

**§ 1395ee. Practicing Physicians Advisory Council; Council for Technology and Innovation**

(a) **Repealed.** Pub. L. 111-148, title III, § 3134(b)(2), Mar. 23, 2010, 124 Stat. 435

**(b) Council for Technology and Innovation**

**(1) Establishment**

The Secretary shall establish a Council for Technology and Innovation within the Centers for Medicare & Medicaid Services (in this section referred to as “CMS”).

**(2) Composition**

The Council shall be composed of senior CMS staff and clinicians and shall be chaired by the Executive Coordinator for Technology and Innovation (appointed or designated under paragraph (4)).

**(3) Duties**

The Council shall coordinate the activities of coverage, coding, and payment processes under this subchapter with respect to new technologies and procedures, including new drug therapies, and shall coordinate the exchange of information on new technologies between CMS and other entities that make similar decisions.

**(4) Executive Coordinator for Technology and Innovation**

The Secretary shall appoint (or designate) a noncareer appointee (as defined in section 3132(a)(7) of title 5) who shall serve as the Executive Coordinator for Technology and Innovation. Such executive coordinator shall report to the Administrator of CMS, shall chair the Council, shall oversee the execution of its duties, and shall serve as a single point of contact for outside groups and entities regarding the coverage, coding, and payment processes under this subchapter.

**(c) Physician-focused payment models**

**(1) Technical Advisory Committee**

**(A) Establishment**

There is established an ad hoc committee to be known as the “Physician-Focused Payment Model Technical Advisory Committee” (referred to in this subsection as the “Committee”).

**(B) Membership**

**(i) Number and appointment**

The Committee shall be composed of 11 members appointed by the Comptroller General of the United States.

**(ii) Qualifications**

The membership of the Committee shall include individuals with national recognition for their expertise in physician-focused payment models and related delivery of care. No more than 5 members of the Committee shall be providers of services or suppliers, or representatives of providers of services or suppliers.

**(iii) Prohibition on Federal employment**

A member of the Committee shall not be an employee of the Federal Government.

**(iv) Ethics disclosure**

The Comptroller General shall establish a system for public disclosure by members of the Committee of financial and other potential conflicts of interest relating to such members. Members of the Committee shall be treated as employees of Congress for purposes of applying title I of the Ethics in Government Act of 1978 (Public Law 95-521).

**(v) Date of initial appointments**

The initial appointments of members of the Committee shall be made by not later than 180 days after April 16, 2015.

**(C) Term; vacancies**

**(i) Term**

The terms of members of the Committee shall be for 3 years except that the Comptroller General shall designate staggered terms for the members first appointed.

**(ii) Vacancies**

Any member appointed to fill a vacancy occurring before the expiration of the term for which the member’s predecessor was appointed shall be appointed only for the remainder of that term. A member may serve after the expiration of that member’s term until a successor has taken office. A vacancy in the Committee shall be filled in the manner in which the original appointment was made.

**(D) Duties**

The Committee shall meet, as needed, to provide comments and recommendations to the Secretary, as described in paragraph (2)(C), on physician-focused payment models.

**(E) Compensation of members**

**(i) In general**

Except as provided in clause (ii), a member of the Committee shall serve without compensation.

**(ii) Travel expenses**

A member of the Committee shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for an employee of an agency under subchapter I of chapter 57 of title 5 while away from the home or regular place of business of the member in the performance of the duties of the Committee.

**(F) Operational and technical support**

**(i) In general**

The Assistant Secretary for Planning and Evaluation shall provide technical and operational support for the Committee, which may be by use of a contractor. The Office of the Actuary of the Centers for Medicare & Medicaid Services shall provide to the Committee actuarial assistance as needed.

**(ii) Funding**

The Secretary shall provide for the transfer, from the Federal Supplementary Medical Insurance Trust Fund under sec-

tion 1395t of this title, such amounts as are necessary to carry out this paragraph (not to exceed \$5,000,000) for fiscal year 2015 and each subsequent fiscal year. Any amounts transferred under the preceding sentence for a fiscal year shall remain available until expended.

**(G) Application**

Section 14 of the Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Committee.

**(2) Criteria and process for submission and review of physician-focused payment models**

**(A) Criteria for assessing physician-focused payment models**

**(i) Rulemaking**

Not later than November 1, 2016, the Secretary shall, through notice and comment rulemaking, following a request for information, establish criteria for physician-focused payment models, including models for specialist physicians, that could be used by the Committee for making comments and recommendations pursuant to paragraph (1)(D).

