

23–24, 2003, the Committee decided that the science has changed since the 2000 edition of Nutrition and Your Health: Dietary Guidelines for Americans and further evaluation of the science was necessary. The Committee has finalized its recommendations and submitted its Report to the Secretaries of the Departments of Health and Human Services and Agriculture. This Report will serve as the basis for the sixth edition of Nutrition and Your Health: Dietary Guidelines for Americans, which HHS and USDA expect to publish in January, 2005.

The final report of the Dietary Guidelines Advisory Committee is available electronically at <http://www.health.gov/dietaryguidelines> or in hard copy for viewing (refer to the ADDRESSES section, above).

## II. Written Comment

By this notice, HHS and USDA are soliciting submission of written comments on the Committee's final Report, as well as views, information and data pertinent to preparation of Nutrition and Your Health: Dietary Guidelines for Americans. Comments must be received by 5 p.m. e.d.t. on September 27, 2004 to assure consideration. Comments may be submitted at <http://www.health.gov/dietaryguidelines> or mailed to Kathryn McMurry, HHS Office of Disease Prevention and Health Promotion, Office of Public Health and Science, 1101 Wootton Parkway, Suite LL100, Rockville, MD 20852, (phone 240-453-8280). For those submitting written comments more than 5 pages in length, please provide a 1-page summary of key points related to the comments submitted. E-mailed comments will not be accepted.

## III. Announcement of Meeting

A public meeting to solicit oral comments on the Report will take place on September 21, 2004, starting at 9 a.m. e.d.t. The meeting will be held at the Hubert H. Humphrey Building, 200 Independence Avenue, SW., Small Auditorium, Washington, DC, 20201. The building is located 2 blocks from the Federal Center, SW. stop on the blue and orange metro lines. The agenda will include oral testimony from registered individuals or groups.

*Public Participation at Meeting:* The meeting is open to the public. Space is limited. Due to the need for security screening, registration is required for all attendees. To register, please e-mail [dietaryguidelines@osophs.dhhs.gov](mailto:dietaryguidelines@osophs.dhhs.gov), with "Meeting Registration" in the subject line or call Sandra Saunders at (240) 453-8272 by 5 p.m. e.d.t., Friday,

September 14, 2004. Registration must include your name, affiliation, and phone number. Visitors must bring proper identification to attend the meeting. If you require a sign language interpreter, please call Sandra Saunders at (240) 453-8272 by September 14, 2004.

*Oral Testimony:* By this notice, the Departments are inviting submission of applications for oral testimony at the public meeting. Due to time limitations, registration is required and will be limited to one presenter per organization. Registration to present oral testimony will be confirmed on a first-come, first-served basis, as time on the meeting agenda permits. Name of the presenter, organization affiliation (if applicable), source of funding, and contact phone number are required for registration. Requests to testify must include a written outline of the intended testimony not exceeding one page in length. Requests can be submitted electronically with "Oral Testimony Registration" in the subject line, to [dietaryguidelines@osophs.dhhs.gov](mailto:dietaryguidelines@osophs.dhhs.gov). All requests to present oral testimony must be received by 5 p.m. e.d.t., September 14, 2004. Presenters are required to disclose their affiliation and their source of funding to give oral testimony at the meeting and must limit their comments to three minutes. Please call Sandra Saunders at (240) 453-8272 if you have questions regarding registration.

Dated: August 23, 2004.

### Penelope S. Royall,

*Deputy Assistant Secretary for Health, (Disease Prevention and Health Promotion), Department of Health and Human Services.*

Dated: August 23, 2004.

