

CALIFORNIA EMERGENCY MEDICAL SERVICES AUTHORITY

10901 GOLD CENTER DRIVE, SUITE 400
RANCHO CORDOVA, CA 95670
(916) 322-4336 FAX (916) 324-2875



August 17, 2016

Mr. Rich Todd, EMS Administrator
El Dorado County EMS Agency
2900 Fair Lane Court
Placerville, CA 95667

Dear Mr. Todd:

This letter is in response to your 2014 El Dorado County EMS Plan Update submitted to the EMS Authority on April 10, 2015.

I. Introduction and Summary:

The EMS Authority has concluded its review of El Dorado County's 2014 EMS Plan Update and cannot approve the plan as submitted.

II. History and Background:

El Dorado County's last full EMS Plan was the 2011 submission, which is currently in the appeal process. El Dorado County received its last annual Plan Update approval for its 2010 plan.

El Dorado County has inconsistently submitted EMS Plans to the EMS Authority. Historically, we have received EMS Plan documentation from El Dorado County for the following years: 1998, 2006, 2007, 2010, 2011, and most recently, its 2014 plan submission. California Health and Safety (H&S) Code § 1797.254 states:

*"Local EMS agencies shall **annually** (emphasis added) submit an emergency medical services plan for the EMS area to the authority, according to EMS Systems, Standards, and Guidelines established by the authority".*

The EMS Authority is responsible for the review of EMS Plans and for making a determination on the approval or disapproval of the plan, based on compliance with statute and the standards and guidelines established by the EMS Authority consistent with H&SC § 1797.105(b). Due to the pattern of inconsistent EMS Plan submissions,

an ongoing assessment of the EMS system in El Dorado County has been difficult and, therefore, has delayed this review.

III. Analysis of EMS System Components:

Following are comments related to the plan review. Areas that indicate the plan submitted is not concordant and consistent with applicable guidelines or regulations, H&S Code § 1797.254, and the EMS system components identified in H&S Code § 1797.103, are indicated below:

A. System Organization and Management

1. Table 2 (System Organization and Management)

- In the next plan submission, please include an organization chart of the Local EMS Agency (LEMSA), and a county organization chart indicating how the LEMSA fits within the county/multicounty structure.

B. Staffing/Training

1. Table 3 (Staffing/Training)

- Please attempt to obtain the number of public safety (defibrillation) certified (non-EMT-I) and provide in the next plan submission.

C. Communications

D. Response/Transportation

1. Requests for Proposal Processes

CSA #3 – South Shore: In the El Dorado County Health and Human Services Agency letter dated June 24, 2013, you stated: “EMSA has changed its position with regard to both CSA #3 and CSA #7 and the County’s use of the public utility model (PUM) to provide emergency medical services (EMS) within the County.” “Although the county submitted the 2001 RFP as part of its EDC 2001, it did so

only in an abundance of caution and not because it was required to do so.”

- The Authority acknowledges that it approved the El Dorado County 2000 EMS Plan and RFP #11-0073, but the RFP did not indicate the provisions that the county was awarding the zone to itself. In any case, the county cannot award itself an area or subarea on its own solicitation. For this reason, the Response/Transportation section of the EMS Plan is not approved.
- In a letter dated April 25, 2011, from the Authority to Patricia Beck, the Authority stated *“[t]he current proposal, RFP #11-0073, states that the County may convey market rights to itself and declares itself as being the exclusive emergency ambulance operator in CSA #3. As previously stated, since the County did not submit a proposal in the bid for the exclusive operating area, the County of El Dorado cannot designate itself as the exclusive provider for these services through a performance contract with the successful bidder. As currently written, RFP #11-0073 would not be approved by the Authority and the El Dorado County EMS Agency may potentially be open to suit without state action immunity under federal antitrust laws provided for under Health and Safety Code 1797.6.”*
- In El Dorado County’s letter dated June 24, 2013, you stated *“[t]he County adopted the public utility model by action of the Board of Supervisors and EMSA has cited no authority for its alleged ability to override local policy decisions.”* If it is your contention that you have adopted a *“public utility model”* for the provision of EMS services, then the information substantiating that process was not tendered with your latest EMS plan. Therefore, please provide documentation to support your claim that such process was completed according to California Public Utilities Code, Division 3, Chapter 1, Article 1 (commencing at Section 6001). Additionally, the provisions of State statutes override local ordinances or policy decisions when they are in conflict. If you believe that El Dorado County Local ordinances

or Board of Director's decisions are not in conflict with the state EMS Act, please state the basis for this conclusion.

