

Massachusetts Health Care Cost Growth Benchmark Factsheets

3: Cost and Market Impact Reviews

To contain health care cost increases, Massachusetts enacted Chapter 224 in 2012, which established a first-in-the-nation target, called a benchmark, for annual growth in total statewide health care spending. Among other things, the law created a Health Policy Commission (HPC) and granted it authority to hold payers and providers accountable for keeping annual cost growth below the benchmark. To inform other states that have adopted similar cost growth benchmark initiatives, this Factsheet series describes HPC's four accountability tools and how they have been used to date.

Overview

Cost and Market Impact Reviews (CMIRs) are prospective assessments of the cost and market implications of proposed mergers, acquisitions, contracting affiliations, and other market changes by health care providers. CMIRs are one of the tools that the HPC uses to hold health care providers accountable for controlling the growth of health care costs. The CMIR process ensures transparency of provider actions involving mergers, acquisitions, and other material changes that are likely to result in a significant impact on the state's ability to meet the health care cost growth benchmark, or on the competitive market ([Chapter 224, Section 13](#)). Although the HPC has authority to review and analyze the impact of proposed market changes, the HPC's process is separate from and in addition to the authority of the Attorney General's Office (AGO) to investigate and enforce laws, for example, relating to antitrust, consumer protection, and unfair methods of competition.

CMIR process



Step 1

Provider organizations file a "notice of material change."

At least 60 days before making any material change, providers must file a public notice with the HPC. Material changes include, but are not limited to:

1. A merger or affiliation with, or acquisition of or by, an insurer;
2. A merger with or acquisition of or by a hospital or hospital system;
3. An acquisition, merger, or affiliation that would substantially increase revenue, or result in a provider having a near-majority of market share in a given service or region;
4. A clinical affiliation between two or more providers;
5. A formation of a partnership, joint venture, accountable care organization, parent corporation, management services organization, or other organization created for administering contracts with carriers or third-party administrators or current or future provider contracting.

Step 2

The HPC determines if the transaction is likely to have a significant impact on the health care market.

The HPC then has 30 days to determine whether the change is likely to have a significant impact on the state's ability to meet the health care cost growth benchmark, or on the competitive market. If so, the HPC may conduct a Cost and Market Impact Review.

The HPC has conducted CMIRs for the vast majority of acquisitions of general acute care hospitals and mergers of hospital systems. These types of notices have become less frequent over time.

Year	# of notices	# of CMIRs
2021	14	0
2020	11	0
2019	11	0
2018	8	0
2017	16	2
2016	20	1
2015	20	2
2014	17	0
2013	19	4

Total number of CMIRs since 2013 **9**

Step 3

If warranted, the HPC conducts detailed analyses and releases a report summarizing its findings (the CMIR).

The HPC examines relevant factors related to the provider's market position, including:

- Size and market share;
- Prices compared to other providers for the same services in the same market;
- The provider's health-status adjusted total medical expense;
- The quality of the services it provides;
- Provider cost and cost trends;
- The role of the provider in serving public payer populations and individuals with substance use disorder and mental health conditions; and
- Any other factors the HPC determines to be in the public interest

The HPC then releases a preliminary report (allowing 30 days for provider comments) and a final report detailing the impacts of the proposed transaction on costs and market functioning, quality, and access to care.

Step 4

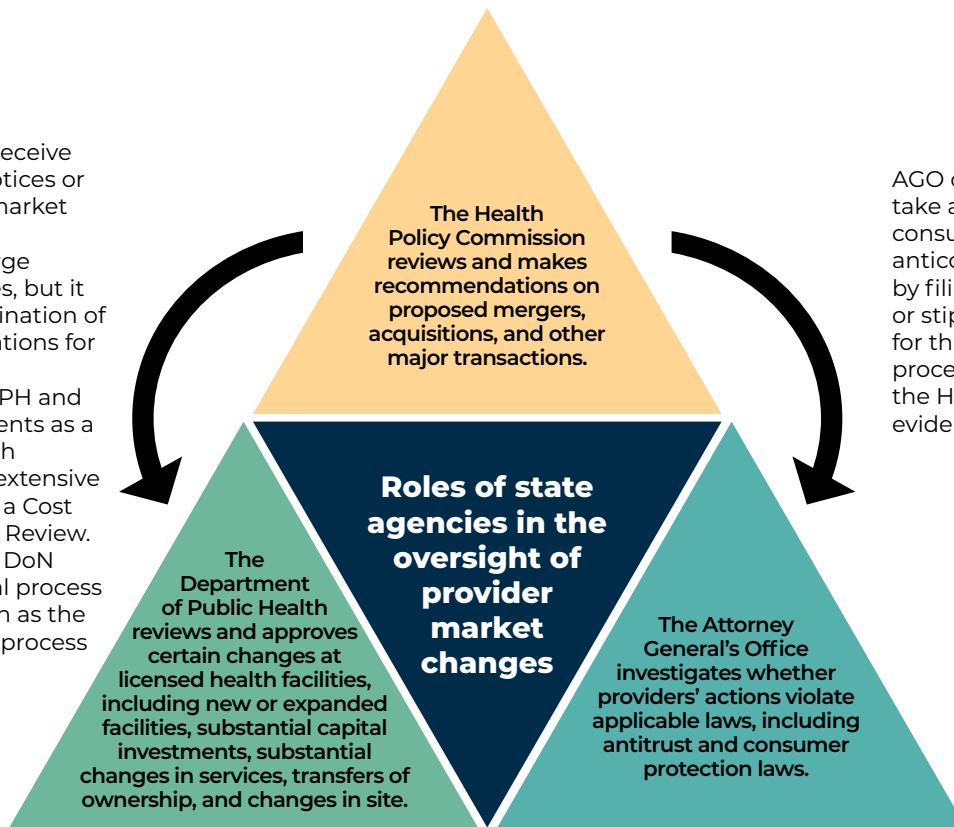
Following the CMIR, the HPC may refer its report to AGO or other state agencies.

