
Health Care Market Oversight (HCMO)

Educational Webinar
for the Oregon Health Policy Board

April 9, 2024



Today's Agenda

- About HCMO
 - Program charge and authority
 - Review process
 - Community engagement
 - Reviews to-date
- HCMO and OHPB priorities
- Common myths about HCMO

We aren't going to talk today about what consolidation in health care is and why it matters (but we can share resources!)

About HCMO: Program Charge & Authority

HCMO was established in 2021 and launched in 2022



HB 2363 (2021)



Administrative
Rulemaking



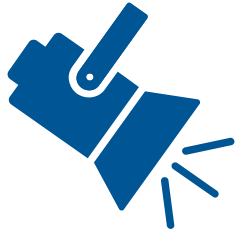
Program Launched
March 1, 2022

Codified into statute as [ORS 415.500-415.900](#)

HCMO permanent rules: [OAR 409-070-0000 through 0085](#)

Through the **Health Care Market Oversight (HCMO)** program, the Oregon Health Authority reviews proposed health care business deals to make sure they support statewide goals related to cost, equity, access, and quality.

The Health Care Market Oversight program aims to...



Promote transparency



Support statewide
priorities



Monitor and study
impacts

Myth: HCMO is an independent board, commission, or other entity.

Fact: HCMO is a state program administered by Oregon Health Authority staff.

What transactions are subject to review?

What entities are subject to review?

HCMO applies to transactions involving **health care entities**. This includes entities that:



Provide health care, like hospitals, doctor's and dentist's offices, health plans, and medical groups.



Help administer health care, like pharmacy benefit managers and management services organizations.



Control a health care company, like private equity firms.

What transactions are subject to review?



Myth: every health care deal in Oregon is subject to HCMO review

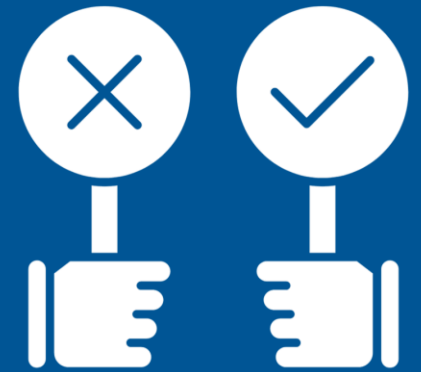
Fact: HCMO only reviews proposed deals that meet certain criteria, as outlined in statute, rule, and guidance.

What authority does HCMO have?

For each reviewed proposed deal, HCMO may

- Approve
- Approve with conditions
- Disapprove

For deals that involve a domestic health insurer, HCMO provides a recommendation to DCBS and DCBS makes the final decision.



Myth: HCMO has authority over deals that happened before March 1, 2022.

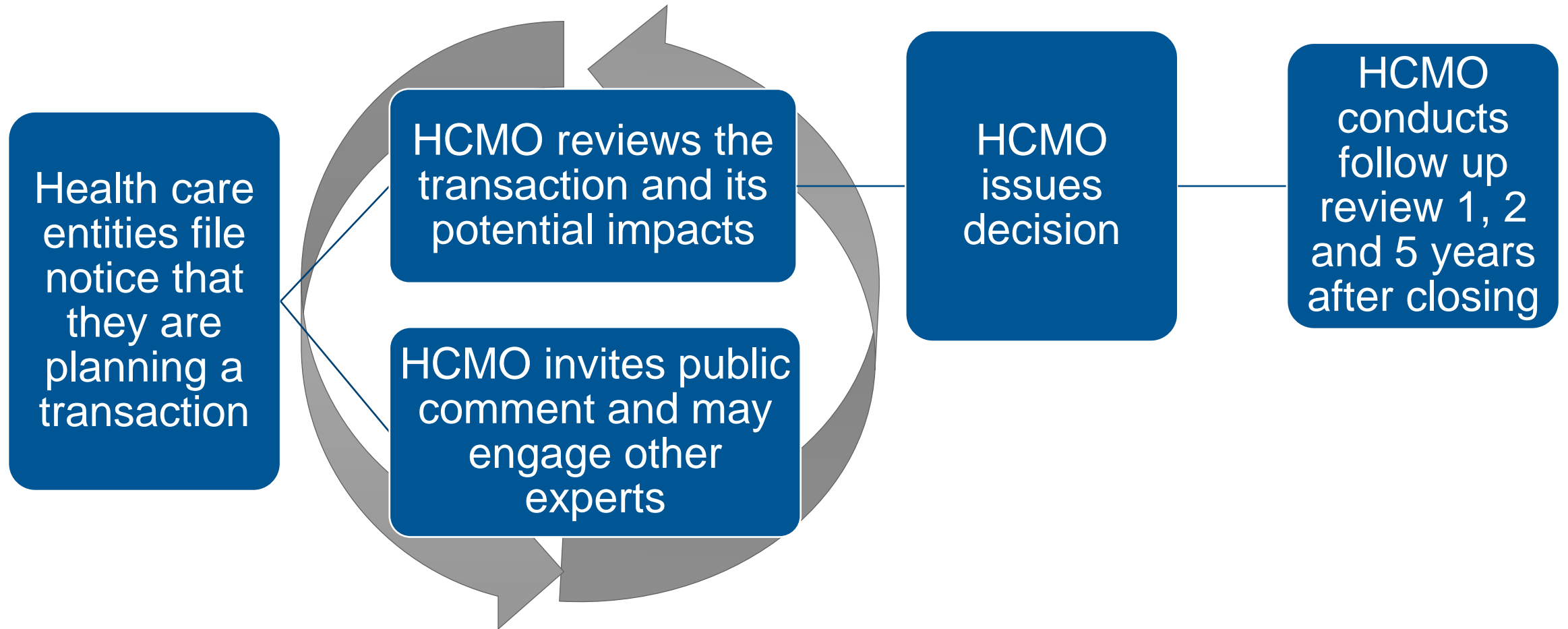
Fact: HCMO has authority over proposed deals (meeting HCMO's criteria) it has reviewed since the program launched.