### Eric J. Hentges,

*Executive Director, Center for Nutrition Policy and Promotion, Department of Agriculture.*

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## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Draft Pandemic Influenza Preparedness and Response Plan

**AGENCY:** Department of Health and Human Services, Office of the Secretary.

**ACTION:** Notice.

**SUMMARY:** The National Vaccine Program Office (NVPO), Department of Health and Human Services, has drafted a plan to guide national preparedness and response to an influenza pandemic. The draft Pandemic Influenza Preparedness and Response Plan articulates a coordinated strategy to

prepare and respond to an influenza pandemic and provides guidance to national, state, and local policy makers and health departments for public health preparation and response in the event of pandemic influenza outbreak. The draft plan includes a core section and twelve annexes. The core plan describes coordination and decision-making activities at the National level; provides an overview of key issues; and outlines action steps that should be taken at National, state, and local levels before and during a pandemic. Annexes provide additional information for health departments and private sector organizations, which can be used in developing local preparedness plans as well as additional technical information to support the core document.

**DATES:** Comments will be considered if we receive them at the appropriate address, as provided below, no later than 5 p.m. on October 26, 2004.

**ADDRESSES:** Attn: Pandemic Plan, National Vaccine Program Office, Hubert H. Humphrey Building, Room 725H, 200 Independence Avenue, SW., Washington, DC 20201 or by email at [pandemicinfluenza@osophs.dhhs.gov](mailto:pandemicinfluenza@osophs.dhhs.gov).

### FOR FURTHER INFORMATION CONTACT:

Persons with access to the Internet may obtain the document at <http://www.dhhs.gov/nvpo/pandemicplan>. Submit requests for single copies of the draft pandemic plan to the address identified below.

Attn: Pandemic Plan, National Vaccine Program Office, Hubert H. Humphrey Building, Room 725H, 200 Independence Avenue, SW., Washington, DC 20201 or by email at [pandemicinfluenza@osophs.dhhs.gov](mailto:pandemicinfluenza@osophs.dhhs.gov).

### SUPPLEMENTARY INFORMATION:

#### I. Background

An influenza pandemic represents a major threat to health and may cause substantial social and economic disruption. Planning and implementing preparedness activities are critical to improving the effectiveness of a response and decreasing the impacts of a pandemic. The draft Pandemic Influenza Preparedness and Response Plan was developed to define national preparedness and response activities, and to guide planning activities that are underway at the State and local levels in both the public and private sectors. The plan is designed to be consistent with other health emergency preparedness and response plans while also recognizing the unique issues that an influenza pandemic would present.

## II. Input Sought

There are several issues in the draft plan where options are being considered by the Department of Health and Human Services and final decisions are pending. Public comment on all aspects of the plan is being sought.

Dated: August 17, 2004.

**Arthur J. Lawrence,**

*Acting Principal Deputy Assistant Secretary for Health, Office of Public Health and Science.*

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## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Centers for Medicare & Medicaid Services

[CMS-1269-N2]

#### Medicare Program; Second Request for Nominations for Two Specific Categories of Members of the Emergency Medical Treatment and Labor Act (EMTALA) Technical Advisory Group (TAG)

**AGENCY:** Centers for Medicare & Medicaid Services (CMS), HHS.

**ACTION:** Notice.

**SUMMARY:** This notice solicits nominations for members in two categories, patient representatives and State survey agency representatives, for which no nominations were received in response to our May 28, 2004 **Federal Register** notice. It also describes the establishment of the Emergency Medical Treatment and Labor Act (EMTALA) Technical Advisory Group (TAG).

**DATES:** Nominations for membership will be considered if they are received by September 27, 2004.

**ADDRESSES:** Send nominations via mail or courier delivery to—Division of Acute Care, Mail stop C4-08-06, Centers for Medicare & Medicaid Services, 7500 Security Boulevard, Baltimore, Maryland 21244-1850. Attention: Beverly J. Parker, or Via email to [EMTALATAG@cms.hhs.gov](mailto:EMTALATAG@cms.hhs.gov). To allow for verification, all emailed items, including letters of nomination and letters of support, must include the submitter's contact information.

