

UNITED STATES DISTRICT COURT
DISTRICT OF MAINE

CINDY REYNOLDS, et al.,)
)
 Plaintiff)
)
v.) Civil No. 99-0185-B
)
MAINEGENERAL HEALTH,)
)
 Defendant)

MEMORANDUM OF DECISION¹

Plaintiff Cindy Reynolds brings this action in her own name as the surviving spouse, and as the personal representative of the estate, of William D. Reynolds. The other named Plaintiff is William Reynolds’s daughter, Kelliann Rae Reynolds, a minor.

William Reynolds was transported to the Kennebec Valley Medical Center, now know as the MaineGeneral Medical Center, [“THE HOSPITAL”], on September 8, 1996, for treatment of injuries resulting from an automobile accident. He died of a massive pulmonary embolism five days after his discharge from the hospital, on September 19, 1996. Plaintiffs’ Complaint asserts two violations of the Emergency Medical Treatment and Active Labor Act [“EMTALA”], 42 U.S.C. section 1395dd. Specifically, Plaintiffs claim the hospital failed to administer an “appropriate medical

¹ Pursuant to Federal Rule of Civil Procedure 73(b), the parties have consented to allow the United States Magistrate Judge to conduct any and all proceedings in this matter.

screening examination,” and that it thereafter discharged Mr. Reynolds without stabilizing his medical condition. 42 U.S.C. §§ 1395dd(a),(b)(1).

Defendant moves for judgment as a matter of law on Plaintiffs’ Complaint. Summary judgment is appropriate only if “the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any show that there is no genuine issue as to any material fact and that the moving party is entitled to a judgment as a matter of law.” Fed. R. Civ. P. 56(c). This Motion raises primarily legal questions. To the extent the Court’s analysis requires reference to the facts, they are presented in the light most favorable to the Plaintiffs. *Levy v. FDIC*, 7 F.3d 1054, 1056 (1st Cir. 1993).

Defendant’s first argument is that Plaintiffs are unable to meet their burden to prove either that Defendant did not have a reasonable screening procedure in place or that it did not apply that procedure to Mr. Reynolds. These are, indeed, the only two ways in which a hospital can be found to violate the screening provision of EMTALA. *Correa v. Hospital San Francisco*, 69 F.3d 1184, 1192 (1st Cir. 1995).

Plaintiffs do not complain about the screening procedure used in Mr. Reynolds’ case solely as it applied to his traumatic injuries. They assert, however, that Mr. Reynolds, later during his time in the emergency room, disclosed to hospital staff that he had a family history rendering him more susceptible to a condition known as deep

vein thrombosis [“DVT”]. DVT is a potentially serious condition often associated with leg fractures such as was suffered by Mr. Reynolds. Plaintiffs’ argument is that the disclosure of this family history triggered the need for a second screening geared specifically to the potential for DVT, and that no such screening was provided. If, indeed, a separate screening was required by this factual scenario, Plaintiffs could satisfy their burden of showing that Mr. Reynolds was “given a screening that was different from that afforded as a matter of course to patients presenting the same symptoms.” *Feighery v. York Hospital*, ___ F. Supp. 2d ___, 1999 WL 553359, *5 (D. Me. 1999).

In this case, Plaintiffs essentially argue that Mr. Reynolds’ family history, coupled with his leg trauma, should be characterized as a separate “emergency medical condition,” triggering anew the hospital’s duty to perform a screening examination. This argument is unavailing. Under the plain language of the statute, an “emergency medical condition” is one which is “manifesting itself by *acute symptoms* of sufficient severity (including severe pain) such that the absence of immediate medical attention could reasonably be expected to result in” serious consequences to the patient. 42 U.S.C. § 1395dd(e)(1)(a). Plaintiffs do not assert Mr. Reynolds was experiencing symptoms of any kind other than those caused by the fractures. They do not even seriously argue that “screening” at the time of Mr.

Reynolds' complaints would have revealed the presence of DVT, which does not generally manifest itself until some time after the precipitating trauma. Rather, they assert that "the combination of [family history] and Mr. Reynolds' trauma required that he be prophylaxed with anticoagulant drugs to prevent the formation of clots and to reverse the formation of clots that had already formed." Pltf. Memo. at 11. They further suggest that diagnostic testing should have been done if, for some reason not apparent in Mr. Reynolds' record, they had determined anticoagulant drugs were inappropriate. *Id.*

Plaintiffs analogize the situation in this case to a person who steps on a piece of rusty metal, and appears in the emergency room with a cut to the foot and an outdated tetanus booster. Plaintiffs note that the person would not be asked to return only after exhibiting symptoms of tetanus, but would instead receive the preventative measure immediately. Plaintiffs cite in support of their position a comment by the First Circuit Court of Appeals to the effect that the plaintiff's status as a hypertensive diabetic might well combine with otherwise benign symptoms to create a medical emergency within the meaning of EMTALA. *Correa*, 69 F.3d at 1192.

The difficulty with this argument is that the question here is not whether Mr. Reynolds' family history created a medical emergency out of an otherwise benign set of symptoms, as was the case in *Correa*. Mr. Reynolds clearly had a medical

emergency, fractures to his leg and toes, arising from the automobile accident. As with Plaintiffs' hypothetical rusty metal, the historical information was relevant not to the need for screening, which already existed, but rather to the treatment appropriate in that particular case. However, "EMTALA does not create a cause of action for medical malpractice." *Correa*, 69 F.3d at 1192. Plaintiffs' claim that Mr. Reynolds' injuries should have been treated in a manner consistent with his risk for DVT is simply not cognizable under the statute. Accordingly, Defendant is entitled to judgment as a matter of law on Plaintiffs' claim of inadequate screening under subsection (a) of EMTALA.

Defendant next argues that it is entitled to judgment on Plaintiffs' claim under subsection (b) for failure to stabilize because Mr. Reynolds' condition was in fact stabilized prior to his release from the hospital. Plaintiffs' response, that Mr. Reynolds was not stabilized *as to DVT*, which the hospital had not detected, does not rescue their claim. EMTALA "does not hold hospitals accountable for failing to stabilize conditions of which they are not aware, or even conditions of which they should have been aware." *Vickers v. Nash General Hospital*, 78 F.3d 139, 145 (4th Cir. 1996) (citation omitted). The plain language of the statute reveals as much:

- (b) Necessary stabilizing treatment for emergency medical conditions and labor
 - (1) In general

If any individual . . . comes to a hospital *and the hospital determines that the individual has an emergency medical condition*, the hospital must provide either –

(A) within the staff and facilities available at the hospital, for such further medical examination and such treatment as may be required to stabilize the medical condition, or

(B) for transfer of the individual to another medical facility in accordance with subsection (c) of this section.

...

42 U.S.C. § 1395dd (emphasis added). There is no dispute in this case that the hospital did not know, for whatever reason, that Mr. Reynolds' was suffering from DVT. This failure to know, in fact, is the essence of Plaintiffs' claim. It does not, however, form the basis of a cause of action under EMTALA.

Conclusion

For the foregoing reasons, Defendant's Motion for Summary Judgment is hereby GRANTED.

SO ORDERED.

Eugene W. Beaulieu
U.S. Magistrate Judge

Dated on: September 8, 1999