- Further, in your letter you stated: “[a]lthough the county submitted the 2001 RFP as part of its EDC 2001, it did so only in an abundance of caution and not because it was required to do so.” Pursuant to the H&S Code § 1797.254, a local EMS agency is required to annually submit in its EMS plan exclusivity information for the ambulance zones within its jurisdiction.
- H&S Code § 1797.76: “‘Emergency medical services plan’ means a plan for the delivery of emergency medical services consistent with state guidelines addressing the components listed in Section 1797.103.”
- H&S Code § 1797.224: “A local EMS agency which elects to create one or more exclusive operating areas in the development of a local plan shall develop and submit for approval to the authority, as part of the local EMS plan, its competitive process for selecting providers and determining the scope of their operations. This plan shall include provisions for a competitive process held at periodic intervals.” El Dorado County did not obtain pre-approval of the last RFP from the EMS Authority.

2. Butte County Decision

The Butte County decision (County of Butte v California Emergency Medical Services Authority (2010) 187 Cal. App. 4th 1175) is illustrative of your transportation issue. Some pertinent parts from the decision state:

- “Section 1797.224 unambiguously authorizes a local EMS agency to create one or more EOAs in the development of a local plan if either (1) a competitive process is used to select the exclusive providers, or (2) the local plan continues the use of the existing providers operating within a local EMS area in a manner and scope in which the services have been provided without interruption since January 1, 1981. If the local EMS agency creates EOAs in the

development of a local plan, such agency must submit to the Authority for its approval the competitive process used for selecting the exclusive providers and determining the scope of their operations."

- *"Given a literal reading, section 1797.224 would require the local EMS agency to submit to the Authority for its approval the competitive process used to select the exclusive providers even if the local EMS agency chose to continue using existing providers operating within the local EMS area in the manner and scope in which the services have been provided without interruption since January 1, 1981."*

For these reasons, the Response/Transportation section of the EMS Plan is not approved.

- E. Facilities/Critical Care
- F. Data Collection/System Evaluation
- G. Public Information and Education
- H. Disaster Medical Response

IV. Conclusion:

Based on the information identified, El Dorado County's 2014 EMS Plan Update is not approved. Pursuant to H&S Code § 1797.105(b):

"After the applicable guidelines or regulations are established by the Authority, a local EMS agency may implement a local plan...unless the Authority determines that the plan does not effectively meet the needs of the persons served and is not consistent with the coordinating activities in the geographical area served, or that the plan is not concordant and consistent with applicable guidelines or regulations, or both the guidelines and regulations established by the Authority."

V. Next Steps:

If you desire to appeal the denial of this plan submission to the Commission on EMS, please inform the EMS Authority in writing within fifteen days of your receipt of this letter. The EMS Authority will then begin the process to schedule your appeal to be

Mr. Rich Todd, EMS Administrator
August 17, 2016
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heard before the Office of Administrative Hearings. As the issues regarding this plan disapproval and the current appeal of your 2011 plan submission are essentially the same, if you desire to appeal the EMS Authority will move to consolidate the separate appeals into one hearing for all issues.

El Dorado County's next annual EMS Plan submission will be due on or before August 31, 2017.

If you have any questions regarding the plan determination, please contact Mr. Tom McGinnis, EMS Systems Division Chief, at (916) 431-3695.

Sincerely,

A handwritten signature in black ink that reads "Daniel R. Jolley" followed by a stylized flourish.

Howard Backer, MD, MPH, FACEP
Director

Enclosure

California Code of Regulations
TITLE 22. SOCIAL SECURITY
DIVISION 9. PRE-HOSPITAL EMERGENCY MEDICAL SERVICES
CHAPTER 13. EMS System Regulations

§ 100450.100 . Appeal Proceedings to the Commission

(a) Any proceeding by the Commission to hear an appeal of a local emergency medical services agency's (LEMSA) emergency medical services (EMS) plan, pursuant to Health and Safety Code, Section 1797.105, shall be conducted in accordance with the provisions of the Administrative Procedure Act, Government Code, Section 11500 et seq, and its associated regulations as contained in Title 1 of the California Code of Regulations.

(b) The Office of Administrative Hearings, using an administrative law judge, shall hold a public hearing and receive evidence according to the Administrative Procedures Act.

(c) The administrative law judge, in making a proposed decision to the Commission, shall only make a recommendation as described in Section 1797.105(d) of Division 2.5 of the Health and Safety Code to:

(1) sustain the determination of the authority, or

(2) overrule the determination of the authority and permit local implementation of the plan.

(d) Upon receipt of the Proposed Decision and Order from the Office of Administrative Hearings, the Commission shall calendar a discussion and vote regarding the proposed decision at the next regularly scheduled Commission meeting.

(e) The Commission shall permit public comment concerning the proposed decision pursuant to the Bagley-Keene Open Meeting Act.

(f) The Commission's vote on the proposed decision is limited to the following:

(1) adopt the administrative law judge's proposed decision, or

(2) not adopt the administrative law judges proposed decision, or

(3) return the proposed decision to the office of Administrative Hearings for re-hearing.

(g) The decision by the Commission shall be by simple majority vote of a quorum of those members present at the meeting where the proposed decision is scheduled as an agenda item.

Effective April 1, 2016

(h) Costs of the administrative hearing shall be borne equally by the parties. Costs shall not include attorney's fees.

