Office of Health Care Affordability
Department of Health Care Access and Information

2020 West El Camino Avenue, Suite 800
Sacramento, CA 95833
hcai.ca.gov

OFFICE OF HEALTH CARE AFFORDABILITY

FINDING OF EMERGENCY FOR PROPOSED EMERGENCY REGULATIONS

TOTAL HEALTH CARE EXPENDITURES (THCE) DATA SUBMISSION ENFORCEMENT

SUBJECT MATTER OF PROPOSED REGULATIONS

The Office of Health Care Affordability (OHCA), within the Department of Health Care Access and Information (HCAI), is proposing to amend section 97449 and adopt sections 97451 and 97459 in Title 22 of the California Code of Regulations (CCR). These proposed emergency regulations establish an administrative process, enforcement framework, and penalty structure for required submitters that fail to comply with data reporting requirements. These regulations are necessary to ensure OHCA obtains reliable and timely data to assess compliance with health care spending targets established pursuant to the California Health Care Quality and Affordability Act (Act).[1]

Specifically, the proposed regulations amend section 97449 to establish requirements and procedures for requesting extensions to submit Total Health Care Expenditures (THCE) data. The amendments specify the form, content, timing, and conditions of extension requests, as well as criteria for granting or denying such requests. These provisions promote transparency, accountability, and timely communication.

The proposed regulations also adopt new sections 97451 and 97459 to establish an enforcement and appeal framework. The proposed regulations include definitions of “complete” and “accurate” data, notice of violation procedures, and a tiered escalating administrative penalty structure. They also establish procedures by which a required submitter may appeal a notice of administrative penalty. These provisions promote transparency, accountability, and timely communication regarding OHCA’s enforcement framework for noncompliance with data submission requirements.

SPECIFIC FACTS DEMONSTRATING THE NEED FOR IMMEDIATE ACTION

In enacting the Act, the Legislature found that health care affordability has reached a crisis point. (Health & Saf. Code, § 127500.5, subd. (a)(2).) OHCA is responsible for

[1] Health and Safety Code sections 127500 *et seq*.

analyzing the health care market for cost trends and drivers, developing data-informed policies for lowering health care costs, creating a state strategy for controlling the cost of health care, and ensuring affordability. (Health & Saf. Code, § 127501, subd. (c)(12).)

Until January 1, 2027, OHCA may adopt as an emergency regulation any necessary rules and regulations for the purpose of implementing the Act. (Health & Saf. Code, § 127501.2, subd. (a).) By statute, the adopted emergency regulations are deemed an *emergency* and necessary for the immediate preservation of public peace, health and safety, or general welfare. (*Id*. [emphasis added].) Accordingly, OHCA specifically finds the proposed regulations are an emergency and necessary for the immediate preservation of public health, safety, and general welfare of the citizens of California.

OHCA may adopt and promulgate regulations for the purpose of carrying out the laws relating to the Act (Health & Saf. Code, § 127501, subd. (c)(16).) Health and Safety Code section 127504.2, subdivision (c), provides that any regulation adopted pursuant to this section shall be discussed by the Health Care Affordability Board (Board) during at least one board meeting before OHCA adopts the rule or regulation. The Board publicly discussed the subject matter of these proposed regulations at the July 2025, August 2025, and September 2025 board meetings. At the November 2025 meeting, the Board voted (5-0 with one member absent) to approve the scope and range of penalties. OHCA discussed the proposed regulations at the May 2026 Board meeting.

OHCA sent notice to its rulemaking list and posted a draft of these proposed revisions on its public website on April 20, 2026, with a 21-day window for submission of written comments. OHCA also presented the proposal to its THCE Data Submitter Workgroup meeting on April 29, 2026. OHCA received two letters with comments from industry and consumer advocacy groups. Following thorough consideration of the comments, OHCA made responsive changes to the draft of the proposed regulations. At the May 27, 2026, Board meeting, OHCA provided a summary of the public comments and actions taken to address the comments. For example, OHCA revised the proposed regulation to state that OHCA shall provide a written response in approving, denying, or requesting more information related to a request for an extension of time.

In addition, OHCA is in the implementation phase of the statewide health care cost target program, during which certain health care entities (required submitters) must provide THCE data to assess cost target performance. Without the immediate adoption and promulgation of these proposed regulations, OHCA's ability to carry out its statutory duty to assess compliance with the cost target will be impaired. OHCA and regulated entities must have an enforcement framework to ensure compliance with timely submission of data. Incomplete, inaccurate, or delayed data would undermine the integrity of the statewide health care cost target program, delay enforcement actions, risk inconsistent enforcement, and impede OHCA's ability to identify excessive cost

growth that threatens affordability for consumers, employers, and public purchasers.

AUTHORITY AND REFERENCE

Authority

OHCA adopts these emergency regulations pursuant to Health and Safety Code section 127501, 127501.2, 127501.11 and 127502.5. Section 127501 authorizes OHCA to adopt rules and regulations as may be necessary to enable it to carry out the laws relating to the Act. Section 127501.2 expressly authorizes the adoption of emergency regulations to implement the Act. Section 127501.11 provides that the Board shall approve the scope and range of administrative penalties. Section 127502.5 authorizes the Director to enforce compliance with cost targets and data reporting requirements, including the authority to assess administrative penalties.

