ACGME has received numerous offers from teaching hospitals and residency programs around the country to take displaced physician residents and today posted an update on their Web site at www.acgme.org in order to assist with accreditation requirement issues. In particular, please note that any transfer of a physician resident from a program in an affected region must be approved by the program director and designated institutional official for the affected program.

Should your institution be interested in taking displaced physician residents and have the capacity to train them, the individual residency program director should send a short email to the executive director of the respective RRC with the following information:

- ACGME Program ID Number
- Number of Approved Positions in the Program
- Number of Residents Currently Training in the Program
- Number of Additional Residents the Program Would be Willing to Accept

Because the ACGME is being inundated with emails, we believe it would be of great assistance if any email to the ACGME or an RRC regarding this specific issue stated “Program Availability for Displaced Residents” in the subject line.

Temporary Medicare GME Cap Increase for Displaced Residents

The Medicare regulations generally permit a teaching hospital to receive a temporary increase to its resident full-time equivalent (FTE) cap to accommodate physician residents displaced due to a closed hospital or closed program. That is, the regulations generally permit a teaching hospital to receive additional direct GME and IME payments if the hospital is at or above its hospital-specific cap to accommodate specific trainees displaced as a result of a hospital or program closure. From the perspective of CMS, this general policy appropriately allows for the completion of training for displaced residents but does not circumvent hospital-specific resident FTE caps on a permanent basis.

In the context of this disaster, CMS has stated that any hospital that temporarily trains residents due to the disaster is eligible for a resident cap increase while the physician resident trains at the “receiving hospital.” Any teaching hospital that accepts a displaced resident must document this activity and should also notify its fiscal intermediary that it has accepted a displaced resident. Please note that when and if a hospital in the affected regions reopens, this special policy would no longer apply to a physician resident who had been training at that hospital and the temporary increase for the receiving hospitals would then no longer be in effect. At that time, the hospital in the affected regions would revert back to its existing resident FTE cap and the receiving hospitals would be subject to otherwise applicable regulations.

We will keep you updated as more information becomes available. Should you have any questions in the meantime, please contact Tim Johnson at GNYHA.

cc: Chief GME Officers
Administrative Directors, House Staff Affairs
Chief Financial Officers
Reimbursement and Finance Committee
Emergency Preparedness Coordinating Council