

## **CHARTER**

### **EMERGENCY MEDICAL TREATMENT AND LABOR ACT TECHNICAL ADVISORY GROUP**

#### PURPOSE

The Secretary of Health and Human Services is mandated by Section 945 of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (P.L. 108-173), to establish a Technical Advisory Group (TAG) to review issues related to the Emergency Medical Treatment and Labor Act (EMTALA) and its implementation. The EMTALA TAG will advise the Secretary and the Administrator for the Centers for Medicare & Medicaid Services (CMS) concerning issues related to EMTALA regulations and implementation.

#### AUTHORITY

Section 945 of Public Law 108-173 (reference to 42 U.S.C. 1395dd, section 1867 of the Social Security Act). The TAG is governed by the provisions of Public law 92-463, as amended (5 USC Appendix 2), which set forth standards for the formation and use of advisory committees.

#### FUNCTION

The EMTALA TAG shall advise the Secretary and the Administrator of CMS concerning issues related to EMTALA regulations and implementation. General responsibilities of the EMTALA TAG include, but are not limited to, the following: (1) the TAG shall review EMTALA regulations; (2) the TAG may provide advice and recommendations to the Secretary concerning these regulations and their application to hospitals and physicians; (3) the TAG shall solicit comments and recommendations from hospitals, physicians, and the public regarding implementation of such regulations; and (4) the TAG may disseminate information concerning the application of these regulations to hospitals, physicians, and the public. The agenda, which will set forth the boundaries for discussion, will be developed by CMS.

The EMTALA TAG, in conducting its review, may use data or other information collected or developed by entities and organizations other than the Department of Health and Human Services and CMS.

To obtain the broadest possible input for its work, the EMTALA TAG may consult with medical or hospital organizations that have expert technical knowledge of emergency medical treatment and labor services provided by hospitals.

The Secretary and the Administrator of CMS shall be advised of all matters pertaining to the EMTALA TAG.

## STRUCTURE

The EMTALA TAG shall consist of 19 members, including the Administrator of the Centers for Medicare & Medicaid Services and the Inspector General of the Department of Health and Human Services or their designees. Members appointed by the Secretary shall include:

Four representatives of hospitals, including at least one public hospital representative having experience with the application of EMTALA and at least two representatives from hospitals that have not been cited for EMTALA violations; seven practicing physicians drawn from the fields of emergency medicine, cardiology or cardio-thoracic surgery, orthopedic surgery, neurosurgery, pediatrics or a pediatric subspecialty, obstetrics-gynecology, and psychiatry, with not more than one physician from any particular field; two representatives of patients; two staff involved in EMTALA investigations from different CMS regional offices; one representative from a state survey agency involved in EMTALA investigations; and one representative from a Quality Improvement Organization, both from areas different from that of the two CMS regional staff members. All members must have technical expertise that will enable them to participate fully in the work of the EMTALA TAG.

The Secretary shall consider qualified individuals nominated by organizations representing providers and patients when selecting practicing physicians, patient, and hospital representatives.

The members of the TAG shall elect a member to serve as chairperson for the life of the EMTALA TAG.

A quorum for the conduct of business shall consist of a majority of currently appointed members.

As necessary, standing and ad hoc subcommittees composed of members of the parent TAG, may be established, with the approval of the Secretary of designee, to perform functions within the EMTALA TAG's jurisdiction. The Department Committee Management Officer shall be notified upon the establishment of each standing subcommittee and shall be given information on its name, membership, function, and estimated frequency of meetings.

Management and support services shall be provided by the Centers for Medicare Management (CMM) and the Center for Medicaid and State Operations (CMSO), CMS.

## MEETINGS

Meetings shall be held at least twice a year at the call of the Designated Federal Official. If the Chair is selected from among the non-Federal members, the Chair will call a meeting with the advance approval of the Designated Federal Official who shall also approve the agenda and be present at all meetings.

Meetings shall be open to the public except as determined otherwise by the Secretary or other official to whom the authority has been delegated in accordance with the Government in the Sunshine Act (5 U.S.C. 552b(c)) and of the Federal Advisory Committee Act; notice of all meetings shall be given to the public.

Meetings shall be conducted and records of the proceedings kept, as required by applicable laws and Departmental regulations.

### COMPENSATION

Members who are not full-time Federal employees shall be paid at the rate of \$250 per day, plus per diem and travel expenses in accordance with Standard Government Travel Regulations. Members who are industry or consumer representatives, shall serve in a voluntary status without compensation, pursuant to advance written agreement. Members will receive travel and per diem.

### ANNUAL COST ESTIMATE

Estimated Fiscal Year (FY) 2007 annual cost for operating the EMTALA TAG, including compensation and travel expenses for members, but excluding staff support, is \$83,862. Estimated FY 2007 annual person-years of CMM staff support required is 1.15 FTE, at an estimated annual cost of \$125,870 and annual person-years of CMSO staff support required is .65 FTE, at an annual cost of \$98,692. Total estimated FY 2007 annual person-years of staff support are 1.8 FTE at an estimated FY 2007 annual cost of \$224,562.

### REPORTS

In the event a portion of a meeting is closed to the public, as determined by the Secretary, HHS, in accordance with the Government in the Sunshine Act (5 U.S.C. 552b(c)) and the Federal Advisory Committee Act, a report shall be prepared which shall contain, at a minimum, a list of members and their business addresses, the EMTALA TAG's function, dates and places of meetings, and a summary of EMTALA TAG activities and recommendations made during the fiscal year. A copy of the report shall be provided to the Department Committee Management Officer.

### TERMINATION DATE

The EMTALA TAG will terminate September 30, 2007, which is 30 months after the date of its first meeting.

### APPROVED:

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5/11/2006  
Date

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/s/Michael O. Leavitt  
Secretary