**(ii) MedPAC submission of comments**

During the comment period for the proposed rule described in clause (i), the Medicare Payment Advisory Commission may submit comments to the Secretary on the proposed criteria under such clause.

**(iii) Updating**

The Secretary may update the criteria established under this subparagraph through rulemaking.

**(B) Stakeholder submission of physician-focused payment models**

On an ongoing basis, individuals and stakeholder entities may submit to the Committee proposals for physician-focused payment models that such individuals and entities believe meet the criteria described in subparagraph (A).

**(C) Committee review of models submitted**

The Committee shall, on a periodic basis, review models submitted under subparagraph (B), prepare comments and recommendations regarding whether such models meet the criteria described in subparagraph (A), and submit such comments and recommendations to the Secretary.

**(D) Secretary review and response**

The Secretary shall review the comments and recommendations submitted by the Committee under subparagraph (C) and post a detailed response to such comments and recommendations on the Internet website of the Centers for Medicare & Medicaid Services.

**(3) Rule of construction**

Nothing in this subsection shall be construed to impact the development or testing of models under this subchapter or subchapters XI, XIX, or XXI.

(Aug. 14, 1935, ch. 531, title XVIII, § 1868, as added Pub. L. 101-508, title IV, § 4112, Nov. 5, 1990, 104

Stat. 1388-64; amended Pub. L. 108-173, title IX, § 942(a), Dec. 8, 2003, 117 Stat. 2420; Pub. L. 111-148, title III, § 3134(b)(2), Mar. 23, 2010, 124 Stat. 435; Pub. L. 114-10, title I, § 101(e)(1), Apr. 16, 2015, 129 Stat. 115.)

REFERENCES IN TEXT

The Ethics in Government Act of 1978, referred to in subsec. (c)(1)(B)(iv), is Pub. L. 95-521, Oct. 26, 1978, 92 Stat. 1824. Title I of the Act is set out in the Appendix to Title 5, Government Organization and Employees. For complete classification of this Act to the Code, see Short Title note set out under section 101 of Pub. L. 95-521 in the Appendix to Title 5 and Tables.

Section 14 of the Federal Advisory Committee Act, referred to in subsec. (c)(1)(G), is section 14 of Pub. L. 92-463, which is set out in the Appendix to Title 5, Government Organization and Employees.

PRIOR PROVISIONS

A prior section 1395ee, act Aug. 14, 1935, ch. 531, title XVIII, § 1868, as added July 30, 1965, Pub. L. 89-97, title I, § 102(a), 79 Stat. 329, provided for creation of a National Medical Review Committee, functions of such Committee, including submission of annual reports to the Secretary and Congress, employment of technical assistance, and for availability of assistance and data, prior to repeal by Pub. L. 90-248, title I, § 164(c), Jan. 2, 1968, 81 Stat. 874.

AMENDMENTS

2015—Subsec. (c). Pub. L. 114-10 added subsec. (c).

2010—Subsec. (a). Pub. L. 111-148 struck out subsec. (a) which related to the Practicing Physicians Advisory Council.

2003—Pub. L. 108-173, § 942(a)(1), inserted “; Council for Technology and Innovation” in section catchline.

Subsec. (a). Pub. L. 108-173, § 942(a)(2)-(4), inserted subsec. heading, redesignated existing provisions as par. (1), substituted “in this subsection” for “in this section”, and redesignated former subsecs. (b) and (c) as pars. (2) and (3), respectively.

Subsec. (b). Pub. L. 108-173, § 942(a)(5), added subsec. (b). Former subsec. (b) redesignated par. (2) of subsec. (a).

Subsec. (c). Pub. L. 108-173, § 942(a)(4), redesignated subsec. (c) as par. (3) of subsec. (a).

TERMINATION OF ADVISORY COUNCILS

Advisory councils established after Jan. 5, 1973, to terminate not later than the expiration of the 2-year period beginning on the date of their establishment, unless, in the case of a council established by the President or an officer of the Federal Government, such council is renewed by appropriate action prior to the expiration of such 2-year period, or in the case of a council established by Congress, its duration is otherwise provided by law. See sections 3(2) and 14 of Pub. L. 92-463, Oct. 6, 1972, 86 Stat. 770, 776, set out in the Appendix to Title 5, Government Organization and Employees.

**§ 1395ff. Determinations; appeals**

**(a) Initial determinations**

**(1) Promulgations of regulations**

The Secretary shall promulgate regulations and make initial determinations with respect to benefits under part A of this subchapter or part B of this subchapter in accordance with those regulations for the following:

(A) The initial determination of whether an individual is entitled to benefits under such parts.

(B) The initial determination of the amount of benefits available to the individual under such parts.