These deals all closed after March 1, 2022.

About HCMO: Review Process

HCMO Review Process

very high level



Pre-Filing

Entities have the option of meeting with HCMO staff in a “pre-filing conference” to learn more about the process, forms, timeline, etc.



How to file a notice with the Health Care Market Oversight program

A step-by-step guide for health care entities

The Health Care Market Oversight (HCMO) program reviews material change transactions involving health care entities. If your organization is planning a transaction involving a health care entity, please follow the steps below.

This document provides high-level information about the HCMO program. Please see Oregon Revised Statutes (ORS) [415.500 through ORS 415.900](#) and Oregon Administrative Rules (OAR) [409-070-0000 through 409-070-0085](#) for detailed legal requirements.

1. Request a pre-filing conference

Though optional, we encourage all entities to meet with the HCMO team in advance of filing a notice. During a pre-filing conference, OHA staff and entities can discuss whether entities are required to submit a notice for the proposed transaction, the filing process, how to complete forms, handling of confidential information, and submission timing. There is not a specific agenda for pre-filing conferences; the conversation will be tailored to address an entity's questions. To request a pre-filing conference, please email hcmo.info@oha.oregon.gov.

<https://www.oregon.gov/oha/HPA/HP/HCMOPageDocs/HCMO-How-to-submit-guide.pdf>

Filing Notice

Health care entities file notice that they are planning a transaction

HMO staff review the submission for completeness and will request the entities provide any missing information if applicable.

- For example, entity may submit notice form, but not copies of their definitive agreements. By rule, HCMO requires both.

Once HCMO has received all required information and (1) determined the submission is complete, and (2) confirmed the transaction is reviewable, HCMO will begin its preliminary review.

Starting the preliminary review

The start of the preliminary review triggers

- (1) posting of the notice and all public facing materials on HCMO's website
- (2) public announcement of HCMO's review of the transaction, and
- (3) the opening of a public comment period.

Transactions Under Review

014 United-Amedisys

This transaction is currently undergoing comprehensive review. Visit the [transaction webpage](#) for more information and to view documents and materials.

013 Kroger-Albertsons

This transaction is currently undergoing comprehensive review. Visit the [transaction webpage](#) for more information and to view documents and materials.

Myth: HCMO's review clock starts the day entities submit their notice.

Fact: The review clock starts once HCMO receives a completed submission.

Myth: All information HCMO receives is made publicly available.

Fact: While HCMO is committed to creating transparency around proposed transactions, the Oregon Legislature provided health care entities with statutory protections to ensure confidentiality of all privileged and confidential information supplied by the entities.

Myth: HCMO staff redact the information posted online.

Fact: It is up to the entities to identify and redact information that they feel is confidential.

By rule, transacting entities are responsible for providing HCMO with redacted public facing versions of materials for posting on HCMO's website along with a redaction log listing their grounds for redaction.

HCMO conducts its review

HCMO
reviews the
transaction
and its
potential
impacts

HCMO reviews the proposed transaction to see how it could impact:

- Market consolidation and competition
- Access to care
- Quality of care
- Health care costs
- Health equity

Reviews are guided by the [framework adopted by the Oregon Health Policy Board](#) and the [HCMO Analytic Framework](#).

