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# Health Care Market Oversight (HCMO) Program

Technical Advisory Group (TAG) Meeting

January 14, 2022



# Agenda

1. Introduction to the TAG process
2. Brief summary of HCMO program
3. Presentation and discussion of proposal

# Housekeeping & Announcements

- This meeting is being *recorded* and will be posted on the program website
- For technical assistance, send a direct message to JerRonde Weatherspoon
- When providing input, please state your name and the organization you represent.

**Submit any written comments to**  
**[HCMO.info@dhsoha.state.or.us](mailto:HCMO.info@dhsoha.state.or.us)**

# Technical Advisory Group

- This short-term TAG will focus on two specific components of the program and provide input to OHA about the posted document
- All individuals are welcome to participate
- OHA is planning a second TAG meeting **January 28 at 1pm**
- OHA will accept and consider all input voiced during TAG meetings and all written input. If submitting written input, please send **as soon as possible**. Input received by 1/21 will be considered for a next version of the guidance document, if applicable, in preparation for the second TAG meeting.
- OHA plans to publish document by February 15

# Purpose of this TAG

- Further specify the concept of “essential services” which, in accordance with the statute, includes “services that are essential to achieve health equity”
- Specify how a health care entity will determine if a transaction will significantly reduce essential services

# TAG is not a RAC

Technical Advisory Groups (TAGs) differ from Rules Advisory Committees (RACs)

- OHA does not need to roll call attendance for TAGs
- No appointed members; open to everyone
- Secretary of State is not notified of a TAG

TAGs are helpful when discussing specific topics

All input heard today will be taken under advisement; a TAG is not a decision-making body

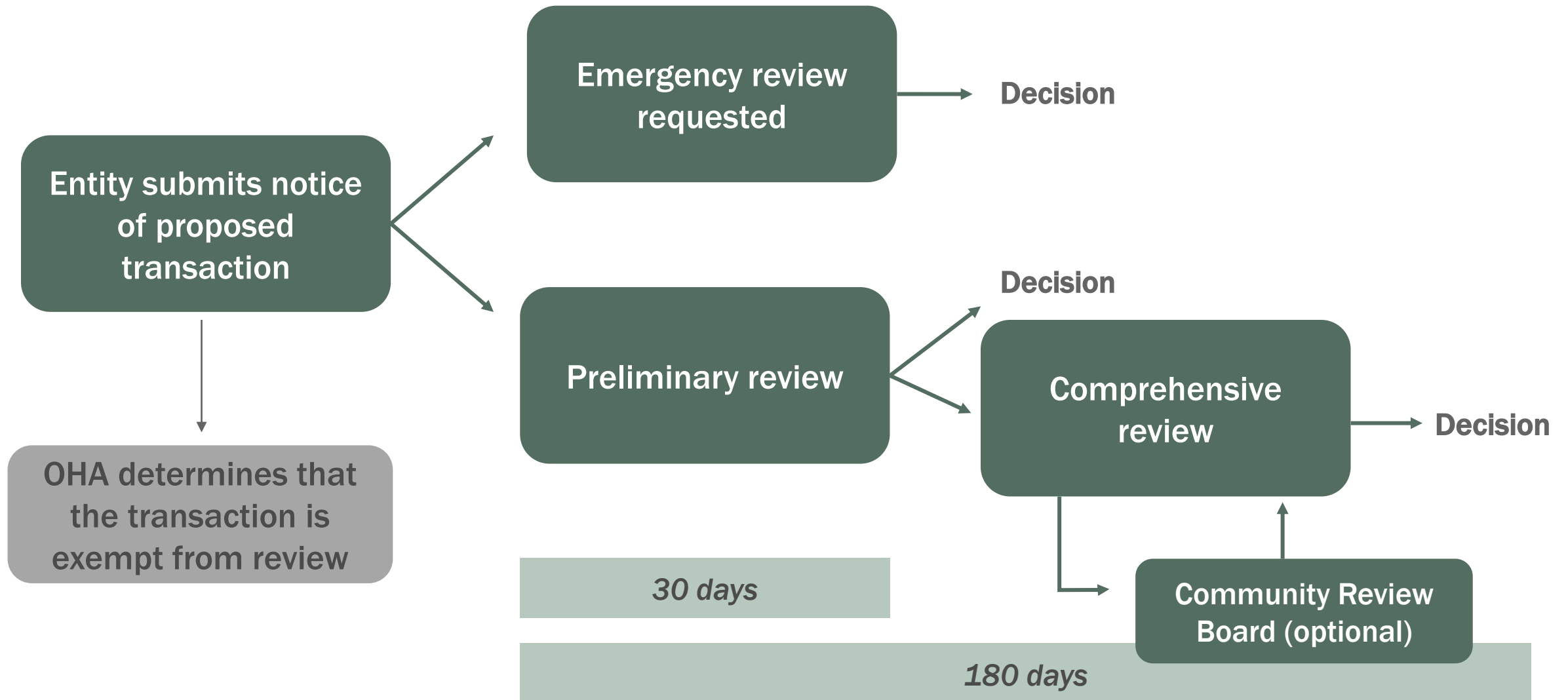
# Recap of the Health Care Market Oversight Program