Reference

These proposed regulations implement, interpret, or make specific Health and Safety Code sections 127500.2, 127500.5, 127501, 127501.2, 127501.4, and 127502.5. These sections establish the statewide health care affordability program, define applicable terms, set forth legislative findings and declarations, authorize emergency rulemaking, and provide authority for enforcing data reporting requirements and cost targets.

INFORMATIVE DIGEST

Existing Law

The Act established OHCA to analyze the health care market for cost trends and drivers of spending, create a strategy for controlling the cost of health care and ensuring affordability for consumers and purchasers, and enforce health care cost targets. (Health & Saf. Code, §§ 127501, subds. (a), (b), 127502, subd. (c)(4).) To execute this mandate, existing law obligates required submitters to submit health care spending data to assess compliance with the cost targets. (22 Cal. Code Regs. § 97449).

OHCA is authorized to enforce cost targets and take progressive enforcement actions. (Health & Saf. Code, § 127502.5, subds. (a).) OHCA may directly assess administrative penalties when a required submitter fails to report complete and accurate data. (*Id*. at sub. (h)(1).) A required submitter may seek independent judicial review of administrative penalties following an administrative hearing by filing a petition for a writ of mandate. (Health & Saf. Code, § 127502.5, subds. (k).) After a final order, and if a required submitter fails to timely file a writ petition, OHCA may ask a court clerk to enter a judgment for the administrative penalty. (Health & Saf. Code, § 127502.5, subds. (l).)

OHCA may adopt and promulgate regulations for the purpose of carrying out the laws relating to the Act (Health & Saf. Code, § 127501, subd. (c)(16).) Until January 1, 2027, OHCA may adopt as an emergency regulation any necessary rules and regulations to implement the Act. (Health & Saf. Code, § 127501.2, subdivision (a).) The adoption of

emergency regulations is deemed an emergency and necessary for the immediate preservation of public peace, health and safety, or general welfare. (*Id*.)

Before adopting regulations, the Board must discuss any rule or regulation during at least one board meeting. (Health & Saf. Code, § 127501.2, subd. (c).) The Board, after receiving input, including recommendations, from OHCA, the Advisory Committee, and the public, shall approve the scope and range of administrative penalties (Health & Saf. Code §§ 127501.11, subd. (b)(2)) and shall review and provide input for any adjustments. (Health & Saf. Code § 127501.11, subd. (c)(5).)

Presently, Section 97449 of Title 22 of the California Code of Regulations establishes the underlying requirements for THCE data submission, including incorporating by reference a Data Submission Guide. Existing law does not fully address enforcement. For example, although existing regulations address data file resubmissions that result from unidentified errors discovered after the initial annual data file submission, additional specificity is needed regarding the procedural framework for requesting extensions of time for the annual data file submission deadline. Existing law neither specifies the scope and range of administrative penalties nor administrative appeals.

General Policy Statement

Recognizing that health care affordability has reached a crisis point as health care costs continue to grow, the Act emphasized the public's interest that all Californians receive health care that is accessible, affordable, equitable, high-quality, and universal. (Health & Saf. Code, § 127500.5, subds. (a)(1), (a)(2).) The Act established OHCA to, among other duties, develop a state strategy for controlling the cost of health care and ensuring affordability for consumers and purchasers. (Health & Saf. Code, § 127501, subd. (b).) California has a substantial public interest in the price and cost of health care coverage. (Health & Saf. Code, § 127500.5, subd. (a)(11).)

The Legislature intends to have a comprehensive view of health care spending, cost trends, and variation to inform actions to reduce the overall rate of growth in health care costs while maintaining quality of care, with the goal of improving affordability, access, and equity of health care. (Health & Saf. Code, § 127500.5, subd. (b).) To achieve this fundamental policy goal, OHCA must have comprehensive, accurate, and timely THCE data of health care spending and cost trends. OHCA's ability to issue baseline reports, monitor systemwide investments, assess whether health care entities are meeting spending targets, and apply appropriate progressive enforcement actions relies entirely on the successful and punctual collection of data.

After receiving feedback from OHCA, the Advisory Committee, and the public, the Board considered options for an enforcement framework, including the scope and range of penalties. Recognizing that legitimate operations challenges or extraordinary events may occur during normal business operations, the Board discussed creating a time-

bound process that ensures flexibility for entities facing genuine hardship while granting OHCA sole discretion to prevent indefinite delays and strictly capping any extensions of the annual submission deadline to the first business day of November.