Authority Cited: Section 1797.107, Health and Safety Code. Reference: Sections 1797.105 and 1797.254, Health and Safety Code; and Section 11517(c)(2)(D), Government Code.

COUNTY OF EL DORADO

HEALTH & HUMAN SERVICES

Don Ashton, M.P.A.
Director

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Chris Weston
Program Manager II

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April 10, 2015

Howard Backer, MD, MPH, FACEP
Director
California Emergency Medical Services Authority
10901 Gold Center Dr., Suite 400
Rancho Cordova, CA 95670

RE: El Dorado County EMS Plan and Trauma Plan Updates

Dear Dr. Backer,

Enclosed, please find the EMS Plan and Trauma Plan updates for El Dorado County. The updated plans are the result of an extensive review by the system partners and reflect recent improvements in the delivery of EMS services. Additionally, the EMS Agency has developed a written EMS Quality Improvement (QI) Program, as required by Title 22 §100404., that is currently under final review. I anticipate that the written EMS QI Program will be approved at the May 13, 2015, Continuous Quality Improvement Committee (CQIC) meeting. Once approved, I will forward the written EMS QI Program to the EMS Authority.

We are requesting the EMS Authority review and approval of both updated plans. If you have any questions, please contact me directly at (530) 621-6505 or via email at richard.todd@edcgov.us.

Sincerely,

Richard Todd, Administrator
El Dorado County EMS Agency

Enclosure

cc: Don Ashton, Director, Health and Human Services Agency
Kay Ann Markham, Deputy County Counsel
Christopher Weston, Program Manager II
David Brazzel, M.D., EMS Agency Medical Director
File

COUNTY OF EL DORADO

HEALTH & HUMAN SERVICES

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April 28, 2015

Mr. Jeff Schultz
EMS Systems Division
California Emergency Medical Services Authority
10901 Gold Center Dr., Suite 400
Rancho Cordova, CA 95670

RE: 2014 EMS Plan Update Executive Summary

Dear Jeff,

I am providing the following Executive Summary that identifies the major needs which have been found and a summary of the proposed solutions. I have also included changes which have occurred in the system during 2014.

The most significant change to the system was the implementation of an Electronic Prehospital Care Reporting (EPCR) system for all El Dorado County ALS Service Agencies. The implementation of the EPCR System created several efficiencies in the EMS system, but not without experiencing several documentation and reporting problems. The EMS Agency is working collaboratively with all of the EMS system partners to repair or replace the current EPCR System. It is the intention of the EMS Agency to ensure that a comprehensive EPCR system is created that will provide robust, all inclusive, documentation and reporting features.

Additional changes to the EMS System included, both County located hospitals actively working towards Emergency Department Approved for Pediatrics (EDAP) certification, developing an EMS Agency CQI Plan in accordance with Title 22 § 100404 that will utilize Core Measure Data from the EPCR system, updating all ALS Service Agency CQI Plans, and working with Region IV RDHMS to encourage an update to the Region IV Multi-Casualty Incident (MCI) Field Operations Manual. Additionally, during the 2013 – 2014 update, Barton Memorial Hospital was actively pursuing certification as a Level III Trauma Center. Completion of Barton's Level III verification will be identified in the 2014 - 2105 EMS Plan and Trauma Plan Updates.

Should you have any questions, I can be contacted directly at (530) 621-6505 or via email at richard.todd@edcgov.us.

Sincerely,

A handwritten signature in blue ink that reads "Richard W. Todd". The signature is written in a cursive style with a large initial 'R'.

Richard Todd, Administrator
El Dorado County EMS Agency

cc: Don Ashton, Director, Health and Human Services Agency
Kay Ann Markham, Deputy County Counsel
Christopher Weston, Program Manager II
David Brazzel, M.D., EMS Agency Medical Director
File

A. SYSTEM ORGANIZATION AND MANAGEMENT

	Does not currently meet standard	Meets minimum standard	Meets recommended guidelines	Short-range plan	Long-range plan
Agency Administration:					
1.01	LEMSA Structure	X	None		
1.02	LEMSA Mission	X	None		
1.03	Public Input	X	None		
1.04	Medical Director	X	None		
Planning Activities:					
1.05	System Plan	X	None		
1.06	Annual Plan Update	X	None		
1.07	Trauma Planning	X	X		X
1.08	ALS Planning	X	None		
1.09	Inventory of Resources	X	None		
1.10	Special Populations	X	X		
1.11	System Participants	X	X		
Regulatory Activities:					
1.12	Review & Monitoring	X	None		
1.13	Coordination	X	None		
1.14	Policy & Procedures Manual	X	None		
1.15	Compliance w/Policies	X	None		
System Finances:					
1.16	Funding Mechanism	X	None		
Medical Direction:					
1.17	Medical Direction	X	None		
1.18	QA/QI	X	X		
1.19	Policies, Procedures, Protocols	X	X		