The HPC may refer providers and make recommendations to AGO, the Department of Public Health (DPH), or other state agencies in connection with a CMIR, and must refer to AGO its report on any provider organization that meets the following criteria:

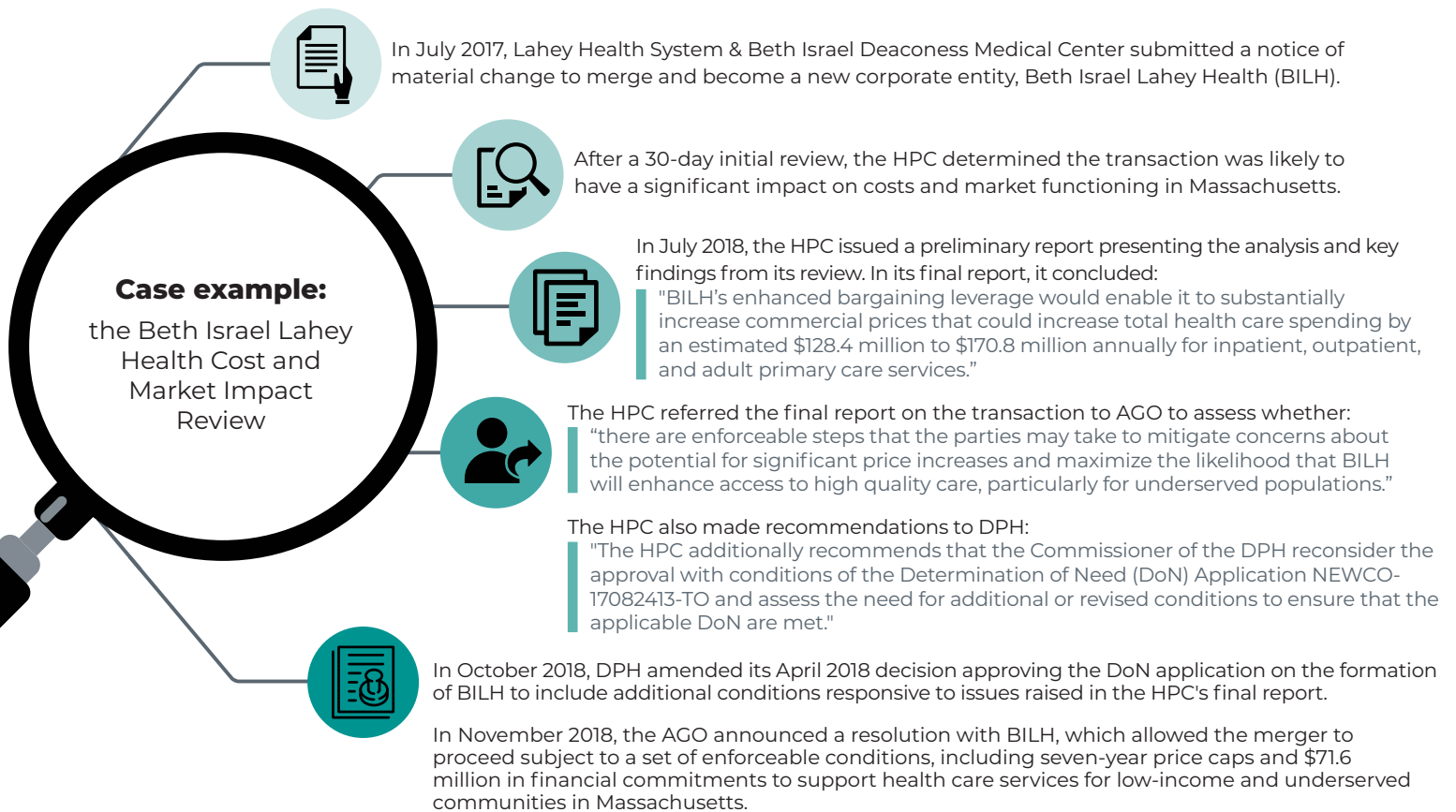
1. Has a dominant market share;
2. Charges prices for services that are materially higher than the median prices charged by all other providers for the same services in the same market; and
3. Has a health-status adjusted total medical expense that is materially higher than the median total medical expense for all other providers for the same service in the same market.

AGO may investigate the matter or pursue other action under any applicable law, including antitrust and consumer protection laws.

The HPC does not receive material change notices or conduct cost and market impact reviews in connection with large capital expenditures, but it receives all Determination of Need (DoN) applications for facility expansions submitted to the DPH and can provide comments as a party of record. Such comments can be extensive and comparable to a Cost and Market Impact Review. The Massachusetts DoN review and approval process is commonly known as the Certificate of Need process in other states.



AGO can, if appropriate, take actions to protect consumers from anticompetitive behavior by filing an antitrust case or stipulating conditions for the transaction to proceed. AGO can rely on the HPC CMIR reports as evidence in such actions.



The Peterson Center on Healthcare commissioned Mathematica to conduct a process evaluation to understand how key stakeholders perceive the influence of the cost growth benchmark on their actions, and the HPC's use of policy levers and strategies to hold payers and providers accountable for meeting the benchmark. The final report will identify lessons from Massachusetts' experience for other states now setting cost growth benchmarks. This factsheet synthesizes information from numerous HPC documents, available at <https://www.mass.gov/orgs/massachusetts-health-policy-commission>.

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