# Health Care Market Oversight Program

- Established by House Bill 2362 (2021 regular session)
- Program begins March 1, 2022 and resides within the Health Policy & Analytics Division at the Oregon Health Authority



# What does the review process entail?



# Flow Chart: transactions subject to review

OHA offers technical assistance and conferences. Entities may apply for a letter of determination to check if transaction is reviewable

Is revenue of one entity  $\geq$ \$10m and the other entity  $\geq$ \$25m?

Yes

Is the transaction a merger? Or an acquisition? Or a corporate affiliation?  
Or a new contract, clinical affiliation, or contracting affiliation that will eliminate or significantly reduce essential services?  
Or a new partnership, joint venture, accountable care organization, parent organization, or management services organization that will:

- Eliminate or significantly reduce essential services;
- Consolidate or combine providers of essential services when contracting payment rates with payers; or
- Consolidate or combine insurers when establishing health benefit premiums

Yes

**Review**

No

No to all

**No Review**

Also, no review if:

- applicant rebuts the notion of a change of control and OHA agrees
- OHA exempts the transaction from review after receiving the notice

# Today we're discussing significant reductions of essential services

OHA offers technical assistance and conferences. Entities may apply for a letter of determination about if their transaction is reviewable

Is revenue of one entity  $\geq$ \$10m and the other entity  $\geq$ \$25m?

Yes

Is the transaction a merger? Or an acquisition? Or a corporate affiliation?

Or a new contract, clinical affiliation, or contracting affiliation that will **eliminate or significantly reduce essential services?**

Or a new partnership, joint venture, accountable care organization, parent organization, or management services organization that will:

- **Eliminate or significantly reduce essential services;**
- Consolidate or combine providers of essential services when contracting payment rates with payers; or
- Consolidate or combine insurers when establishing health benefit premiums

Yes

Review

No

No to all

No Review

Also, no review if:

- applicant rebuts the notion of a change of control and OHA agrees
- OHA exempts the transaction from review after receiving the notice

# Proposed Guidance

# Guidance for Entities

The [draft sub-regulatory guidance document](#) is intended to provide entities with a two-part test to:

- Determine if a proposed transaction will result in a reduction of any “essential” service, and
- Determine if that reduction is “significant”

Any change to this sub-regulatory document after March 1, 2022 will take effect 180 days after the publish date, as specified in the draft rule.

# Flow chart: Reviewable transactions that relate to reductions of essential services

When determining if a transaction eliminates or significantly reduces essential services

