



THE SECRETARY OF HEALTH AND HUMAN SERVICES

WASHINGTON, D.C. 20201

May 1, 2023

Dear Hospital and Provider Associations:

Today, the U.S. Department of Health and Human Services (HHS), through the Centers for Medicare & Medicaid Services (CMS), took action to protect individuals' access to emergency healthcare—including any necessary stabilizing treatment, which may include abortion care, or appropriate transfer for an emergency medical condition.

As healthcare providers on the front lines, the care you provide is critical for patients experiencing emergency medical conditions. Recent news reports have highlighted the troubling experiences of many pregnant women presenting to hospital emergency departments with emergency medical conditions and not being offered necessary stabilizing treatment or being turned away, which may be due to uncertainty regarding whether facility administrators may allow providers to follow their reasonable medical judgment in caring for pregnancy-related emergencies as a result of the legal status of abortion care and related obstetric services in their states.

Today, CMS announced two investigations of hospitals that did not offer necessary stabilizing treatment to an individual experiencing an emergency medical condition. At nearly 18 weeks of pregnancy, the patient experienced a preterm premature rupture of membranes (PPROM), and as a result was advised that her pregnancy was no longer viable. Although her doctors advised her that her condition could rapidly deteriorate, they also advised that they could not provide her with the care that would prevent infection, hemorrhage, and potentially death because, they said, the hospital policies prohibited treatment that could be considered an abortion. This was a violation of the EMTALA protections that were designed to protect patients like her.

As the Secretary of HHS, I am committed to working with you to ensure that everyone who presents to a covered emergency department experiencing an emergency medical condition is offered the care they need. As you know, it is a healthcare provider's professional and legal duty to offer necessary stabilizing medical treatment to a patient who presents to the emergency department and is found to have an emergency medical condition (or, if appropriate, to transfer them). While many state laws have recently changed, it's important to know that the federal EMTALA requirements have not changed, and continue to require that healthcare professionals offer treatment, including abortion care, that the provider reasonably determines is necessary to stabilize the patient's emergency medical condition.

I hope this information offers clarity on the protections afforded by EMTALA to patients. I deeply appreciate the care that frontline clinicians provide to patients every day across the country. We stand ready to continue to help make sure you have the clarity you need regarding the federal laws that affect your clinical decisions in emergency medical situations.

Sincerely,

A handwritten signature in blue ink, appearing to read "Xavier Becerra".

Xavier Becerra