

TEXT OF PROPOSED EMERGENCY REGULATIONS

Legend: Proposed additions to the current text published in the California Code of Regulations are illustrated in green underline (added text). Deleted text is illustrated in red strikethrough (~~deletions~~).

California Code of Regulations, Title 22. Social Security
Division 7. Health Planning and Facility Construction
Chapter 11.5. Promotion of Competitive Health Care Markets;
Health Care Affordability
Article 2. Health Care Spending Targets.

§ 97449. Total Health Care Expenditures Data Submission.

In order for the Office to measure total health care expenditures and per capita total health care expenditures, the reporting requirements for payers and fully integrated delivery systems to submit data and other information are as follows:

- (a) Who must submit. A payer or fully integrated delivery system shall be subject to the requirements of this Article if any of the following criteria in subsections (a)(1) through (3) are met:
 - (1) The payer or fully integrated delivery system is a Medi-Cal managed care plan contracted with the State Department of Health Care Services to provide full scope benefits to 40,000 or more Medi-Cal beneficiaries pursuant to Chapter 7 (commencing with Section 14000) or Chapter 8 (commencing with Section 14200) of Part 3 of Division 9 of the Welfare and Institutions Code. The number of Medi-Cal beneficiaries shall be calculated as of December 31 of each calendar year prior to the submission year.
 - (2) The payer or fully integrated delivery system enrolls or insures 40,000 or more covered lives in Medicare Advantage products under Medicare Part C. The number of covered lives in Medicare Advantage products shall be calculated by adding together all the covered lives in the entity's Medicare Advantage products in California as of December 31 of each calendar year prior to the submission year.
 - (3) The payer or fully integrated delivery system enrolls or insures 40,000 or more covered lives in commercial products. The number of covered lives in commercial products shall be calculated by adding together all the covered lives in the entity's commercial health insurance products and commercial health plan products in California as of December 31 of each calendar year prior to the submission year. For purposes of this paragraph, "commercial" refers to products that are not Medi-Cal or Medicare Advantage products.
- (b) A payer or fully integrated delivery system that meets any of the criteria in subsection (a) ("required submitter") shall submit data for all required market categories as outlined in the Guide incorporated in section 97445(s), to the extent consistent with federal law.

- (c) Voluntary Data Submission. To request to become a voluntary submitter, a payer or fully integrated delivery system or their authorized agent shall submit to the Office a written request to participate. Each request shall provide the voluntary submitter's contact information, number of covered lives, and types of coverage offered. The Office shall notify requestors if they are approved to register to submit data.
- (d) Coordination of Data Submission.
- (1) Required submitters are responsible for reporting data for all plan members. If a required submitter is the Directly Contracted Plan in a Plan-to-Plan contract, the Directly Contracted Plan shall obtain any necessary data from the Subcontracted Plan and submit the data through the Data Portal.
- (2) Affiliated required submitters are responsible for coordinating data submission amongst their affiliates to ensure compliance with this Article.
- (e) Annual Registration Deadline. All required submitters and approved voluntary submitters shall register in the Data Portal annually by the last business day of May.
- (f) Registration Process. All required submitters and approved voluntary submitters must register in the Data Portal and provide all required registration information as specified in the Guide.
- (g) Registration Information Update. Each registered submitter must update registration information in the Data Portal within 15 calendar days of any change in the required registration information as specified in the Guide.
- (h) Annual Data File Submission Deadline. All registered submitters shall submit data files through the Data Portal annually by the first business day of September of the year following each reporting year as specified in the Guide.
- (1) On or before the annual data file submission deadline, a required submitter may request an extension of time to submit data files. In approving, denying, or requesting more information related to request for an extension of time, the Office shall provide a written response. The Office shall not approve any extension request that sets a submission deadline beyond the first business day of November of the applicable data submission year.
- (2) Extension requests shall be submitted through the Data Portal and shall include:
- (A) the name, title, and contact information of the individual authorized to make the request on behalf of the required submitter,
- (B) the date requested to submit the data files,
- (C) a summary of the progress made towards submission of all required data files, including, but not limited to, the proportion of data files that are ready for submission,

