California's Health Care Quality and Affordability Act

Insights 08.18.22

Dear Clients and Friends:

The following article provides an initial assessment of what may be the most significant piece of California health care legislation in recent memory. Pursuant to the California Health Care Quality and Affordability Act, California regulators will be creating a state strategy for controlling the cost of health care and improving affordability for patients, employers, and other purchasers. Much of this work will be done through the newly created Office of Health Care Affordability (OHCA).

OHCA's two key powers include the following:

- ***Cost Control Measures:*** The Office of Health Care Affordability will create statewide health care cost growth targets, as well as specific targets focused on groups of payers or providers, geographic regions, or even individual health care entities. These targets will be subject to progressive enforcement measures ranging from technical assistance to financial penalties. Over the coming year, OHCA will promulgate regulations to collect data on total health care expenditures and develop a cost growth target methodology, and then, by June 2024, the OHCA will set its cost target—a statewide target for 2025.
- ***Transaction Reviews:*** The office will also conduct cost and market impact reviews on agreements and transactions involving health care entities occurring on or after April 1, 2024 that may impact market competition and affordability for consumers and purchasers.

OHCA's work will involve a wide range of health care entities, with latitude for OHCA to exempt certain providers from cost targets and transaction reviews involving only exempted providers. Covered entities include:

- ***Inpatient and outpatient facilities***, including hospitals, skilled nursing facilities, and ambulatory surgical centers (ASCs);
- ***Physician organizations***, including groups with 25 or more physicians and smaller groups that are high-cost outliers.
- ***Clinics and Other Providers***, including § 1206(d) clinics, § 1206(*l*) medical foundations, community and free clinics, surgical clinics, chronic dialysis clinics, rehabilitation clinics, and alternative birthing centers;
- ***Clinical laboratories and imaging facilities***;
- ***Risk-bearing organizations (RBOs)***, as well as certain RBO-exempt organizations, and restricted and limited Knox-Keene plans;
- ***Fully integrated delivery systems***; and
- ***Payers***, including Knox-Keene plans, health insurers, third-party administrators, and publicly funded health care programs (including Medi-Cal and Medicare).

The breadth and depth of the Health Care Quality and Affordability Act is significant, but it will take some time to implement its most ambitious provisions. In the meantime, OHCA will be undertaking important foundational work, providing opportunities for providers and other stakeholders to offer real-world input on critical issues from targets and adjustments to exemptions. We will be tracking OHCA's work and the ensuing changes to California's health care regulatory landscape.

Sincerely,

Hooper, Lundy & Bookman's OHCA Work Group

Katrina A. Pagonis, Chair

Lloyd A. Bookman

Matthew Clark

Martin A. Corry

Andrea L. Frey

Stephanie Gross

Paul L. Garcia

Jordan Kearney

Sandi Krul

Jeffrey Lin

Alicia W. Macklin
Charles B. Oppenheim

PROFESSIONAL



MATTHEW CLARK
Partner
San Francisco



PAUL L. GARCIA
Partner
Los Angeles
San Diego



KATRINA A. PAGONIS
Partner
San Francisco
Washington, D.C.



LLOYD A. BOOKMAN
Founding Partner
Los Angeles



ANDREA FREY
Partner
San Francisco
San Diego



STEPHANIE GROSS
Partner
Los Angeles
San Francisco



JORDAN KEARNEY
Partner
San Francisco



SANDI KRUL
Partner
Los Angeles



ALICIA MACKLIN
Partner
Los Angeles



CHARLES B. OPPENHEIM
Partner
Los Angeles
San Francisco