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Title 22@ Social Security

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Division 7@ Health Planning and Facility Construction

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Chapter 11.5@ Promotion of Competitive Health Care Markets; Health Care Affordability

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Article 1@ Material Change Transactions and Pre-Transaction Review

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Section 97442@ Cost and Market Impact Review Timeline and Factors; Preliminary and Final Reports

## **97442 Cost and Market Impact Review Timeline and Factors; Preliminary and Final Reports**

### **(a)**

Timeline for Completion of a Cost and Market Impact Review. The Office shall complete a CMIR within 90 days of the final decision by the Office to conduct a CMIR, subject to subsections (a)(1) through (3): (1) The Office may extend the 90-day period by an additional 30 days if it needs additional time to complete its review. (2) Should the Office determine it requires additional documentation or information necessary to complete its review, it shall toll either of the time periods set forth in subsection (a)(1) for any time period in which it is awaiting the provision of such documentation or information from the parties to the transaction or is awaiting the provision of information necessary to complete its review subpoenaed pursuant to section 127507.2(a)(4) of the Code. (3) The Office shall toll either of the time periods set forth in subsection (a)(1) during any time period in which other state agencies, federal regulatory agencies, or courts are reviewing the subject transaction and their review may impact the review of the transaction by the Office.

### **(1)**

The Office may extend the 90-day period by an additional 30 days if it needs additional time to complete its review.

### **(2)**

Should the Office determine it requires additional documentation or information necessary to complete its review, it shall toll either of the time periods set forth in subsection (a)(1) for any time period in which it is awaiting the provision of such documentation or information from the parties to the transaction or is awaiting the provision of information necessary to complete its review subpoenaed pursuant to section 127507.2(a)(4) of the Code.

**(3)**

The Office shall toll either of the time periods set forth in subsection (a)(1) during any time period in which other state agencies, federal regulatory agencies, or courts are reviewing the subject transaction and their review may impact the review of the transaction by the Office.

**(b)**

Factors Considered in a Cost and Market Impact Review. A CMIR shall examine factors relating to a health care entity's business and its relative market position, including, but not limited to: (1) The effect on the availability or accessibility of health care services to any community affected by the transaction, including the accessibility of culturally competent care. (2) The effect on the quality of health care services provided to any of the communities affected by the transaction. (3) The effect of lessening competition or potentially creating a monopoly, which could result in raising costs, reducing quality or equity, or restricting access or innovation. (4) The effect on any health care entity's ability to meet any health care cost targets established by the Health Care Affordability Board pursuant to section 127502(n) of the Code, and as set forth at 22 CCR 97447. (5) The effect on competition for workers and the impact on the labor market. (6) Whether the transaction may foreclose competitors of any party to the transaction from a segment of the market or otherwise increase barriers to entry in any health care

market. (7) Whether the parties to the transaction have been parties to any other transactions in the past ten years that have been below the thresholds set forth in section 97435(c). (8) Consumer concerns including, but not limited to, complaints or other allegations against any health care entity that is a party to the transaction related to access, care, quality, equity, affordability, or coverage. (9) Any other factors the Office determines to be in the public interest.

**(1)**

The effect on the availability or accessibility of health care services to any community affected by the transaction, including the accessibility of culturally competent care.

**(2)**

The effect on the quality of health care services provided to any of the communities affected by the transaction.

**(3)**

The effect of lessening competition or potentially creating a monopoly, which could result in raising costs, reducing quality or equity, or restricting access or innovation.

**(4)**

The effect on any health care entity's ability to meet any health care cost targets established by the Health Care Affordability Board pursuant to section 127502(n) of the Code, and as set forth at 22 CCR 97447.

**(5)**

The effect on competition for workers and the impact on the labor market.

**(6)**

Whether the transaction may foreclose competitors of any party to the transaction from a segment of the market or otherwise increase barriers to entry in any health care market.

**(7)**

Whether the parties to the transaction have been parties to any other transactions in the past ten years that have been below the thresholds set forth in section 97435(c).

**(8)**

Consumer concerns including, but not limited to, complaints or other allegations against any health care entity that is a party to the transaction related to access, care, quality, equity, affordability, or coverage.

**(9)**

Any other factors the Office determines to be in the public interest.

**(c)**

Preliminary Report of Findings. (1) Upon completion of a CMIR, the Office shall make factual findings and issue a preliminary report of its findings pursuant to subdivision (a)(5) of section 127507.2 of the Code. (2) Within 10 business days of the issuance of the preliminary report, the parties to the transaction and the public may submit written comments in response to the findings in the preliminary report.

**(1)**

Upon completion of a CMIR, the Office shall make factual findings and issue a preliminary report of its findings pursuant to subdivision (a)(5) of section 127507.2 of the Code.

**(2)**

Within 10 business days of the issuance of the preliminary report, the parties to the transaction and the public may submit written comments in response to the findings in the preliminary report.

**(d)**

Final Report of Findings. The Office shall issue a final report of its findings pursuant to subdivision (a)(5) of section 127507.2 of the Code within 15 days of

the close of the comment period in subsection (c)(2), unless the Office extends this time for good cause shown. Good cause means a finding based upon a preponderance of the evidence that there is a factual basis and substantial reason for the extension. Good cause may be found, for instance, when the Office requires additional time to review and evaluate written comments regarding the preliminary report.