COMMONWEALTH OF MASSACHUSETTS

HEALTH POLICY COMMISSION

Cost Trends and Market Performance Committee

December 3, 2014

Agenda

- **Approval of Minutes from the October 1, 2014 Meeting (VOTE)**
- Approval of Final Proposed Regulations Governing Notices of Material Change (MCN) and Cost and Market Impact Reviews (CMIR) **(VOTE)**
- Discussion of 2014 Cost Trends Report
- Schedule of Next Committee Meeting

Vote: Approving Minutes

Motion: That the Cost Trends and Market Performance Committee hereby approves the minutes of the Committee meeting held on October 1, 2014, as presented.

Agenda

- Approval of Minutes from the October 1, 2014 Meeting **(VOTE)**
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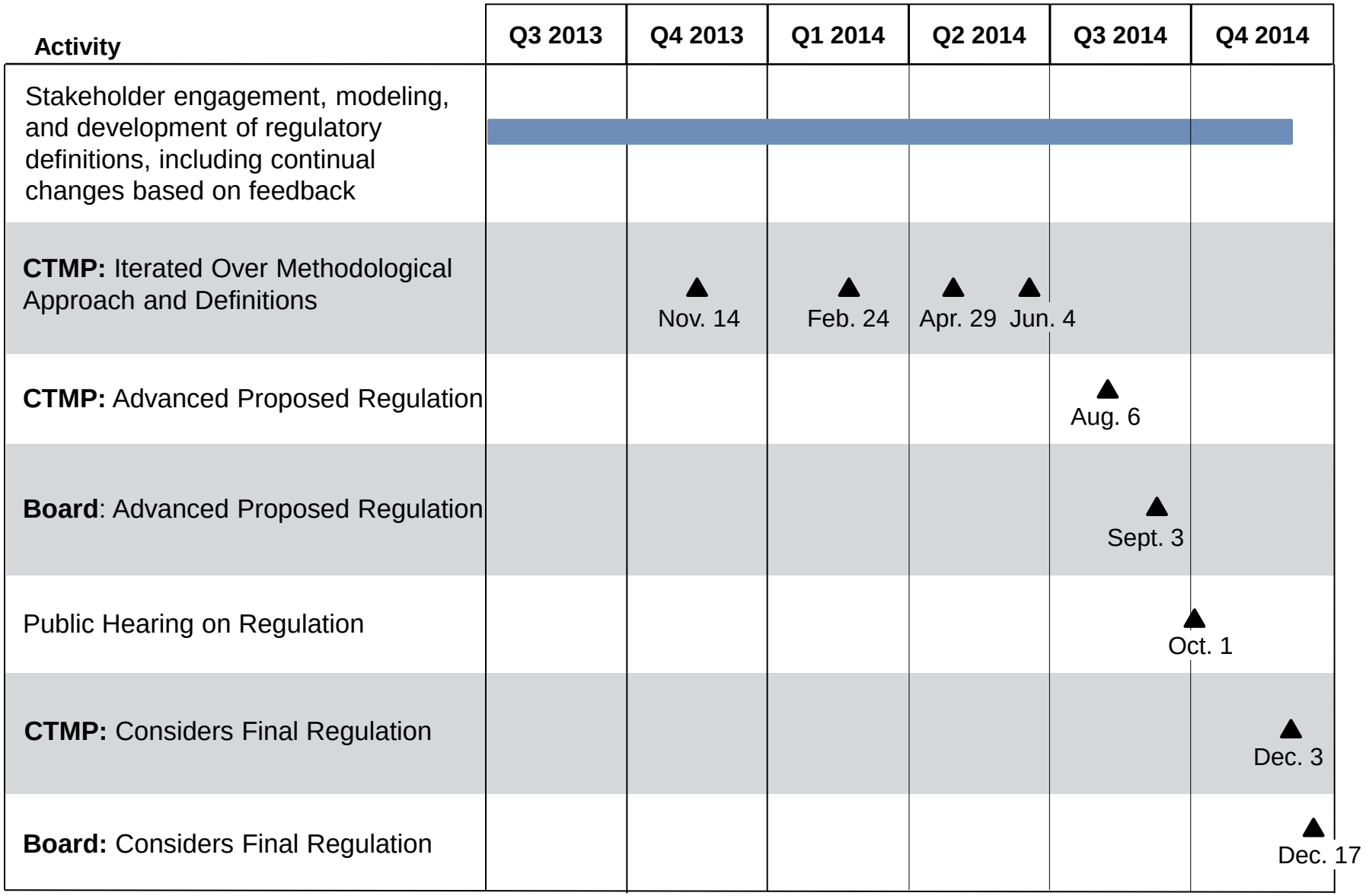
Regulation 958 CMR 7.00