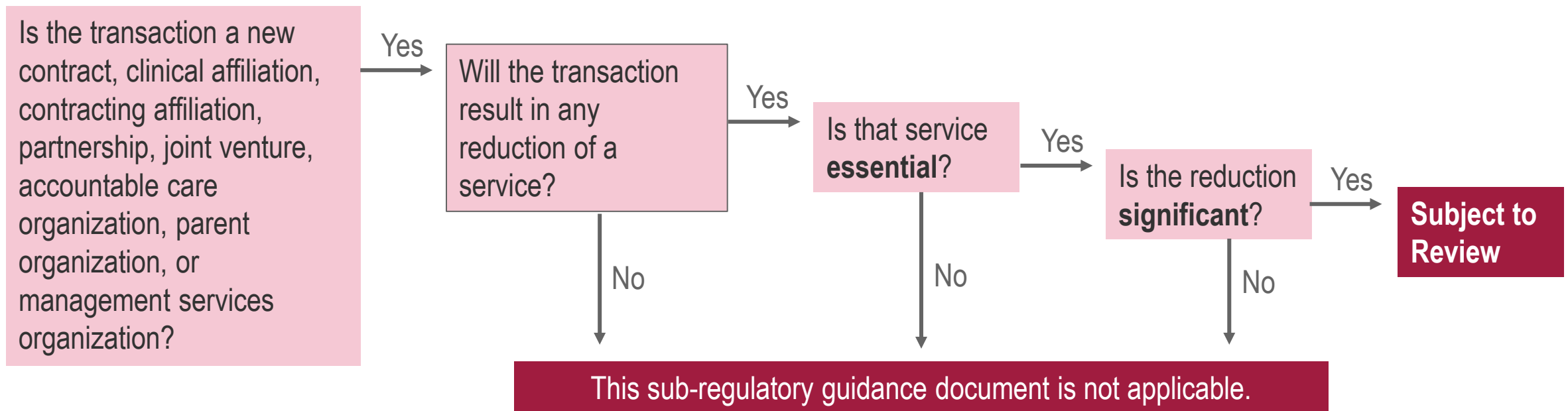
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Or a new contract, clinical affiliation, or contracting affiliation that will **eliminate or significantly reduce essential services?**

Or a new partnership, joint venture, accountable care organization, parent organization, or management services organization that will:

- **Eliminate or significantly reduce essential services;**
- Consolidate or combine providers of essential services when contracting payment rates with payers; or
- Consolidate or combine insurers when establishing health benefit premiums

# Flow chart: Reviewable transactions that relate to reductions of essential services



# Is the Service Essential?

Essential services are defined as

- services that are funded on the prioritized list described in ORS 414.690 and
- services that are essential to achieve health equity

As of January 2022, the first 472 out of 662 conditions are funded on the prioritized list

(see <https://www.oregon.gov/oha/HPA/DSI-HERC/Pages/Prioritized-List.aspx>)



# Health Equity is defined as

Oregon will have established a health system that creates health equity when all people can reach their full health potential and well-being and are not disadvantaged by their race, ethnicity, language, disability, age, gender, gender identity, sexual orientation, social class, intersections among these communities or identities, or other socially determined circumstances.

Achieving health equity requires the ongoing collaboration of all regions and sectors of the state, including tribal governments to address:

- The equitable distribution or redistribution of resources and power; and
- Recognizing, reconciling, and rectifying historical and contemporary injustices

(<https://www.oregon.gov/oha/OEI/Pages/Health-Equity-Committee.aspx>)

# Services Essential to Achieve Health Equity

1. Any service directly related to the treatment of a **chronic condition** is essential to achieve health equity for the purposes of administering the Health Care Market Oversight Program.

The term chronic condition is defined as:

- a condition that lasts one year or more and
- requires ongoing medical attention or limits activities of daily living or both

“Directly related to” means services that are intended to treat the condition or the symptoms of that condition.

Most chronic care treatments are funded on the prioritized list. Any other treatment for a chronic condition is also considered essential.

# Services Essential to Achieve Health Equity

**2. Pregnancy-related services** are essential to achieve health equity for the purposes of administering the Health Care Market Oversight Program.

Most pregnancy-related services are funded on the prioritized list and are therefore already essential. Any other pregnancy-related service is also considered essential.

# Services Essential to Achieve Health Equity

**3. Prevention services, including non-clinical services**, are essential to achieve health equity for the purposes of administering the Health Care Market Oversight Program.

Many prevention services are funded on the prioritized list and are therefore already essential.

Prevention services include appropriate screenings, chronic disease prevention programs, nutritional education programs, programs that encourage activity among children, and more.

The term “non-clinical” in this context means services rendered outside of a clinical setting or rendered by individuals without medical training (e.g., a school-based program to encourage physical activity).

# Services Essential to Achieve Health Equity

**4. Health care system navigation and care coordination services** are essential to achieve health equity for the purposes of administering the Health Care Market Oversight Program.