OHCA considered various stakeholder comments. To remove ambiguity for health care entities, the regulations provide clear actionable definitions for “accurate” and “complete” data. To deter non-compliance with data reporting requirements, the Board adopted an escalating tiered administrative penalty structure. Entities missing the September deadline face a $10,000 penalty, which increases to $50,000. To address extended, severe non-compliance, health care entities are subject to a per-covered life penalty (up to $5.00 by early December and up to $10.00 by January) ensuring the penalty scales commensurately with the market impact and size of the health care entity. To give health care entities more time to resolve operational issues regarding the submission of the newer Alternative Payment Model, Primary Care, and Behavioral Health data files, the penalty structure for those data files is adjusted for certain years.

When assessing administrative penalties, OHCA includes an appeal process to ensure fairness and adherence to due process principles. OHCA opts to provide entities with 30 days to contest a notice of violation rather than alternative options of 10 or 60 days. Consistent with the Government Code, these entities have the right to a formal administrative hearing before the California Office of Administrative Hearing (OAH). To encourage efficient dispute resolution without the need for protracted litigation, the regulations establish an informal resolution process for mutually acceptable settlements.

Without these proposed regulations, there is a risk of non-compliance with data submission requirements or significant delays in data submission. These proposed regulations defining parameters around submission extensions, a robust penalty structure, and a formal appeals process are necessary to alleviate that risk. As discussed at length by the Board, the scope and range penalties must be substantial enough to act as an effective deterrent against non-compliance, ensuring that health care entities prioritize the timely submission of complete and accurate data to ensure OHCA fulfills the goal of reducing the overall rate of growth in health care costs.

The amendments to Section 97449 establish a framework for requesting extensions of time for the annual submission deadline, not to be confused with the resubmission of data files. New Section 97451 sets forth an enforcement framework by defining key terms, establishing timelines for notice of violation and penalty assessment, and creating a tiered administrative penalty structure that escalates with continued non-compliance. New Section 97459 sets forth formal administrative hearings consistent with the Government Code, including an informal resolution option.

SPECIFIC PURPOSE AND NECESSITY FOR EACH REGULATION

The proposed emergency regulations establish a comprehensive framework for extension requests, enforcement, and appeals related to the data reporting requirements of the Act. Each regulation is necessary to implement statutory authority, ensure timely compliance, and protect the integrity of the health care cost target program. Immediate implementation is necessary to provide clarity for submitters and maintain enforceable standards during the annual data file submission cycles. The specific purposes and necessity of each regulation within Title 22 are described below.

Amendments to Section 97449

Subsection (h)(1)

The purpose of this subsection is to set in regulation that a required submitter may request extensions for the initial submission of the annual data files on or before the annual deadline, which is found in subsection (h). This provision also provides that the extension cannot exceed the first business day of November of the applicable year. Based on feedback received during the informal comment period, the regulation provides that OHCA will provide a written response to a required submitter's request for an extension of time. This approach seeks to provide a fair balance between the need for extensions of time for unforeseen operational challenges and the timely submission of data to OHCA.

This subsection is necessary to provide a mechanism for health care entities to request extensions when facing genuine, unforeseen operational challenges with the initial submission of data files to OHCA. A hard deadline is necessary to prevent indefinite delays because allowing extensions beyond the first business day of November would jeopardize OHCA's ability to timely complete the analysis of the data files, which may impact OHCA related business operations. For example, OHCA relies on the timely submission of data to compile annual reports, set baselines, and monitor cost targets.

Subsection (h)(2)

The purpose of this subsection is to set in regulation the format and required contents of a request for an extension. This provision provides that the request for extension must be written, submitted via the Data Portal, contain contact information, and the date the submitter requests to submit the data files. The required submitter must provide a summary of the progress made toward completion, reasons for the delay, and a timeline and steps to complete the submission.

This subsection is necessary to ensure OHCA receives standardized information to evaluate whether the required submitters circumstances warrant an extension. These requirements prevent submitters from filing unsubstantiated or vague requests that could compromise timely data collection. It forces submitters to articulate a clear path to

compliance, rather than simply asking for more time, which enables OHCA to effectively monitor a submitter's progress towards submitting complete and accurate data.

Subsection (h)(3)

Historically the data submission process is interactive, with OHCA and submitters engaging in regular communications, often weekly, to identify and resolve issues during the data submission period. Submitters have generally expressed that they value and appreciate this level of interaction. This subsection sets in regulation that a submitter with an approved extension of time must provide progress updates at least every five business days. These updates must include the submitter's progress towards completion and any issues that may affect completion.

This subsection is necessary to maintain oversight during the extension and reflects current working practice. Frequent updates ensure the submitter is actively working toward resolution and allows OHCA to monitor progress towards meeting the extended deadline. Further, timely updates allow OHCA to identify potential delays early and take corrective action, if necessary. Without this requirement, submitters may fail to communicate ongoing issues, increasing the risk of incomplete or late submission that may compromise the cost targets program.

Subsection (h)(4)

The purpose of this subsection is to establish that if OHCA does not deny a timely initial request for an extension within three business days, a one-time extension of up to 14 days is automatically approved. This subsection addresses feedback regarding certainty and predictability for the first request for an extension of time. If an entity submits a timely request, they need to know their compliance status quickly. Should OHCA receive multiple requests for an initial extension at once, OHCA can quickly allocate resources and prioritize responding to urgent requests, ensuring that administrative processing times do not unfairly penalize a submitter.