- Interim Guidance issued on March 12, 2013 currently governs the filing of material change notices (MCNs)
- The Commission is required by statute to adopt regulations for conducting cost and market impact reviews (CMIRs) and for administering Section 13 of Chapter 6D
- The Commission and staff have spent more than a year engaging extensively with a broad range of stakeholders and local and national experts in development of the proposed regulation
- A proposed regulation was endorsed by the Cost Trends and Market Performance Committee on August 6, 2014 and advanced for public comment by the full Commission on September 3, 2014
- We now propose a final regulation, incorporating additional feedback received since Sep. 3, which:
    - Articulates the process for filing MCNs and conducting CMIRs
    - Provides clear guidance where technically possible while allowing the Commission to develop further guidance in response to the availability of data and the evolving health care marketplace
    - Provides methodologies for definitions where the Commission has access to robust statewide data; the Commission looks forward to continued engagement with stakeholders as it further develops methodologies and analyses for providers (e.g., thresholds for Dominant Market Share for services other than inpatient general acute care)
- The proposed final regulation is accompanied by a Technical Bulletin that contains additional methodological guidance

Development timeline



Stakeholder feedback received/incorporated over 2014

- Atrius Health
- Blue Cross Blue Shield of Massachusetts
- Center for Health Information and Analysis
- Greater Boston Chamber of Commerce
- MA State Senators and Representatives
- Massachusetts Coalition of Nurse Practitioners
- Massachusetts Association of Health Plans, including:
  - BMC HealthNet Plan
  - Harvard Pilgrim Health Care
  - Health New England
  - Tufts Health Plan / Network Health
- Massachusetts Hospital Association
- New England Quality Care Alliance
- Steward Health Care System
- Tufts Medical Center

Additional comments received in Fall 2014

- 1199SEIU
- Beth Israel Deaconess Care Organization
- Conference of Boston Teaching Hospitals
- Massachusetts Association of Health Plans
- Massachusetts Hospital Association
- Partners HealthCare System

Regulation 958 CMR 7.00

958 CMR: HEALTH POLICY COMMISSION

958 CMR 7.00: NOTICES OF MATERIAL CHANGE AND COST AND MARKET IMPACT REVIEWS

Section

Recommendations in response to additional comments

TOPIC	Comment	Recommendation
Clinical Affiliation (958 CMR 7.02)	▪ Some stakeholders commented that the definition of Clinical Affiliation could be interpreted to require notice for provider collaborations for clinical trials or graduate medical education (GME)	▪ Definition of Clinical Affiliation changed to explicitly exempt collaboration solely on clinical trials or GME programs
"Similar Providers or Provider Type" (958 CMR 7.02)	▪ Some stakeholders requested additional clarification of the definition of "similar Providers or Provider type," or the comparison groups in assessing whether a Provider has Materially Higher Price and/or TME	▪ Language added in the Technical Bulletin further describing how the Commission defines "similar Providers/ Provider type" and noting that sets of "similar Providers" are published in CMIR reports ▪ The Commission anticipates continued engagement with stakeholders as it develops additional examples of "similar Providers" beyond those in existing CMIR reports

Recommendations in response to additional comments

TOPIC	Comment	Recommendation
"Near-majority of Market Share in a Given Service or Region" (958 CMR 7.02)	▪ Some stakeholders requested clarification of the term "near-majority of market share in a given service or region" as a threshold for triggering a Material Change	▪ The Commission is continuing to conduct analyses and engage with stakeholders to provide further guidance on this term ▪ Based on this work, the Commission anticipates further clarification of this term in the future
Scope of Material Changes (958 CMR 7.02)	▪ Some stakeholders recommended expanding the definition of Material Change, including by adding closures and expansions of health care facilities and services	▪ Clarified that the Commission will receive information on any service changes through its Material Change Notices ▪ The Commission is also actively working with stakeholders to determine how it can support existing review processes of other provider changes, including closures and expansions

Recommendations in response to additional comments

TOPIC	Comment	Recommendation
Employment (958 CMR 7.02)	▪ Some stakeholders requested additional clarification and a materiality threshold concerning "employment" as a Material Change	▪ Language updated to clarify that "employment" refers to employment of Health Care Professionals, such as multiple Health Care Professionals from a single Provider or Provider Organization, and that such change must meet a materiality threshold of $10 million in NPSR
Health Care Services (958 CMR 7.02)	▪ One stakeholder asked for additional definitions of specific health care services	▪ Statutory definition of "Health Care Services" added, which includes, among others, behavioral health, substance use disorder, mental health, psychiatric, and therapeutic supplies, care and services
Factors Considered in CMIR (958 CMR 7.06)	▪ Some stakeholders requested the inclusion of additional factors for consideration in a CMIR	▪ The list of factors that the Commission considers in a CMIR is non-exhaustive, per statute (M.G.L. c. 6D, § 13(d))

