

# 7<sup>th</sup> Circuit

CASE	Y	RLT	?	?	FACTS	HOLDING	REASONING
<i>Kaufman v. Cserny</i> , 856 F.Supp. 1307 S.D.Ill.	9 4	**	**	**	**	**	**
<i>Harris v. Health &amp; Hosp. Corp.</i> ,	1 9 9 4	? prevails	Personal representative of estate of female decedent	Hospital	Pt discharged from ER following admission for chest pain; returned within 2 hours in cardiac arrest; died soon after	EMTALA violation not established by differential diagnosis including potentially fatal conditions.	Physician did not know pt had emc, he concluded she was stable, subjective standard what physician believed pt's medical status to be
<i>Vakharia v. Swedish Covenant Hosp.</i> , 1993 WL 359952 N.D.Ill.	1 9 9 3	? prevails on EMTA LA claim.	Female anesthesiologist. Mid-forties, born in Bombay, India.	Hospital, American Society of Anesthesiologists, 39 physicians, members of hospital's board of directors.	?’s staff privileges terminated after ?s gave her negative performance evaluations. ? alleges discrimination.	Physician ? not within range of persons protected by EMTALA	? did not allege that she reported “patient dumping” and failed to show how her presence on staff reduced pt. dumping or how her termination increased it.
<i>Woesner v. Freeport Memorial Hosp.</i> , 1993 WL 6983 N.D.Ill.	1 9 9 3	? prevails on EMTA LA claim.	Male pt and spouse.	Hospital.	Pt presented to ER with fever and pain; examined and admitted, transferred, suffered complications requiring surgery and amputation of leg	EMTALA applies to all individuals regardless of financial status; ? may establish EMTALA violation by alleging differential treatment or failure to adhere to hospital's standard procedure but has not done so here so has failed to state a cause of action.	EMTALA language clearly applies to all individuals; EMTALA does not incorporate state malpractice and negligence law but only entitles individuals to standard screening procedures accorded to all pts.
<i>Bangert v. Christian Health Services</i> , 1992 WL 464708, S.D.Ill.	1 9 9 2	?s prevail.	Pregnant female ?/pt.	Utilization review company (as well as other ?s who are not at issue here).	? suffered eclampsia during L&D. Discharged. Condition worsened. Returned to hospital and readmitted. Now blind, paralyzed and brain damaged as result of injuries.	Nothing in the language of EMTALA permits a private individual to recover damages from a utilization review company for a violation of the statute.	EMTALA's legislative history and plain language makes it clear that Congress intentionally limited pts. to suits against hospitals.

<i>Lancaster v. Loyola University Medical Center</i> , 1992 WL 318618 N.D.Ill.	1 9 9 2	? prevails.	Administrator of the estate of female decedent motioning to strike ?’s affirmative defense.	Hospital and physicians seeking a protective order.	None specified.	?’s affirmative defense that there is no private action against an individual physician under EMTALA is sufficient and will not be stricken.	Previous circuit cases that allow private action against physician are not binding precedent; motions to strike are generally disfavored; affirmative defenses stricken only if insufficient on fact of pleadings; issue is question of law not yet resolved in any binding decisions.
<i>Johnson v. University of Chicago Hospitals</i> , 982 F.2d 230 7th	1 9 9	? prevails on	Administrator of the estate of female	Hospital, physician, nurse.	Pt stopped breathing, paramedics treated, informed nurse at hospital that infant in	?’s complaint states facts to support claim under EMTALA. An individual can	EMTALA duty arises once individual under direction of hospital's ER and the hospital has been apprised of the individual's medical

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Cir.(Ill.)	2	EMTALA claim.	minor decedent (1 mo old at time of events).		cardiac arrest, hospital had declared "partial bypass" due to lack of peds ICU beds outside ER, nurse under physician's authority directed transport to another hospital which did not have peds ICU, treated there, transferred again and died.	seek medical assistance from a hospital through telemetry communications and paramedic services without coming to the hospital's ER. Need not allege pt denied medical services because of inability to pay.	condition. EMTALA does not set forth economic status criteria that limits types of individuals covered by it.
<i>HCA Health Services of Indiana, Inc. v. Gregory,</i>	1999	? prevails.	Mother of female infant decedent.	Hospital.	?’s daughter discharged from hospital and later died.	Medical Malpractice Act is preempted by 2 year SOL of EMTALA such that claim is time-barred.	EMTALA does not toll the SOL while awaiting a state procedural prerequisite such as an opinion from a medical review panel which the Med Mal Act requires.
<i>Woessner v. Freeport Memorial Hosp.,</i> 1992 WL 88302 N.D.Ill.	1992	? prevails.	Male pt. and spouse.	Hospital.	Pt presented to ER with fever and pain; examined and admitted, transferred, suffered complications requiring surgery and amputation of leg.	EMTALA is applicable to any individual seeking ER care but does not create federal cause of action for state-based medical or negligence claims. ?’s complaints stricken.	By pleading ? determined ? had emc, ?must have received appropriate screening; pt transferred according to his complaint, not discharged, delay in transfer not actionable under EMTALA; transfer appropriate because ? requested it, physician certified it was necessary, and received hospital accepted transfer and could provide appropriate treatment.