Subsection (h)(5)

The purpose of this subsection is to allow a submitter an additional extension before the initial one expires. Because a second extension is likely to be requested by a smaller subset of submitters facing unforeseen or extraordinary circumstances, an automatic extension is not warranted under the circumstances. Instead, a second request for an extension requires that OHCA affirmatively approve or deny the request within five business days. This is necessary to ensure submitters have a clear process to request additional time in unforeseen or extraordinary circumstances that cannot be resolved with the initial 14-day window, while keeping OHCA in control of the extension process.

Subsection (h)(6)

The purpose of this subsection is to establish that OHCA has the sole discretion to grant or deny requests for extension. This provision also provides the types of extraordinary events that warrant consideration, including natural disasters, catastrophic events, and unforeseen disruptions to operations or Information Technology systems. Based on feedback received during the informal comment period, the regulation provides that OHCA "shall" consider the circumstances, rather than "may" consider the circumstance. This subsection is necessary to establish the standard of review for approving a submitter's request for an extension. This provision provides flexibility to account for unforeseen circumstances while ensuring accountability and fairness. The standard of review provides a transparent framework for managing exceptional situations. By listing extraordinary events, this provision signals that extensions are not for routine delays or poor planning but are reserved for significant and unavoidable disruptions.

Subsection (k)(2)

The purpose of this amendment to subsection is to increase the response window from three to five business days for a submitter's response to OHCA's request for additional information regarding initially unidentified errors. Based on feedback received during the informal comment period, a five-business day window is necessary to mitigate operational concerns with meeting a three-day turn-around time.

Adoption of Section 97451

The purpose of this section is to establish an enforcement framework that incentivizes health care entities to provide complete and accurate data in a timely manner. This section is necessary for OHCA to receive reliable data that is essential for OHCA to measure THCE, assess compliance with cost targets, and protect the public from excessive health care cost growth. Without this section, OHCA's ability to enforce reporting requirements and carry out its statutory responsibilities would be impaired.

Subsection (a)(1)

The purpose of this subsection is to define in regulation the meaning of the term "accurate." Specifically, the subsection defines accurate data as data values that comply with the technical requirements in the Data Submission Guide, subject to any variance OHCA approves in accordance with Section 97449 (l) of Title 22 of the California Code of Regulations. The provision explicitly notes that inaccurate data includes material errors, misstatements, distortions, or false representations.

This subsection is necessary to provide an enforceable standard for evaluating data submissions and determining violations. Without this definition, a non-compliant entity could attempt to submit inconsistent, corrupt, or non-actual information simply to meet the annual data submission deadline, which would undermine data integrity. Ambiguity

in what constitutes “accurate” data could lead to unusable submissions that may jeopardize OHCA’s mission of measuring cost, assessing compliance with cost targets, and protecting the public from excessive health care cost growth.

Subsection (a)(2)

The purpose of this subsection is to define in regulation the meaning of the term “complete.” Specifically, the subsection defines complete as submissions that include all data files and data fields, with corresponding data values, identified in the Data Submission Guide, subject to any variance OHCA approves in accordance with Section 97449 (l) of Title 22 of the California Code of Regulations. The provision explicitly notes that incomplete data includes any omission, withholding, or partial reporting of information required to be submitted by the Guide. Considering health care entities commented about having more time to resolve operational issues regarding the submission of the Alternative Payment Model, Primary Care, and Behavioral Health data files, the definition is adjusted for the 2026 and 2027 submission year.

This subsection is necessary to provide an enforceable standard for evaluating data submissions and determining violations. Without this definition, a non-compliant health care entity could attempt to submit partial datasets to technically meet the annual data submission deadline, which would undermine data integrity. OHCA’s programs, however, require total data integrity because a missing data field or data value from a major health care entity could skew analysis of statewide cost target performance. The definition of complete ensures that health care entities understand that partial submission, whether incomplete or inaccurate, is non-compliance. Finally, a transitional adjustment is necessary to account for phased implementation of the Alternative Payment Model, Primary Care, and Behavioral Health files while still maintaining enforceable standards.

Subsection (b)

The purpose of this subsection is to set in regulation that a required submitter that fails to submit complete and accurate data by the annual data submission deadline is subject to an administrative penalty. It further provides a waiting period of 30 days to allow for notice and an opportunity to be heard before the Director issues a final order. This subsection is necessary to operationalize the statutory authority to assess administrative penalties for the willful failure to report complete and accurate data. Health and Safety Code section 127502.5, subdivision (h)(1), states the following:

> The director may directly assess administrative penalties when a health care entity has failed to comply with this chapter by doing any of the following: (A) Willfully failing to report complete and accurate data.

Establishing a defined notice-and-order process provides regulated entities with due process while enabling OHCA to act promptly to address noncompliance during annual data submission cycles. The thirty-day timeline is necessary to establish clear and predictable limitations for appeals, which ensures enforcement actions become final and actionable without lingering indefinitely. Without a regulation specifying when a violation occurs and how penalties are imposed, required submitters lack a clear understanding of the enforcement mechanism utilized for compliance with data reporting requirements.

