

# KNOW YOUR RIGHTS

## EMERGENCY MEDICAL TREATMENT AND LABOR ACT (EMTALA)



### **EMTALA GUARANTEES ACCESS TO EMERGENCY MEDICAL SERVICES FOR INDIVIDUALS WHO PRESENT TO A HOSPITAL EMERGENCY DEPARTMENT REGARDLESS OF AN INDIVIDUAL'S ABILITY TO PAY**

It also provides for appropriate transfers if the presenting facility is unable to provide the care or services necessary to stabilize a medical condition.



### **ALL INDIVIDUALS MUST BE SCREENED**

All individuals who present to a hospital emergency department must be screened by Qualified Medical Personnel to determine the presence or absence of an emergency medical condition. EMTALA applies until either

(1) the medical screening exam does not identify an emergency medical condition or (2) the patient is provided with stabilizing treatment and/or an appropriate transfer.



### **STABILIZING TREATMENT MUST BE PROVIDED**

Hospitals must make sure the patient is provided with stabilizing treatment (within the capabilities of the hospital's staff and facilities) before they can initiate a transfer to another hospital or medical facility or before they can discharge the patient.



### **NO DELAY IN EXAMINATION AND TREATMENT**

Hospitals may not delay providing an appropriate medical screening examination or stabilizing medical treatment for any reason, including to ask about an individual's method of payment or health insurance status.



### **FOUR REQUIREMENTS FOR APPROPRIATE TRANSFER**

A patient with an emergency medical condition may only be transferred after screening and the provision of stabilizing treatment. Four requirements must be met:

- The transferring hospital minimizes the medical risks (and in the case of a woman in labor, the medical risks of the fetus as well).
- The receiving medical facility has available space and qualified personnel for the treatment and agrees to accept the transfer.
- The transferring hospital sends all medical records related to the emergency condition that are available at the time of the transfer and any other records not yet available as soon as practicable.
- The patient is transferred using appropriate personnel and transportation, including the use of necessary and medically appropriate life support measures during the transfer.

**Anyone can file an EMTALA complaint with the [State Survey Agency](#). The State Survey Agency will investigate the issue and, when appropriate, verify corrective action is taken to ensure the hospital is in compliance with EMTALA. Visit the Quality, Safety and Education Portal (QSEP) to view an [EMTALA overview video](#) at [qsep.cms.gov](https://www.cms.gov/qsep)**

#### **Please Note:**

The Emergency Medical Treatment and Labor Act (EMTALA) provides that any individual who presents to a covered hospital's emergency department and requests examination or treatment will be provided an appropriate medical screening examination to determine if an emergency medical condition exists. If an emergency medical condition is found to exist, the hospital must offer either stabilizing treatment or an appropriate transfer to another hospital that has the capabilities to provide stabilizing treatment. Emergency medical conditions can include reproductive health-related conditions. In circumstances in which the appropriate stabilizing treatment is care that could fall under a definition of abortion, the hospital is required to offer that stabilizing treatment irrespective of any directly conflicting state laws. For additional information, see CMS' guidance: <https://www.cms.gov/files/document/qso-22-22-hospitals.pdf>

Please note, pursuant to the preliminary injunction in Texas v. Becerra, No. 5:22-CV-185-H (N.D. Tex.), HHS may not enforce the following interpretations contained in the July 11, 2022 CMS guidance (and the corresponding letter sent the same day by HHS Secretary Becerra): (1) HHS may not enforce the Guidance and Letter's interpretation that Texas abortion laws are preempted by EMTALA; and (2) HHS may not enforce the Guidance and Letter's interpretation of EMTALA — both as to when an abortion is required and EMTALA's effect on state laws governing abortion — within the State of Texas or against the members of the American Association of Pro Life Obstetricians and Gynecologists (AAPLOG) and the Christian Medical and Dental Association (CMDA).

