

1 DEPARTMENT OF HEALTH CARE ACCESS AND INFORMATION
2 OFFICE OF HEALTH CARE AFFORDABILITY
3 PROPOSED TEXT OF EMERGENCY REGULATIONS
4

5 Title 22, California Code of Regulations
6 Division 7. Health Planning and Facility Construction
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8 Chapter 11.5. Promotion of Competitive Health Care Markets; Health Care
9 Affordability
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11 [...Article 1 continues through § 97442]
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13 Article 2. Health Care Spending Targets.
14 § 97445 Definitions.

15 As used in this Article, the following definitions apply:

- 16 (a) "Affiliate" or "affiliation" for purposes of this Article, refers to situations in which an
17 entity controls, is controlled by, or is under common control with another entity.
18 (b) "Control" (including the terms "controlling," "controlled by," and "under common
19 control with") for purposes of this Article, means the possession, direct or
20 indirect, of the power to direct or cause the direction of the management and
21 policies of an entity, whether through the ownership of voting shares, debt, by
22 contract, or otherwise.
23 (c) "Department" shall mean the Department of Health Care Access and Information.
24 (d) "Designated submitter representative" means an individual designated by a
25 registered submitter to submit data on behalf of the registered submitter and
26 receive all communications from the System and the Office regarding data
27 submissions.
28 (e) "Directly Contracted Plan" means a payer or fully integrated delivery system that
29 is directly contracted with a group purchaser, individual subscriber, or a public
30 agency, to arrange for the provision of health care services to members.
31 (f) "Director" shall mean the director of the Department of Health Care Access and
32 Information.
33 (g) "Fully integrated delivery system" shall have the meaning set forth in section
34 127500.2(h) of the Health and Safety Code ("the Code").
35 (h) "Health insurer" means a health insurer licensed to provide health insurance or
36 specialized behavioral health-only policies, as defined in Section 106 of the
37 Insurance Code.
38 (i) "Health plan" means a health care service plan or a specialized mental health
39 care service plan as defined in the Knox-Keene Health Care Service Plan Act of
40 1975 (Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health
41 and Safety Code). "Health plan" does not include a health care service plan that

- 42 holds only a restricted or limited license under subdivision (a) of Section 1300.49
43 of Title 28 of the California Code of Regulations.
- 44 (j) "Office" shall mean the Office of Health Care Affordability established by section
45 127501 of the Code.
- 46 (k) "Payer" shall have the meaning set forth in section 127500.2(o) of the Code.
- 47 (l) "Plan-to-plan contract" means a contractual arrangement between two payers or
48 fully integrated delivery systems, in which the subcontracted plan makes network
49 providers available to the directly contracted plan's members, and the
50 subcontracted plan may be responsible for other directly contracted plan
51 functions. Plan-to-plan contracts do not include contractual arrangements
52 between a payer or fully integrated delivery system and a physician organization.
- 53 (m) "Physician organization" shall have the meaning set forth in section 127500.2(p)
54 of the Code.
- 55 (n) "Registered submitter" means a payer or fully integrated delivery system or
56 approved voluntary submitter that has registered to submit data to the System.
- 57 (o) "Reporting year" means the service year for which data files are being reported.
- 58 (p) "Subcontracted Plan" means a payer or fully integrated delivery system that has
59 a plan-to-plan contract allowing a directly contracted plan's members access to
60 the subcontracted plan's network providers.
- 61 (q) "System" or "THCE System" means the Total Health Care Expenditures Data
62 System.
- 63 (r) "THCE Data Portal" or "data portal" means the secure data submission
64 mechanism through which health care entities register to submit data and data
65 files are submitted to the System. The data portal is available via the
66 Department's website, hcai.ca.gov.
- 67 (s) "THCE Data Submission Guide" or "the Guide" means the Office of Health Care
68 Affordability: Total Health Care Expenditures Data Submission Guide, dated
69 _____, 2023, and hereby incorporated by reference. The Guide is available
70 on, and may be downloaded from the Department's website.
- 71 (t) "OHCA Attribution Addendum" means the Office of Health Care Affordability:
72 Attribution Addendum, dated _____, 2023, and hereby incorporated by
73 reference. The OHCA Attribution Addendum is available on, and may be
74 downloaded from, the Department's website.
- 75 (u) "Voluntary submitter" means a payer or fully integrated delivery system exempt
76 from the requirements of this Article that chooses to voluntarily submit data to the
77 Office and has been approved by the Office to register to submit data to the
78 System.

79
80 *Note:*

81 Authority: Sections 127501, 127501.2, and 127501.4, Health and Safety Code.

82 Reference: Sections 127500.2, 127501.4, and 127501.4, Health and Safety Code.

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84 **§ 97447 Scope.**
85 Section 97449 defines reporting requirements for payers and fully integrated delivery
86 systems to submit data and other information necessary for the Office to measure total
87 health care expenditures and per capita total health care expenditures.

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89 *Note:*
90 Authority: Sections 127501, 127501.2, and 127501.4, Health and Safety Code.
91 Reference: Sections 127500.5 and 127501.4, Health and Safety Code.