Subsection (c)

The purpose of this section is to set in regulation the scope and range of administrative penalties that the Board approved in accordance with Health and Safety Code section 127501.11, subdivision (b)(2), which provides:

> The board shall approve … the scope and range of administrative penalties and the penalty justification factors for assessing penalties.

The Board publicly discussed the scope and range of administrative penalties for payers[2] and fully integrated delivery systems (FIDS) [3] at the July 2025, August 2025, and September 2025 board meetings. At the November 2025 meeting, the Board approved a tiered escalating administrative penalty framework for enforcement of data non-submission to reflect the potential harm caused by initial noncompliance and the increased harm caused by continued noncompliance. Subsections (c)(1)-(4) implement the Board-approved tiered administrative penalty structure.

Subsection (c)(1)

The purpose of this subsection is to establish an initial administrative penalty of $10,000 if complete and accurate data is not received by the first business day in September or an approved extension date. This subsection is necessary to encourage timely

[2] Generally, a payer is a health care service plan or health insurer. (*See* Health and Safety Code section, 127500.2, subd. (q).)

[3] Generally, a fully integrated delivery system is a system where a nonprofit health plan, a physician group, and a hospital system work together in one region, using an exclusive contract with a physician group to provide services (*See* Health and Safety Code section, 127500.2, subd. (h). [defining a fully integrated delivery system as "a system that includes a physician organization, health facility or health system, and a nonprofit health care service plan that provides health care services to enrollees in a specific geographic region of the state through an affiliate hospital system and an exclusive contract between the nonprofit health care service plan and a single physician organization in each geographic region to provide those medical services."].) Currently, Kaiser Permanente is the only health care organization that meets the statutory definition of a fully integrated delivery system. Kaiser Permanente includes distinct but interdependent entities. For example, Kaiser Foundation Health Plan is a Knox-Keene licensed health care service plan that provides benefits and coverage to enrollees. Kaiser Foundation Hospitals provide hospital services. The Permanente Medical Group is a medical group serving patients in Northern California. The Southern California Permanente Medical Group is a medical group serving patients in Southern California.

submission and serves as a deterrent for noncompliance. Considering most required submitters have timely submitted data in the preceding years, the penalty is set lower than subsequent penalties to reflect that submitters have been cooperative and small delays are due to minor operational issues. The $10,000 flat penalty is a substantial signal that noncompliance with data reporting requirements will have consequences.

Subsection (c)(2)

The purpose of this subsection is to establish an additional administrative penalty of $50,000 if OHCA has not received complete and accurate data by the first business day in November. To encourage timely submission, this section serves as an escalating deterrent to noncompliance. As the delay stretches from September into November, the negative impact on OHCA's statutory duties grows significantly, threatening the timeline for required public reporting. A moderately steeper flat penalty is necessary to compel action from required submitters that failed to submit complete and accurate data. The Board-approved $50,000 flat penalty is a signal that continued noncompliance with data reporting requirements will have consequences.

Subsection (c)(3)

The purpose of this subsection is to establish an additional administrative penalty of $5.00 per covered life if OHCA has not received complete and accurate data by the first business day of December. This subsection is necessary to encourage timely submission and serves as an escalating deterrent to data submission noncompliance. A per covered life[4] base penalty is necessary to ensure penalties are proportionate to the size and market impact of the offending entity. In other words, a per-covered life penalty aligns the magnitude of the penalty with the size and impact of the noncompliant entity, which is consistent with the Act. Health and Safety Code section 127502.5, subdivision (d)(6), provides that the Director shall consider certain penalty factors, including the nature, number and gravity of the offenses, the fiscal condition of the entity, and the market impact of the entity.

As discussed by OHCA and the Board, relativity small flat-fee penalties might not adequately deter larger entities. Adding a covered-life metric, in addition to the cumulative flat penalties, ensures that large entities cannot simply absorb the flat fine as a "cost of doing business" to hide their spending data. Further, as the delay stretches from November into December, the negative impact on OHCA's statutory duties grows significantly, threatening the timeline for public reporting. A per-covered-life penalty is necessary to compel action from required submitters that continue to fail to submit complete and accurate data. The Board-approved $5.00 per covered life penalty is

[4] Generally, "covered life" refers to an individual enrolled with a payer and entitled to health care benefits. Covered lives refer to the total number of individuals enrolled with a payer and entitled to health care benefits.

substantial enough to signal that continued noncompliance with data reporting requirements has significant consequences. To comply with statutory requirements, this subsection provides that the penalty may be adjusted after consultation with state regulators.

Subsection (c)(4)

The purpose of this subsection is to increase the per covered life penalty from $5.00 to $10.00 if OHCA has not received complete and accurate data by the last business day of December. This subsection is necessary to provide a final severe escalation for egregious non-compliance, incorporating the reasoning from (c)(3) as to market impact and parity, after consultation with other regulators. As the delay reaches December 31st, the negative impact on OHCA's statutory duties grows exponentially, severely threatening the timeline for required public reporting. A covered-life penalty is necessary to immediately compel action from required submitters that continue to fail to submit complete and accurate data. The Board-approved $10.00 per covered life penalty is substantial enough to signal that noncompliance with data reporting requirements has significant consequences for egregious conduct.