Send written requests for copies of the EMTALA TAG Charter to—Division of Acute Care, Mail stop C4-08-06, Centers for Medicare & Medicaid Services, 7500 Security Boulevard, Baltimore, Maryland 21244-1850. Attention: Marianne M. Myers

**FOR FURTHER INFORMATION CONTACT:** Beverly J. Parker (410) 786-5320.

Press inquiries are handled through the CMS Press Office at (202) 690-6145.

#### SUPPLEMENTARY INFORMATION:

##### I. Background

Sections 1866(a)(1)(I), 1866(a)(1)(N), and 1867 of the Social Security Act (the Act) impose specific obligations on Medicare-participating hospitals that offer emergency services. These obligations concern individuals who come to a hospital emergency department and request examination or treatment for medical conditions, and apply to all of these individuals, regardless of whether or not they are beneficiaries of any program under the Act. These provisions, taken together, are frequently referred to as the Emergency Medical Treatment and Labor Act (EMTALA), also known as the patient antidumping statute.

EMTALA was passed in 1986 as part of the Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA). Congress enacted these antidumping provisions in the Social Security Act because of its concern with an "increasing number of reports" that hospital emergency rooms were refusing to accept or treat individuals with emergency conditions if the individuals did not have insurance.

Regulations implementing the EMTALA legislation are set forth in 42 CFR 489.20(l), (m), (q) and (r)(1), (r)(2), (r)(3), and 489.24. These regulations incorporate changes made by a final rule published in the September 9, 2003 **Federal Register** (68 FR 53222). We published that final rule to clarify policies relating to the responsibilities of Medicare-participating hospitals in treating individuals with emergency medical conditions who present to a hospital under the provisions of EMTALA.

Section 945 of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (MMA) (Pub. L. 108-173), requires that the Secretary establish a Technical Advisory Group (TAG) for advice concerning issues related to EMTALA regulations and implementation. In the May 28, 2004 **Federal Register** (69 FR 30654), we specified the statutory requirements regarding the charter, general responsibilities, and composition of the EMTALA TAG. That notice also solicited nominations for members based on the statutory requirements for the EMTALA TAG.

## II. Charter, General Responsibilities, and Composition of the EMTALA TAG

### A. Charter Information and General Responsibilities

As explained in the May 28, 2004 notice, the Secretary signed the charter establishing the EMTALA TAG on May 11, 2004. This charter will terminate 30 months from the date of the EMTALA TAG's first meeting. The EMTALA TAG, as chartered, under the legal authority of section 945 of the MMA, is also governed by the provisions of the Federal Advisory Committee Act (FACA), 5 U.S.C. Appendix 2. In accordance with section 945 of the MMA, the EMTALA TAG will meet at least twice a year and all meetings will be open to the public.

You may obtain a copy of the Secretary's charter for the EMTALA TAG by mailing a written request to the address specified in the **ADDRESSES** section of this notice.

Section 945 of the MMA specifies that the EMTALA TAG—

- Shall review the EMTALA regulations;
- May provide advice and recommendations to the Secretary concerning these regulations and their application to hospitals and physicians;
- Shall solicit comments and recommendations from hospitals, physicians, and the public regarding implementation of such regulations; and
- May disseminate information concerning the application of these regulations to hospitals, physicians, and the public.

### B. Composition of the EMTALA TAG

The May 28, 2004 notice stated that section 945 of the MMA specifies the composition of the EMTALA TAG. It states that the EMTALA TAG will be composed of 19 members including the Administrator of the Centers for Medicare & Medicaid Services (CMS) and the Inspector General of the Department of Health and Human Services (DHHS) in addition to the number and type of individuals specified in each of the following categories:

- Four representatives of hospitals, including at least one public hospital, that have experience with the application of EMTALA and, at least, two hospitals that have not been cited for EMTALA violations;
- Seven practicing physicians drawn from the fields of emergency medicine, cardiology or cardiothoracic surgery, orthopedic surgery, neurosurgery, pediatrics or a pediatric subspecialty, obstetrics-gynecology and psychiatry,