<i>Deberry v. Sherman Hosp. Ass’n, 775 F.Supp.</i> 1159 N.D.Ill.	1991	? prevails.	Mother of indigent, 8 month old female pt.	Hospital.	? took daughter to ER. Pt. examined and treated. Physician ruled out spinal meningitis, treated and discharged. Pt. admitted 2 days later with spinal meningitis diagnosis.	EMTALA does not provide a private cause of action to terminate a hospital's Medicare provider agreement.	EMTALA language indicates that sanction of terminating violating hospital's provider agreement is to be imposed at initiative of Sec. of HHS.
<i>Deberry v. Sherman Hosp. Ass’n, 769 F.Supp.</i> 1030 N.D.Ill.	1991	? prevails.	Mother of indigent, 8 month old female pt.	Hospital.	See above.	1988 EMTALA version did not provide for civil penalties for negligent violation; hosp not liable absent indication of knowing failure to conduct appropriate medical exam or that examining physician knew that pt. suffered from emc.	Legislative history implies that 1991 negligence standard differs from previous standard. Motive is not important. Hospital must conform in its treatment of particular pt. to its standard screening procedures.
<i>Loss v. Jae H. Song, M.D.,</i> 1990 WL 159612 N.D.Ill.	1990	? prevails.	Female pt who presented to hospital in active labor, individually and as	Hospital and physicians.	? mother admitted in active labor, delivered infant who suffered from cardiac disease, treated and discharged the	If a mother in active labor is admitted to hospital and then gives birth to child with emc, emergency care extends	Field of medicine considers that hospital admitted to ER a pregnant woman in labor is also admitting as a separate person the yet to be born child.

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			special administrator of the estate of infant male decedent son, and father of decedent.		next day. Infant died.	forward and adopts newborn child until it too is stabilized.	
<i>Deberry v. Sherman Hosp. Ass'n</i> , 741 F.Supp. 1302, N.D.Ill.	1990	? prev ails.	Mother of indigent, 8 month old female pt.	Hospital.	? took daughter to ER. Pt. examined and treated. Physician ruled out spinal meningitis, treated and discharged. Pt. admitted 2 days later with spinal meningitis.	Mother's allegations sufficient to state a cause of action under EMTALA.	Pt brought to ER and emergency medical care requested on her behalf, pt had emc, pt discharged without being stabilized. Factual inquiry whether pt stabilized. Plain language of EMTALA extends it to all pts whether or not indigent. EMTALA does not only apply to outright refusals to treat.
<i>Sorrells v. Babcock</i> , 733 F.Supp. 1189, N.D.Ill.	1990	? prev ails.	Female pt.	Hospital and physicians.	Pt admitted to ER with emc, diagnosed and discharged while still exhibiting symptoms, suffered complications.	EMTALA violation can be pursued in federal forum, EMTALA applies to physicians as well as hospitals, possibility that ? cannot recover civil penalties against physician under EMTALA does not affect standing to bring EMTALA claim, district court can exercise ancillary jurisdiction over state law claims.	Other courts and legislative history show EMTALA provides for enforcement in federal forum. Court accepts all allegations as true for purposes of motion to dismiss; ?'s defenses go to truth of allegations; EMTALA's legislative history and language allow for penalties and sanctions against physician for knowingly violating provisions. Legislative history and language also support individual suits.
<i>Evitt v. University Heights Hosp.</i> , 727 F.Supp. 495, S.D.Ind.	1989	? prev ails.	Female ER pt.	Hospital.	? presented to ER with chest pains. Examined and released with instructions to return if condition worsened. Considered "nonurgent." Pt. returned with increased pain and admitted in critical condition. Transferred for further treatment.	Pt. failed to establish that she was turned away from hospital for economic reasons.	? 's complaint that original diagnosis incorrect states mere med mal claim which should be resolved in state court. EMTALA addresses pt. dumping which refers to transferring or turning pts. away because they are unable to pay.
<i>Thompson v. St. Anne's Hosp.</i> , 716 F.Supp. 8, N.D.Ill.	1989	? prev ails.	Indigent pt. who delivered premature infant.	Private transferring hospital and county transferee hospital.	? presented to ER with labor pains and vaginal bleeding. Transferred, delivered baby unattended in unsterilized surroundings, premature infant survived for 5 hrs.	Pt. stated cause of action for alleged denial of stabilizing treatment against transferee hospital and physicians under EMTALA.	Both statutory language and legislative history support cause of action under alleged facts. EMTALA aimed at preventing hospitals not only from transferring indigent pts but also from simply rejecting them by denying stabilizing treatment to pts having an emc or in labor.