Subsection (c)(5)

The purpose of this subsection is to double the per-covered life base amounts for every consecutive year of non-compliance. This subsection implements the Board-approved tiered administrative penalty structure that escalates with continued non-compliance. This subsection is necessary to deter habitual violators. If a required submitter continually ignores data reporting requirements year over year, standard administrative penalties lose their deterrent effect because large entities may simply absorb fines as a "cost of doing business" to hide their spending data. Doubling the penalty is a necessary mechanism to force chronic violators into compliance and protect the integrity of the Act.

Subsection (c)(6)

The purpose of this subsection is to provide temporary adjustments to the administrative penalty structure for the Alternative Payment Model, Primary Care, and Behavioral Health files for the 2026 submission year.[5] This subsection is necessary to accommodate the operational realities and novel complexities of gathering and formatting data for these files. OHCA recognizes commentary about the operational challenges associated with implementing new reporting requirements. Providing this initial grace period reflects stakeholder feedback that entities need additional time to adjust internal tracking systems for these files for the 2026 submission year without

[5] Prior to 2025, OHCA required the following five data files: Statewide Total Medical Expenses (TME), Attributed TME, Regional TME, Pharmacy Rebates and Submission Questionnaire. In 2025, OHCA added the Alternative Payment Model and Primary Care data files. In 2026, OHCA added the Behavioral Health data file. (22 CCR 97449.)

facing immediate administrative penalties. Consistent with subsection (a)(2), this provision provides that for the 2026 submission year, these files are not included for the purposes of determining completeness until the last business day of December.

Subsection (c)(7)

The purpose of this subsection is to provide an additional temporary adjustment to the Behavioral Health file for the 2027 submission year. This subsection is necessary to accommodate the operational realities and novel complexities of gathering and formatting data for this specific newly required file. OHCA recognizes commentary about the operational challenges associated with implementing behavioral health reporting requirements. Providing an additional grace period reflects stakeholder feedback and acknowledges that required submitters may need some additional time to adjust internal tracking systems for these files for the 2027 submission year without facing immediate administrative penalties. Consistent with subsection (a)(2), this provision provides that for the 2027 submission year, this file is not included for the purposes of determining completeness until the last business day of December.

Adoption of Section 97459

The purpose of this section is to establish a framework for required submitters to contest administrative penalties. This section is necessary to provide procedural safeguards consistent with principles of due process. By establishing clear appeal procedures, timelines, and adjudication options, this section balances the need for effective enforcement with fairness. Without this section, OHCA's ability to enforce violations of the Act and carry out its statutory responsibilities could be impaired.

Subsection (a)(1)

The purpose of this subsection is to establish that a required submitter may file a notice of appeal within 30 calendar days from the date of the notice of administrative penalty. OHCA considered other filing periods but selected 30 days because it is a standard response window that provides adequate opportunity for required submitters to review their submission files and communications before deciding whether to appeal. This subsection also specifies the method and form of the submission. This subsection is necessary to provide a uniform process by which required submitters may contest administrative penalties. Establishing a firm deadline ensures timely resolution of disputes so that enforcement actions do not remain unresolved during critical reporting periods. Specifying the portable document format (PDF) ensures administrative efficiency and standardized record-keeping using a file format that is widely utilized in the industry.

Subsection (b)(1) – (b)(6)

The purpose of this subsection is to establish the form and contents of the notice of appeal. The notice of appeal requires identification of the submitter, which is necessary to ensure accurate identification of the party appealing and to facilitate proper communication and service of documents. It requires the authorized representative's information, which is necessary to ensure OHCA communicates with the appropriate individual authorized to act on behalf of the submitter. The notice of appeal requires a statement of facts and law, which is necessary to ensure appeals are substantiated and focused on legitimate disputes rather than conclusory assertions. It requires a copy of the notice of administrative penalty, which is necessary to ensure OHCA can readily identify the matter at issue. The notice of appeal requires a statement of whether the party consents to electronic service, which is necessary to facilitate efficient service of process and reduce administrative burden.

Finally, this subsection requires attestation under penalty of perjury, which is necessary to promote the integrity of the appeals process. An attestation is a strong deterrent against submitting fabricated evidence or making false statements to delay the payment of administrative penalties. Certification under penalty of perjury is necessary to ensure that the data submission contains truthful, factual representations made in good faith, which helps ensure the reliability of the submission to OHCA. (See e.g., *In re Marriage of Reese & Guy* (1999) 73 Cal.App.4th 1214, 1223 [judicial explanation for the use of certifications under penalty of perjury: "The whole point of permitting a declaration under penalty of perjury, in lieu of a sworn statement, is to help ensure that declarations contain a truthful factual representation and are made in good faith."], *disapp. on another point in Laborde v. Aronson* (2001) 92 Cal. App.4th 459, 465.)