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93 **§ 97449 Total Health Care Expenditures Data Submission.**

94 (a) Who must submit. A payer or fully integrated delivery system shall be subject to
95 the requirements of this Article if any of the following criteria in subsections (a)(1)
96 through (3) are met:

97 (1) The payer or fully integrated delivery system is a Medi-Cal managed care
98 plan contracted with the State Department of Health Care Services to
99 provide full scope benefits to 40,000 or more Medi-Cal beneficiaries
100 pursuant to Chapter 7 (commencing with Section 14000) or Chapter 8
101 (commencing with Section 14200) of Part 3 of Division 9 of the Welfare
102 and Institutions Code. The number of Medi-Cal beneficiaries shall be
103 calculated as of December 31 of each calendar year prior to the
104 submission year. This subsection (a)(1) is effective beginning with the first
105 annual data file submission as described in subsections (e)(2) and (h)(2).

106 (2) The payer or fully integrated delivery system enrolls or insures 40,000 or
107 more covered lives in Medicare Advantage products under Medicare Part
108 C. The number of covered lives in Medicare Advantage products shall be
109 calculated by adding together all the covered lives in the entity's Medicare
110 Advantage products in California as of December 31 of each calendar
111 year prior to the submission year.

112 (3) The payer or fully integrated delivery system enrolls or insures 40,000 or
113 more covered lives in commercial products. The number of covered lives
114 in commercial products shall be calculated by adding together all the
115 covered lives in the entity's commercial health insurance products and
116 commercial health plan products in California as of December 31 of each
117 calendar year prior to the submission year. For purposes of this
118 paragraph, "commercial" refers to products that are not Medi-Cal or
119 Medicare Advantage products.

120 (b) A payer or fully integrated delivery system that meets any of the criteria in
121 subsection (a) (hereinafter referred to as a "required submitter") shall submit data
122 for all required market categories as outlined in the Guide, to the extent
123 consistent with federal law or guidance.

124 (c) Voluntary Data Submission. To request to become a voluntary submitter, a payer
125 or fully integrated delivery system or their authorized agent shall submit to the
126 Office a written request to participate. Each request shall provide the voluntary

127 submitter's contact information, number of covered lives, and types of coverage
128 offered. The Office shall notify requestors if they are approved to register to
129 submit data.

130 (d) Coordination of Data Submission.

131 (1) Required submitters are responsible for reporting data for all plan
132 members. If a required submitter is the Directly Contracted Plan in a Plan-
133 to-Plan contract, the Directly Contracted Plan shall obtain any necessary
134 data from the Subcontracted Plan and submit the data to the System.

135 (2) Affiliated required submitters are responsible for coordinating data
136 submission amongst their affiliates to ensure compliance with this Article.

137 (e) Registration Deadline.

138 (1) Initial data file submission. All required submitters and approved voluntary
139 submitters shall register in the data portal to submit data through the
140 System for the 2022 and 2023 reporting years by April 30, 2024.

141 (2) Annual data file submission. After September 1, 2024, all required
142 submitters and approved voluntary submitters shall register in the data
143 portal to submit data through the System annually by May 31st.

144 (f) Registration Process. All required submitters and approved voluntary submitters
145 must register in the data portal and provide all required registration information
146 as specified in the Guide.

147 (g) Registration Information Update. Each registered submitter must update
148 registration information in the data portal within 15 calendar days of any change
149 in the required registration information as specified in the Guide.

150 (h) Data File Submission Deadline.

151 (1) Initial data file submission. Registered submitters shall submit data files as
152 specified in the Guide through the System for the 2022 and 2023 reporting
153 years by September 1, 2024.

154 (2) Annual data file submission. After September 1, 2024, registered
155 submitters shall submit data files through the System annually by
156 September 1 of the year following each reporting year as specified in the
157 Guide.

158 (i) Data File Technical Requirements. Data files shall comply with file format,
159 technical specifications, and other standards specified in the Guide.

160 (j) Test File Submission. Registered submitters may use the data portal to submit
161 test files to confirm and test their ability to create data files meeting the file intake
162 specifications detailed in the Guide. Test files will be identified as specified in the
163 Guide. Test files will not be considered to have been submitted to the Office for
164 reporting purposes.

165 (k) Data Acceptance and Correction.

166 (1) Data files that are submitted to the System but do not meet the file intake
167 specifications detailed in the Guide will be rejected. Registered submitters

168 will be notified within 5 business days of submission whether a data file
169 has been accepted or rejected. Reasons for rejection include:

170 (A) Invalid file format, file layout, or data types.

171 (B) Incomplete or illogical data.

172 (C) Other technical deficiencies related to file submission, storage, or
173 processing.

174 (2) If the Office determines that a previously accepted file contains initially
175 unidentified errors, the submitter shall be notified through the data portal.
176 The submitter shall respond through the data portal within 3 business days
177 of notification by the Office. The Office may make multiple requests for
178 corrections or resubmissions.

179 (l) Requesting a Variance. A submitter that is unable to submit data files meeting
180 the file intake specifications detailed in the Guide may request a temporary
181 variance to those requirements.

182 (1) Variance requests shall be submitted through the data portal, and shall
183 clearly identify the issue, the plan for correction, and the anticipated date
184 of correction.

185 (2) The Office shall respond to variance requests within 5 working days of the
186 date the request was submitted.

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188 *Note:*

189 Authority: Sections 127501, 127501.2, and 127501.4, Health and Safety Code.

190 Reference: Sections 127500.2, 127500.5, and 127501.4, Health and Safety Code.