CORPORATE POLICY ON HOSPITAL RESTOCKING OF EMS DRUGS AND SUPPLIES

CORPORATE ETHICS & COMPLIANCE DEPARTMENT

SCOPE:

All AMR colleagues. For purposes of this policy, all references to “colleague” or “colleagues” include temporary, part-time and full-time associates, independent contractors, clinicians, officers and directors.

PURPOSE:

When AMR may wish or be required to enter into arrangements in which a hospital will restock AMR ambulances with drugs or supplies (including linens). Because AMR is generally in a position to deliver patients to these hospitals, and these hospitals may be in a position to refer or influence the referral of patients to AMR, such arrangements must be structured to assure compliance with state and federal anti-kickback statutes. Such arrangements shall comply with this Policy, except to the extent that any lawful exception may be approved by the Legal Department.

All hospital restocking contracts must comply with the policy requirements set forth in the AMR Corporate Policy on Contract Administration, Policy No. 20100.

The Office of Inspector General of the Department of Health and Human Services (“OIG”) has promulgated a regulation that sets forth a safe harbor for restocking arrangements to comply with the federal anti-kickback statute, effective January 3, 2002. This Policy was revised to comply with the regulatory safe harbor.

POLICY:

THREE CATEGORIES OF RESTOCKING ARRANGEMENTS

The following types of restocking arrangements with hospitals are covered by the safe harbor:
General drug and medical supply replenishing program operated by a hospital and administered equally to all ambulance providers or to specified categories of ambulance providers. This category includes hospital programs that replenish ambulances for free or for reduced rates. To fall within this category, the following conditions must be met:

The hospital must restock drugs and supplies on an equal basis for all ambulance providers within a common group wanting to participate in a restocking arrangement. The hospital can have different arrangements with the different groups and can offer restocking to more than one group, but within a group the conditions of restocking must be the same. The common groups are:

All participating ambulance providers (this is the only group specified in the safe harbor that would include AMR);

All participating non-profit and governmental ambulance providers;

All participating non-charging ambulance providers such as volunteers and municipal providers.

The restocking must be public, meaning that:

The arrangement is outlined in writing and conspicuously posted in the hospital (the regulations include a sample disclosure form); or

The arrangement follows a plan or protocol of general application created by a local or regional EMS council or comparable body.

Fair market value medical supply replenishing program administered by a hospital: To fall within this category, a written agreement, executed by both parties, must specify the fair market value cost of the medical supplies, based on arms-length negotiations, and must specify a commercially reasonable payment arrangement. This category does not cover drug restocking but the inclusion of drug restocking does not necessarily make the program improper.
Government mandated replenishing program: To fall within this category, a hospital must be required to restock drugs and medical supplies used by ambulance providers in accordance with a state or local statute, regulation, ordinance, or binding protocol.

**REQUIREMENTS APPLICABLE TO ALL THREE CATEGORIES OF RESTOCKING ARRANGEMENTS**

All three types of restocking programs must also comply with the following additional requirements:

Only ambulances that respond to emergencies an average of at least 3 times per week, measured over any reasonable time frame such as a month or year, may be restocked. Such ambulances may be restocked with respect to both emergency and non-emergency transports.

The hospital and AMR must comply with all Federal health care program payment and coverage rules. For example there must be no double billing of the items restocked; meaning that the hospital and AMR may not both bill for the items restocked. Generally, only AMR may bill for supplies provided to a patient transported by it. If one entity improperly bills the government, only that entity will lose safe harbor protection.

One of the entities, either the hospital or AMR, must document all drugs and supplies that were used and restocked. Neither entity has to record the replacement of linens, since this is presumed. The documenting entity must give copies of the records to the other entity within a reasonable time and all must keep the documents for at least five years. A trip sheet, patient care report, or patient encounter report are examples of sufficient documentation.

The restocking arrangement cannot be conditioned on or take into account the volume or value of referrals or other business generated between the hospital and AMR.

The hospital and AMR must comply with all Federal, State and local laws regarding ambulance service.

AMR shall maintain a written copy or other writing memorializing any restocking arrangement in which AMR participates.
RESTOCKING PROGRAMS THAT FALL OUTSIDE THE SAFE HARBOR

Failure to comply with the safe harbor requirements as set forth in this Policy does not necessarily make a restocking program unlawful. However, all restocking programs which do not comply with this Policy must be reviewed by the Legal Department to assure that it does not violate the Anti-Kickback Statute.