Recommendations in response to additional comments

TOPIC	Comment	Recommendation
Timing of Final Report (958 CMR 7.12)	▪ Some stakeholders requested additional clarity about the circumstances in which the Commission could extend the 185-day deadline for issuing a Final CMIR Report	▪ Clarified that the 185-day timeframe for completion of a CMIR may only be altered "commensurate with any additional time granted" by the Commission for the parties to comply with the Commission's data and document requests (see 958 CMR 7.07)
Elective Referral to Attorney General (958 CMR 7.14)	▪ Some stakeholders inquired as to the basis for elective referral of a Final CMIR Report by the Commission to the Attorney General's Office (AGO)	▪ As commenters noted, the statute (M.G.L. c. 6D, § 13(f)) sets forth the criteria for a *mandatory* referral ▪ The statute is also explicit that the Attorney General retains all plenary authority to protect consumers in the health care market (M.G.L. c. 6D, § 13(i)) ▪ Through this authority, the Commission may elect to refer its public Final Reports to the AGO where it believes its findings may be relevant to the AGO's authority

Technical clarifications

TOPIC	Recommendation
Definition of Material Change (958 CMR 7.02)	▪ The proposed final regulation clarifies that the creation of a management services organization for administering contracts with Carriers, or current or future contracting on behalf of one or more Providers or Provider Organizations, is a Material Change
Non-compliance (958 CMR 7.03)	▪ The proposed final regulation clarifies that in instances in which the Commission determines that a Provider or Provider Organization has failed to file a required Notice of Material Change, the Commission may refer the Provider or Provider Organization to the AGO
Completion of Material Change (958 CMR 7.13)	▪ The proposed final regulation clarifies that any proposed Material Change shall not be completed until the Commission has provided notice to the Provider or Provider Organization that it will not initiate a CMIR, or until at least 30 days after the Commission has issued its Final Report in a CMIR as provided in the statute

Vote: Approving and advancing final regulation

Motion: *That the Cost Trends and Market Performance Committee hereby approves the advancement of the draft FINAL regulation on notices of material change and cost and market impact reviews and the accompanying technical bulletin, developed pursuant to section 13 of Chapter 6D of the General Laws, and recommends that the Commission vote to approve and promulgate 958 CMR 7.00 at its meeting on December 17, 2014.*

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Legislative mandate for HPC's annual cost trends report

Section 8g of Chapter 224 of the Acts of 2012

The commission shall compile an annual report concerning spending trends and underlying factors, along with any recommendations for strategies to increase the efficiency of the health care system. The report shall be based on the commission's analysis of information provided at the hearings by providers, provider organizations and insurers, registration data collected under section 11, data collected by the center for health information and analysis under sections 8, 9 and 10 of chapter 12C and any other information the commission considers necessary to fulfill its duties under this section, as further defined in regulations promulgated by the commission. The report shall be submitted to the chairs of the house and senate committees on ways and means and the chairs of the joint committee on health care financing and shall be published and available to the public not later than December 31 of each year. The report shall include any legislative language necessary to implement the recommendations.

Required outputs

A. Concerning spending trends and underlying factors
B. Recommendations for strategies to increase efficiency
C. Legislative language necessary to implement recommendations

Data inputs

1. Hearings
2. Registration data
3. CHIA data
4. Any other information necessary to fulfill duties

Overview of 2014 Cost Trends Report – *Preliminary and subject to change*

- Executive Summary
- Introduction
- Overview of Spending
    - Performance relative to the cost growth benchmark
    - Spending levels and trends
    - Out-of-pocket spending
    - Delivery system trends
- Opportunities to Improve Quality and Efficiency
    - Provider variation – spending per episode
    - Provider variation – use of post-acute care
    - Waste and inefficiency
    - High-cost patients
    - Behavioral health
- Progress in Key Areas
    - Alternate payment methods
    - Demand-side incentives
- Conclusion

Examples of analyses planned for 2014 Cost Trends Report

Preliminary and subject to change

	Section	Examples of analyses
Overview of spending	Out-of-pocket spending	• Share of spending paid out of pocket by service and by type of episode
	Delivery system trends	• Concentration of commercial inpatient care
Opportunities to improve quality and efficiency	Provider variation – spending per episode	• Variation by hospital in price paid per episode for selected episode types
	Provider variation – use of post-acute care	• Variation by hospital in use of post-acute care for selected DRGs
	Waste and inefficiency	• Rates of low-acuity non-emergent ED use by geographic area
	High-cost patients	• Predictors and characteristics of patients with persistent high ED use • Clinical segments within patients with persistent high costs
	Behavioral health	• Difference in medical spending for patients with and without BH conditions for selected episode types
Progress in key areas	Alternate payment methods	• APM coverage by payer by year
	Demand-side incentives	• Take-up of tiered and limited network products • Premium differential between broad and narrowed network products

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Contact information

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