

HEALTH POLICY COMMISSION



Policy 2017-01: Process for Initiating Performance Improvement Plans and Cost and Market Impact Reviews, Pursuant to 958 CMR 10.00

The Commission adopts the following process for initiating and implementing Performance Improvement Plans (PIP) and Cost and Market Impact Reviews (CMIR), pursuant to 958 CMR 10.00. In accordance with the Open Meeting Law, M.G.L. c. 30A, §§20(a)-(b), 21, in this process the Commission may elect to meet in executive session in order to comply with the statutory confidentiality requirements in M. G.L. c. 12C, §18 and c. 6D, §2A.

A. Process

1) Notice of Identification

Information Provided to Commissioners: The final confidential list of health care entities identified by the Center for Health Information and Analysis (CHIA) under M.G.L. c. 12, §18 (CHIA-Identified Entity) shall be circulated to all Commissioners.

Board Input: Commissioners may provide comments or recommendations regarding the list to the Chair and Executive Director.

2) Requirement to File a PIP

Information Provided to Commissioners:

- a) The Executive Director shall conduct a review of each CHIA-Identified Entity based on the regulatory factors in Section B below and any input by Commissioners related to such factors.
- b) The Executive Director shall provide Commissioners with the results of the review including any recommendations of the Executive Director to notify a CHIA-Identify Entity that the review is concluded or request additional information from a CHIA-Identified Entity, pursuant to 958 CMR 10.03(2).
- c) The Executive Director shall provide a summary and analysis of any additional information received from a CHIA-Identified Entity to Commissioners related to the regulatory factors set forth in Section B below.
- d) The Executive Director shall inform Commissioners of a meeting scheduled with a CHIA-Identified Entity, pursuant to 958 CMR 10.04(3).

Board Input: Commissioners may provide comments or recommendations regarding the review and requests for additional information to the Chair and Executive Director.

Board Vote: The Commission shall determine whether to require a PIP by a vote of the Board, pursuant to 958 CMR 10.04(4).

3) Grant of Extension or Waiver

Information Provided to Commissioners:

- a) Following a Board vote to require a PIP, the Executive Director shall report on the filing status of the PIP Entity at the next scheduled Commission meeting, including whether the PIP Entity intends to file or has filed a PIP, a request for an extension, or a request for a waiver.
- b) The Executive Director shall provide Commissioners with PIP Entities' waiver and extension requests and any additional information received from PIP Entities that accompany those requests.
- c) The Executive Director shall provide notice to Commissioners of any requests for an extension of time to file a PIP of less than 45 days that have been granted or denied by the Executive Director.

Board Votes: The Commission shall determine whether to grant a request for an extension to file a PIP of greater than 45 days by vote of the Board, pursuant to 958 CMR 10.08(6). The Commission shall determine whether to grant a waiver of the requirement to file a PIP by a vote of the Board, pursuant to 958 CMR 10.07(5).

4) Approval of PIP

Information Provided to Commissioners: The Executive Director shall provide Commissioners information related to the development of a PIP proposal by any PIP Entity, staff analysis of the PIP proposal, and any additional information provided by the PIP Entity.

Board Input: Commissioners may provide comments or recommendations regarding a PIP proposal to the Chair and Executive Director.

Board Vote: The Commission shall approve a proposed PIP by vote of the Board, pursuant to 958 CMR 10.10(1).

5) Implementation of PIP

Information Provided to Commissioners: The Executive Director shall report on the implementation, reporting and compliance monitoring of the PIP at Commission meetings during the PIP and through other periodic reports provided to Commissioners. The Executive Director shall circulate to Commissioners any amendments proposed by a PIP Entity. Minor amendments may be approved by the Executive Director with notice to the Commission, e.g. procedural or nonmaterial amendments.

Board Vote: The Commission shall approve significant proposed amendments by vote of the Board, pursuant to 958 CMR 10.12(2).

6) Conclusion of PIP

Information Provided to Commissioners: Upon conclusion of the implementation period, the Executive Director shall provide Commissioners information related to the conclusion of the PIP.

Board Vote: The Commission shall determine whether the PIP was successful by vote of the Board, pursuant to 958 CMR 10.13(2).

7) Assessment of Penalty

Information Provided to Commissioners: The Executive Director shall provide to Commissioners all information relevant to a determination whether to assess a civil penalty and provide notice of any hearing afforded the PIP Entity, pursuant to 958 CMR 10.15.

Board Vote: The Commission may assess a civil penalty to a PIP Entity of not more than \$500,000 by a vote of the Board, pursuant to 958 CMR 10.15(2).

8) Initiation of Cost and Market Impact Review

Information Provided to Commissioners:

- a) The Executive Director shall provide to Commissioners all information relevant to a determination whether to initiate a Cost and Market Impact Review, pursuant to 958 CMR 10.16, including any recommendation to request additional information, pursuant to 958 CMR 10.16(2).
- b) The Executive Director shall inform Commissioners of a meeting scheduled with a Provider Organization, pursuant to 958 CMR 10.16(2).

Board Input: Commissioners may provide comments or recommendations regarding requests for additional information to the Chair and Executive Director.

Board Vote: The Commission shall determine whether to conduct a Cost and Market Impact Review by vote of the Board, pursuant to 958 CMR 10.16(3).

B. Criteria for Consideration of Initiating a PIP

The HPC shall base its determination whether to require a PIP on a review of factors, including, but not limited to:

- 1) Baseline spending and spending trends over time, including by service category;
- 2) Pricing patterns and trends over time;
- 3) Utilization patterns and trends over time;
- 4) Population(s) served, payer mix, product lines, and services provided;
- 5) Size and market share;
- 6) Financial condition, including administrative spending and cost structure;
- 7) Ongoing strategies or investments to improve efficiency or reduce spending growth over time;
- 8) Factors leading to increased costs that are outside the CHIA-Identified Entity's control; and
- 9) Any other factors the Commission considers relevant.