- (D) a detailed explanation of the reasons for the request for extension, including, but not limited to, any issues preventing the required submitter from submitting the data files, and
 - (E) a timeline and summary of the steps the required submitter plans to take for submitting the data files.
- (3) If the Office approves an extension request, the required submitter shall provide written updates to the Office every five business days regarding progress towards submission of the data files. Each update shall include, at a minimum, the proportion of data files that are ready for submission, and any issues impacting timely submission.
- (4) If a required submitter timely requests an extension in accordance with subsection (h)(1) and the Office does not issue a denial within three business days of receipt, a one-time extension of 14 calendar days from the annual data submission deadline shall be deemed approved by the Office.
- (5) Before the expiration of the initial extension, a required submitter may request an additional extension of time. The Office shall either approve or deny the request within five business days of receipt.
- (6) The Office has sole discretion to grant or deny requests for extensions of time. The Office shall review the request and grant an extension request if it determines circumstances prevent timely submission of complete and accurate data files, including but not limited to, a natural disaster, a catastrophic event, a declared state of emergency, unforeseen disruptions to personnel, unforeseen disruptions to business operations, unforeseen disruptions to information technology systems, or another extraordinary event that directly impacts the submission of data files.
- (i) Data File Technical Requirements. Data files shall comply with file format, technical specifications, and other standards specified in the Guide.
- (j) Test File Submission. Registered submitters may use the Data Portal to submit test files to confirm and test their ability to create data files meeting the file intake specifications detailed in the Guide. Test files will be identified as specified in the Guide. Test files will not be considered to have been submitted to the Office for reporting purposes.
- (k) Data Acceptance and Correction.
 - (1) Data files that are submitted through the Data Portal but do not meet the file intake specifications detailed in the Guide will be rejected. Registered submitters will be notified within five business days of submission whether a data file has been accepted or rejected. Reasons for rejection include:
 - (A) Invalid file format, file layout, or data types.
 - (B) Incomplete or illogical data.
 - (C) Other technical deficiencies related to file submission, storage, or processing.

- (2) If the Office determines that a previously accepted file contains initially unidentified errors, the submitter shall be notified by the Office. The submitter shall respond to the Department with additional information regarding the initially unidentified errors within ~~three~~ five business days of notification by the Office.
- (3) If the Office determines that a previously accepted file requires resubmission, the submitter shall be notified by the Office. The submitter shall submit remediated files through the Data Portal within 10 business days of notification by the Office.
- (4) The Office may make multiple requests for information or resubmissions pursuant to this subsection.
- (l) Requesting a Variance. A submitter that is unable to submit data files meeting the file intake specifications detailed in the Guide may request a temporary variance to those requirements. Variance requests granted by the Office will be limited in duration and will not carry over to future data submission years.
 - (1) Variance requests shall be submitted through the Data Portal, and shall clearly identify the issue, the plan for correction, and the anticipated date of correction.
 - (2) The Office shall respond to variance requests within five business days of the date the request was submitted.

Note:

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

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

§ 97451. Annual Data File Submission Deadline Violation, Notice and Administrative Penalty

(a) As used in this section, the following definitions apply:

- (1) “Accurate” means the data values submitted for each data field in a data file comply with the data file technical requirements specified in the Guide, subject to any variance the Office approves in accordance with section 97449 (l). Inaccurate data includes, but is not limited to, data that contains material errors, misstatements, distortions, or representations that do not correspond to the underlying facts.
- (2) “Complete” means the data submission includes all data files and data fields identified in the Guide with corresponding data values, subject to any variance the Office approves in accordance with section 97449 (l). Incomplete data includes, but is not limited to, any omission, withholding, or partial reporting of information required to be submitted by the Guide. For the 2026 submission year, “complete” will be adjusted pursuant to subsection (c)(6). For the 2027 submission year, “complete” will be adjusted pursuant to subsection (c)(7).

(b) A required submitter that willfully fails to submit complete and accurate data by either the annual data file submission deadline or by the extension date granted by

the Office pursuant to section 97449, is subject to an administrative penalty in accordance with this section. No sooner than thirty calendar days after the date of the Office's notice of an administrative penalty, the Director shall issue a final order for the administrative penalty unless the required submitter timely contests the administrative penalty pursuant to section 97459.

(1) The Office shall provide the required submitter with written notice of the basis for an administrative penalty. The notice shall be sent to the electronic mail address the required submitter used to register in the Data Portal. A notice of administrative penalty shall include, at a minimum, the following:

(A) The amount of the administrative penalty,

(B) A description of the acts or omissions that give rise to the administrative penalty, including identifying the specific statute, regulation, or law that a required submitter violated,

(C) A statement that the required submitter may contest the administrative penalty in accordance with section 97459.

(c) The amount of the administrative penalty shall be according to the following:

(1) If the Office has not received the required data submission by either the annual data file submission deadline or by the extension date granted by the Office, the Office shall assess an administrative penalty of ten thousand dollars (\$10,000).

(2) In addition to paragraph (1) of this subsection, if the Office has not received the required data submission by the first business day of November, the Office shall assess an administrative penalty of fifty thousand dollars (\$50,000).