Subsection (c)

The purpose of this subsection is to establish that OHCA has 60 days to either grant the appeal or notify the required submitter that OHCA will file an accusation with OAH. After OHCA files accusation, this subsection mandates a formal hearing occurring in accordance with Chapter 5 of the Administrative Procedure Act, with the default venue for filing purposes being Sacramento. Hearings shall be conducted by videoconference. The parties, however, may change the hearing to telephone or in-person by mutual agreement. To provide clarity regarding the standard of proof, this subsection expressly states the standard of proof is preponderance of the evidence. (See Evid. Code § 115 [Except as otherwise provided by law, the burden of proof requires proof by a preponderance of the evidence.].)

This subsection is necessary to provide a uniform process for adjudication that ensures due process rights to entities facing financial penalties. Setting a defined timeframe provides certainty that OHCA will respond to the health care entity. The 60-day period was selected because it allows OHCA sufficient time to review the appeal, evaluate the

underlying evidence, and consult with other regulatory agencies when necessary. Filing an accusation with OAH is necessary because a formal hearing ensures a fair, standardized, and clear adjudicatory process. Utilizing OAH ensures that disputes potentially involving millions of dollars in administrative penalties are overseen by an Administrative Law Judge. Setting the default venue for filing purposes in Sacramento promotes certainty. Setting virtual hearings as the default promotes administrative efficiency while maintaining flexibility for in-person hearings by mutual agreement. Stating the standard of proof is necessary to provide clarity to the parties of an appeal.

Subsection (d)

The purpose of this subsection is to expressly permit OHCA and the required submitter to resolve disputes informally. If the parties reach a mutual agreement, it becomes a final order dismissing the appeal. This subsection is necessary to promote administrative and judicial efficiency. Formal administrative hearings may be costly and time-consuming for both OHCA and required submitters. Providing a formalized mechanism for amicable settlement conserves state resources, relieves docket pressure on OAH, and achieves compliance faster than protracted formal litigation.

ANTICIPATED BENEFITS OF THE PROPOSAL

The proposed emergency regulations will have significant benefits to the State of California, health care entities, health care consumers, and purchasers by setting the foundation and framework for enforcement of data submission reporting requirements. A fundamental purpose of OHCA is to reduce the overall rate of growth in health care costs while maintaining quality, access, and equity. The success of OHCA's efforts rests on health care entity data, which is the foundation of the state's ability to set baselines and measure performance against health care cost targets. By establishing a robust enforcement and penalty framework, the proposed regulations ensure OHCA receives critical THCE data on time. Timely and accurate data submissions allow OHCA to effectively monitor market trends, identify cost drivers, and shed light on market failures.

The enforcement framework permits OHCA to hold entities publicly accountable for failing to meet data submission reporting requirements, while ensuring fairness and equity in enforcement. For example, entities will have predictable options to request relief during extraordinary events or to contest violation notices before an Administrative Law Judge. The inclusion of an informal resolution process benefits both the state and health care entities by encouraging amicable settlements for the timely submission of data, thereby avoiding lengthy timelines associated with formal administrative litigation. By OHCA addressing stakeholder concerns, this proposal enhances public trust in the regulatory process and OHCA's commitment to oversight.

Once fully implemented, the proposed regulations will assist the Board and OHCA by having an enforcement mechanism to obtain a comprehensive view of health care spending, cost trends, and variations, ultimately guiding efforts to reduce the overall rate of growth in health care costs in California. For example, by enforcing the timely submission of the Alternative Payment Model, Primary Care, and Behavioral Health files, the regulations directly support the Legislature's intent to measure and promote sustained systemwide investments in primary care and behavioral health, which are proven to improve health outcomes and reduce downstream health care costs.

CONSIDERATION OF ALTERNATIVES:

OHCA and the Board considered reasonable alternatives to the proposed regulations and determined that no reasonable alternative considered, or otherwise identified and brought to their attention, would be more effective in carrying out the purpose for which the regulations are proposed, would be as effective and less burdensome to affected private persons, or would be more cost effective to affected private persons and equally effective in implementing the statutory policy or other provision of law. In developing the proposed regulations, they considered the following alternatives.

An alternative approach was to maintain the status quo and rely solely on the underlying statutory provisions set forth in Health and Safety Code section 127502.5. This alternative was not viable because OHCA needs implementing regulations to establish uniform procedures, definitions, timelines, scope and range of penalties, and standards necessary for consistent statewide administration and enforcement. The alternative of issuing guidance documents, bulletins, or policy memoranda in lieu of formal regulations is also not viable because these guidance documents would not have the force of law. Without the proposed regulations, required submitters may lack sufficient guidance, resulting in inconsistent compliance, delays, and potential risk to public health and safety. These proposed regulations are necessary to ensure transparency, accountability, and legally binding requirements for enforcement of data submission.

