

DRAFT FOR DISCUSSION ONLY

Sustainable Health Care Cost Growth Target Program Potential Acceptable Reasons for Exceeding the Cost Growth Target

Background

In making their [recommendations](#) for accountability for payers and provider organizations whose cost growth exceeds the cost growth target, the Cost Growth Target Implementation Committee stated that “accountability mechanisms will only be applied to payers or provider organizations that exceed the cost growth target with statistical certainty **and without a reasonable basis**, and those that fail to report data and/or participate in the program.”

[House Bill 2081](#) (2021), which codified the accountability mechanisms for the cost growth target program, carried this recommendation through, clearly stating that financial penalties would only be imposed on a provider or payer “that exceeds the cost growth target **without reasonable cause...**”

The Implementation Committee identified an initial list of potential factors that may cause a payer or provider organization to reasonably exceed the cost growth target in a given year, including but not limited to:

- Changes in mandated benefits
- New pharmaceuticals or treatments / procedures entering the market
- Changes in taxes or other administrative factors
- “Acts of God” – natural disasters, pandemics, other
- Changes in federal or state law
- Investments to improve population health and/or address health equity

About this Document

In advance of rulemaking in 2023, OHA is developing more detailed descriptions and examples of these potential drivers of cost growth for discussion with the Cost Growth Target Advisory Committee, the Technical Advisory Group, and partners.

The table below represents potential acceptable reasons for exceeding the cost growth target and is not intended to be a finite list of acceptable reasons.

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Potentially Acceptable Reason	Description	Examples
Changes in mandated benefits	<p>Changes to benefits mandated by state or federal law and policy.</p> <p>This may include:</p> <ul style="list-style-type: none"> - Required coverage of specific services - Requirements to cover specific groups of people 	<ul style="list-style-type: none"> - Coverage mandates for preventive care, cancer, reproductive health, genetic screenings, or fertility treatments - Coverage requirements for people with pre-existing conditions
Changes in taxes or administrative factors	<p>Increases due to changes in federal, state, or local taxes or administrative and operational drivers.</p> <p>This may include things like:</p> <ul style="list-style-type: none"> - Staffing cost increases - New payer of provider taxes <p>Some administrative factors may not be acceptable:</p> <ul style="list-style-type: none"> - Cost growth driven by fines or other accountability mechanisms related to poor performance, non-compliance with regulation, data breaches, etc. - Cost growth due to executive compensation - Investment losses 	<ul style="list-style-type: none"> - New behavioral health tax, where dollars are not passed back to entities
Macro-economic factors	<p>Economy-wide issues that increase costs.</p> <p>This may include:</p> <ul style="list-style-type: none"> - Significant inflation or other economic shifts - Supply chain shortages or supply costs, including significant system-wide labor constraints 	<ul style="list-style-type: none"> - Pay increases for lower wage and front-line workers - Travel nurses or other costs related to workforce shortages
New drugs or treatments	<p>New drugs or treatments may be costly enough to drive market-level per person growth.</p>	<ul style="list-style-type: none"> - Hepatitis C treatments - Artificial organ transplants

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Potentially Acceptable Reason	Description	Examples
Changes in federal or state policy or law	<p>Federal, state, or local regulatory changes that increase costs.</p> <p>This may include:</p> <ul style="list-style-type: none"> - New workforce and labor requirements - New compliance requirements 	<ul style="list-style-type: none"> - New salary floor for workforce - Minimum wage increase - New staffing level requirements - Mandated sick leave or paid time off - New facility upgrade requirements - New data security requirements
“Acts of God”	<p>Factors wholly outside of an entity’s control that could not have been prevented by reasonable foresight.</p> <p>This may include:</p> <ul style="list-style-type: none"> - Pandemics and other health emergencies - Natural disasters 	<ul style="list-style-type: none"> - Pandemics or public health emergencies, including the COVID-19 pandemic - Severe wildfires, floods, earthquakes, climate change, or weather events - War or civil unrest
Investments to improve population health and/or address equity	<p>One-time / short-term or long-term investments the entity makes to improve population health and/or address equity.</p> <p>This may include:</p> <ul style="list-style-type: none"> - Social determinants of health or equity investments that provide funding to communities and improve access - Investments in an underserved area - Investments in strengthening provider networks or technology infrastructure <p>Investments that are primarily internally focused, do not improve access, or do not channel funds to the community may not be acceptable.</p>	<ul style="list-style-type: none"> - Investments in primary and preventive care, pediatric care, and/or safety net care, including county health departments - Investments in behavioral health - Funding to house low-income seniors - Funding for care coordination software - Payments to community-based organizations in an underserved area - Investments to improve language access and build a workforce that represents populations seeking care