(3) In addition to paragraphs (1) and (2) of this subsection, if the Office has not received the required data submission by the first business day of December, the Office shall assess a base administrative penalty of up to five dollars (\$5.00) per covered life as of December 31 of the most recent reporting year, which may be adjusted pursuant to subparagraph (5), consultation with the Director of Managed Health Care, the Director of Health Care Services, or the Insurance Commissioner, as applicable, and pursuant to Health and Safety Code section 127502.5(b)(4), and the determination of factors pursuant to Health and Safety Code section 127502.5, subsection (d)(6).

(4) In addition to paragraphs (1) and (2) of this subsection, if the Office has not received the required data submission by the last business day of December, the Office shall assess a base administrative penalty of up to ten dollars (\$10.00) per covered life as of December 31 of the most recent reporting year, which may be adjusted pursuant to paragraph (5), consultation with the Director of Managed Health Care, the Director of Health Care Services, or the Insurance Commissioner, as applicable, and pursuant to Health and Safety Code section 127502.5(b)(4), and the determination of factors pursuant to Health and Safety Code section 127502.5, subsection (d)(6).

(5) For every consecutive year of non-compliance, the per-covered life base amount in paragraphs (3) and (4) of this subsection is double the prior year's amount.

- (6) For the 2026 submission year only, Alternative Payment Model, Primary Care, and Behavioral Health files are not included for the purposes of determining completeness until the last business day of December. If the submission is not complete at that time for those files only, then the Office shall assess a base administrative penalty of up to five dollars (\$5.00) per covered life as of December 31 of the most recent reporting year, which may be adjusted pursuant to paragraph (5), consultation with the Director of Managed Health Care, the Director of Health Care Services, or the Insurance Commissioner, as applicable, and pursuant to Health and Safety Code section 127502.5(b)(4), and the determination of factors pursuant to Health and Safety Code section 127502.5, subsection (d)(6).
- (7) For the 2027 submission year only, Behavioral Health files are not included for the purposes of determining completeness until the last business day of December. If the submission is not complete at that time for those files only, then the Office shall assess a base administrative penalty of up to five dollars (\$5.00) per covered life as of December 31 of the most recent reporting year, which may be adjusted pursuant to paragraph (5), consultation with the Director of Managed Health Care, the Director of Health Care Services, or the Insurance Commissioner, as applicable, and pursuant to Health and Safety Code section 127502.5(b)(4), and the determination of factors pursuant to Health and Safety Code section 127502.5, subsection (d)(6).

Note:

Authority: Sections 127501, 127501.2, and 127502.5, Health and Safety Code.

Reference: Sections 127501, 127501.2, 127501.4 and 127502.5, Health and Safety Code.

§ 97459. Appeal of an Administrative Penalty

- (a) A required submitter may contest an administrative penalty issued pursuant to this Article by submitting a notice of appeal, including any exhibits, in portable document format (PDF) to OHCA@hcai.ca.gov, that complies with the requirements of this section within 30 calendar days from the date of the notice of administrative penalty.
- (b) A notice of appeal shall include, at a minimum, the following:
- (1) The legal name and address of the required submitter,
 - (2) The name, title, and contact information of an authorized representative,
 - (3) A statement setting forth the material facts and relevant law that is the basis of the appeal, including, but not limited to, any documents supporting that the required submitter did not violate applicable laws,
 - (4) A copy of the notice of the administrative penalty,
 - (5) A statement of whether the required submitter consents to electronic service, including the electronic mail address for accepting service, if applicable, and

- (6) An attestation signed under penalty of perjury affirming the information provided in the notice of appeal is true and correct, to the best of the attestor's personal knowledge and, if the attestor did not personally know the information, the attestor exercised due diligence to confirm the information with someone who knows the information personally.
- (c) Within 60 days of receipt of the notice of appeal, the Office shall either withdraw the notice of administrative penalty or notify the required submitter that the Office will file an Accusation with the California Office of Administrative Hearings based on review of the appeal documents. A hearing shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code. Venue for filing purposes shall be Sacramento. Hearings shall be videoconference unless by mutual agreement of the parties. The standard of proof shall be preponderance of the evidence.
- (d) Informal Resolution Process. The Office and required submitter may schedule one or more teleconferences to resolve the appeal informally. If the parties reach an agreement that is mutually acceptable, the agreement shall be in writing and signed by both parties. The agreement signed by the parties shall become a final order from the Director that resolves the appeal. If a hearing has been scheduled, the Office shall notify the Office of Administrative Hearings of the resolution and the appeal shall be taken off calendar in accordance with section 1028, subdivision (j) of Title 1 of the California Code of Regulations.

Note:

Authority: Sections 127501, 127501.2, and 127502.5, Health and Safety Code.

Reference: Sections 127501, 127501.2, 127501.4 and 127502.5, Health and Safety Code.