OHCA considered not offering extensions for data submissions. This approach was discarded in response to stakeholder engagement. OHCA believes it is more effective and efficient to obtain the necessary data by providing submitters with reasonable extensions of time. A hard deadline is necessary to prevent indefinite delays as allowing extension beyond the first business day of November may jeopardize OHCA's ability to timely complete the analysis of the data, which may impact related business operations. By permitting a period for extensions of time, OHCA retains flexibility to cooperatively work with submitters and receive complete and accurate data as quickly as possible.

OHCA also considered different methodologies for the scope and range of penalties. One approach was to impose significantly larger upfront administrative penalties, or alternatively, increase the per covered life amount to $20.00, to serve as stronger

deterrent against late submission. Stakeholders, however, found this approach too punitive. Another approach was to simply set a flat administrative penalty of $10,000 for untimely data submission. Board members, Advisory Committee members, and the public found the amount too low considering large health care entities may view the amount as a cost of doing business in California. Other methodologies include setting penalties based on an organization's size, revenue, financial health, or adjusting the penalty amounts based on economic indicators like the Consumer Price Index. OHCA and the Board also considered penalty structures based on a daily, weekly, or monthly basis. These methodologies, however, became overly complex and resource intensive to administer. OHCA and the Board determined that the tiered structure of escalating penalties strikes a more appropriate and sound balance between stakeholder interest, operational feasibility, and achieving the primary goal of actual submission of data.

OHCA considered enforcing the completeness standard uniformly across all required data files for the 2026 and 2027 submission year without any exceptions. OHCA rejected this approach based on feedback received from stakeholders. Acknowledging the operational realities faced by health care entities, OHCA recognizes the novelty and complexity of gathering and reporting data for the new Alternative Payment Model, Primary Care, and Behavioral Health files. Providing a specific, limited grace period was chosen to alleviate stakeholder concerns by giving entities reasonable time to adapt their internal reporting systems, while permitting OHCA to still effectively implement its goals.

OHCA considered a written-only appeal process for adjudication of administrative penalty matters. This alternative would have provided appeal based primarily on written document submissions, without the need for a formal in-person or oral hearing. Considering the written appeal system differs from a formal hearing process, there were concerns about imposing a new appeal process on required submitters. OHCA determined the formal administrative hearing process in the Government Code provides a well-established, standardized due process framework for required submitters without placing additional resources burdens on OHCA. The formal appeal process also ensures consistency with how other departments handle substantial administrative penalties.

In the future, after gaining more experience with data submission non-compliance, OHCA may revisit the enforcement framework.

TECHNICAL, THEORETICAL, AND/OR EMPIRICAL STUDY, REPORTS, OR DOCUMENT(S) RELIED UPON:

Public Meetings

- July 22, 2025 - Health Care Affordability Board Meeting – Relevant Presentation Slides, Minutes
- August 26, 2025 - Health Care Affordability Board Meeting – Relevant Presentation Slides, Minutes
- September 22, 2025 - Health Care Affordability Advisory Committee Meeting – Relevant Presentation Slides, Minutes
- October 28, 2025 - Health Care Affordability Board Meeting – Relevant Presentation Slides, Minutes
- November 19, 2025 - Health Care Affordability Board Meeting – Relevant Presentation Slides, Minutes
- April 22, 2026 - Health Care Affordability Board Meeting – Relevant Presentation Slides, Minutes
- May 27, 2026 - Health Care Affordability Board Meeting – Relevant Presentation Slides, Minutes

Written comments received and considered:

- July 17, 2025 - Letter from Health Access California re: July 22, 2025, Board Meeting
- August 22, 2025 - Letter from Health Access California re: August 2025 Board Meeting
- October 10, 2025 - Local Health Plans of California re: LHPC Data Submission Enforcement Penalties Comments
- October 21, 2025 - Letter from Health Access California re: October 2025 Health Care Affordability Board Meeting
- November 14, 2025 - Letter from Health Access California re: November 2025 Health Care Affordability Board Meeting
- May 11, 2026 – Comments from California Association of Health Plans re OHCA Draft Data Submission Enforcement Regulations
- May 11, 2026 – Letter from Health Access California re: Total Health Care Expenditures (THCE) Data Submission - Extensions to submit data and penalties for late or non-submission of data.

CONSISTENCY AND COMPATIBILITY WITH EXISTING STATE REGULATIONS

OHCA conducted a search of any similar regulations on this topic and concluded that these regulations are neither inconsistent nor incompatible with existing state regulations.

LOCAL MANDATE

No local mandate is imposed on a local agency or school district that requires reimbursement pursuant to Government Code section 17500 *et seq*.

DISCLOSURES REGARDING THE PROPOSED ACTION:

FISCAL IMPACT ESTIMATES

Cost or savings to any local agency or school district requiring reimbursement pursuant to Government Code section 17500 *et seq*.: None.

Cost or savings to any state agency: OHCA does not anticipate any additional cost or savings.

Cost to any local agency or school district which must be reimbursed in accordance with Government Code sections 17500 through 17630: None.

Other nondiscretionary cost or savings imposed on local agencies: None.

Cost or savings in federal funding to the state: None.