Many of these services are funded on the prioritized list and are therefore already essential.

Health care system navigation and care coordination services include assisting new patients and new health plan members with accessing needed care, helping individuals access referrals, translation services, and more.

# Reminder...

The Health Care Market Oversight Program does not dictate what services must be offered or covered by an entity

The focus here is identifying if a service that will be reduced as a result of a transaction is **essential**

What is a significant reduction?

# Summary: Determining “significance”

In general, a reduction is “significant” if there is a decrease (or increase) of **half or more**



# Determining “significant”

Draft OAR 409-070-0010(3)(a): An increase in time or distance for community members to access essential services, particularly for historically or currently underserved populations or community members using public transportation

Determining significance:

A transaction that would result in an **increase of 50% or more of the median time or distance travelled** for existing patients is considered a significant reduction. A transaction is also considered a significant reduction if the transaction will result in a **doubling or more of the distance between the health service location and the closest public transportation access point** such as a bus, train, or light rail stop; this does not apply to entities that are less than 1 mile away from a public transportation access point and does not apply to entities that are more than 10 miles away from a public transportation access point.

# Determining “significant”

Draft OAR 409-070-0010(3)(b): A reduction in the number of providers, including the number of culturally competent providers, health care interpreters, or traditional healthcare workers, or a reduction in the number of clinical experiences or training opportunities for individuals enrolled in a professional clinical education program.

Determining significance:

A transaction that would result in a **decrease of 50% or more of trained culturally competent providers, health care interpreters, or traditional healthcare workers** is considered a significant reduction. A transaction that will result in a **decrease of 50% or more of the number of clinical experiences or training opportunities** for individuals enrolled in a professional clinical education program is considered a significant reduction.

# Determining “significant”

Draft OAR 409-070-0010(3)(c): A reduction in the number of providers serving new patients, providers serving individuals who are uninsured, or providers serving individuals who are underinsured

Determining significance:

A transaction that would result in a **decrease of 50% or more of the number of providers** serving new patients or individuals who are uninsured or underinsured is considered a significant reduction.

# Determining “significant”

Draft OAR 409-070-0010(3)(d): Any restrictions on providers regarding rendering, discussing, or referring for any essential services

Determining significance:

A transaction that would result in any **decrease of 50% or more of any given essential service** as a result of restrictions placed on providers rendering, discussing, or referring for an essential service is considered a significant reduction.

# Determining “significant”

Draft OAR 409-070-0010(3)(e): A decrease in the availability of essential services or the range of available essential services

Determining significance:

A transaction that would result in any **decrease of 50% or more of essential services** due to the lack of availability is considered a significant reduction.

# Determining “significant”

Draft OAR 409-070-0010(3)(f): An increase in appointment wait times for essential services

Determining significance:

A transaction that would result in an **increase of 50% or more of appointment wait times** is considered significant.

# Determining “significant”

Draft OAR 409-070-0010(3)(g): An increase in any barriers for community members seeking care, such as new prior authorization processes or required consultations before receiving essential services

Determining significance:

A transaction that would result in a **50% or more decrease of availability of an essential service** due to any barrier such as new prior authorization processes or required consultations.

# Determining “significant”

Draft OAR 409-070-0010(3)(h): A reduction in the availability of any specific type of care such as primary care, behavioral health care, oral health care, specialty care, pregnancy care, inpatient care, outpatient care, or emergent care as relates to the provision of essential services

Determining significance:

A transaction that would result in a **50% or more decrease in the specified types of care**, as measured by the number of providers or services rendered, is considered significant.



# For more details

See the [draft guidance document](#) for examples and more details

# Pause for Questions & Input

# Other Important Upcoming Dates for HCMO Program

January 19 at 1pm	Rules Hearing – Information will be posted on the HCMO program website
January 24 by 5pm	Last day to submit public comment on rules
March 1	Program begins



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**Thank You**

The logo for the Oregon Health Authority. It features the word "Oregon" in a smaller, orange, serif font positioned above the word "Health", which is in a larger, blue, serif font. Below "Health" is the word "Authority" in a smaller, orange, serif font. A thin blue horizontal line is positioned just above the "Authority" text.

Oregon  
Health  
Authority