CMS Rescinds Biden Administration Guidance on Emergency Reproductive Care



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On May 29, 2025, the Centers for Medicare and Medicaid Services (CMS) issued revised guidance rescinding its July 11, 2022 guidance (Ref. QSO-22-22-Hospitals) clarifying how the Emergency Medical Treatment and Labor Act of 1965 (EMTALA) should be interpreted in the wake of state policy and legislative responses to the landmark Supreme Court decision, Dobbs v. Jackson Women's Health Organization (2022), which overturned the Supreme Court ruling in Roe v. Wade (1973). Under EMTALA, individuals seeking medical care at a Medicare-funded hospital must be screened by qualified medical personnel to determine the presence of a medical condition. If an emergency medical condition is identified, the patient must be provided with stabilizing treatment before the patient is discharged or transferred to another facility. EMTALA applies regardless of the individual's ability to pay.

Pursuant to the July 11, 2022 guidance, which was issued during the Biden Administration following the Dobbs decision, if a hospital emergency department physician believes that an abortion is the stabilizing treatment that is necessary to resolve a patient's emergency medical condition, the physician is legally required to provide that treatment, regardless of state law. In rescinding the July 11, 2022 guidance, CMS affirmed that it "will continue to enforce EMTALA, which protects all individuals who present to a hospital emergency department seeking examination or treatment, including for identified emergency medical conditions that place the health of a pregnant woman or her unborn child in serious jeopardy."

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