HCMO conducts its review

HCMO invites
public
comment

HCMO accepts public comment for every transaction review. The opportunity for public comment may be announced multiple times during a transaction review and in multiple ways:

- Information posted on HCMO's website
- Shared with HCMO listserv subscribers
- Monthly written update shared with OHPB
- Shared in OHA newsletters (e.g. Provider Matters newsletter)
- Shared on OHA's social media accounts

**We'll talk more about
public comment in the
section on community
engagement**

HCMO conducts its review

HCMO may
engage other
experts

During comprehensive review, HCMO may bring on outside experts to help with the review. This may include:

- Legal counsel
- Actuarial services and analysis
- Economic analysis and modeling
- Financial and valuation analysis
- Social equity analysis
- Health impact analysis
- Accounting services
- Community engagement

HCMO will also work with other subject matter experts across OHA and other agencies as needed

	Preliminary Review	Comprehensive Review
What is it?	Initial analysis of potential impacts	Deeper analysis of potential impacts
Timeline	30 days	180 days
Public comment?	Yes	Yes
Outside Advisors?	No	Yes, as warranted
Community Review Board?	No	Yes, as warranted. See Criteria for Community Review Board .
Public Hearing?	No	Yes, as warranted
Outcome	Approved, approved with conditions, or requires comprehensive review	Approved, approved with conditions, or disapproved

Myth: the preliminary review must be completed within 30 calendar days.

Fact: By rule, HCMO may “toll” or pause the clock if additional information or clarification is requested from the entities. Once information has been provided and is deemed complete, HCMO will “restart” the clock.

Myth: HCMO can convene a Community Review Board during preliminary reviews.

Fact: By statute, Community Review Boards can only be convened during a comprehensive review.

HCMO concludes the review

HCMO issues
decision

HCMO has specific statutory criteria that a transaction must meet to be approved or approved with conditions.

The criteria are different for approval after preliminary review and approval after comprehensive review.

HCMO has specific criteria for approving a proposed transaction following preliminary review.

- The transaction is in the interest of consumers and is urgently needed to maintain the solvency of an entity
- The transaction is unlikely to substantially reduce access to affordable health care in Oregon
- The transaction is likely to meet the criteria set forth in OAR 409-070-0060
- The transaction is not likely to substantially alter the delivery of health care in Oregon
- Comprehensive review of the transaction is not warranted given the size and effects of the transaction

HCMO has specific criteria for approving a proposed transaction following comprehensive review.

- A. There is no substantial likelihood that the transaction would:
- Have material anti-competitive effects;
 - Be contrary to law;
 - Jeopardize the financial stability of a health care entity involved in the transaction; or
 - Otherwise be hazardous or prejudicial to consumers or the public

and

- B. The transaction will benefit the public good and communities by:
- Reducing the growth in patient costs or maintaining sustainable cost growth;
 - Increasing access to services in medically underserved areas; or
 - Rectifying historical and contemporary factors contributing to a lack of health equity or access to services.

or

- C. The transaction will improve health outcomes for residents of this state.

Myth: The Governor or Legislators decide whether a proposed transaction is approved.

Fact: The Legislature directed OHA to analyze proposed transactions and determine whether to approve, approve with conditions, or disapprove a transaction based on certain criteria.

DCBS has the same authority for transactions involving domestic insurers.

Myth: HCMO should disapprove proposed transactions when they involve private equity firms, for-profit companies, or corporate entities.

Fact: HCMO does not have authority to reject a transaction solely due to the type of entity that is involved.

OHA conducts follow-up reviews one, two, and five years after a transaction closes

What has happened since the transaction closed?

Compliance with approval conditions

Cost and cost growth trends

Impact on cost growth target

Compliance with commitments included in the notice

Impact on access

Impact on quality

Impact on equity

About HCMO: Community Engagement

Myth: HCMO reviews of proposed transactions are not publicized or shared with the affected communities.

Fact: HCMO has multiple channels for sharing information about transaction reviews and inviting public comment.

HCMO has specific statutory requirements for posting information about public hearings.

For each transaction HCMO is reviewing...

Transparency

Notice of proposed transactions and all public facing materials are posted online.

Public Notice

HCMO sends out a GovDelivery and other communications to the public about new transaction reviews and opportunity for public comment / engagement.

Public Comment

HCMO accepts public comment for each proposed transaction and incorporates in the review. All public comments are posted online

During comprehensive reviews, HCMO may also hold some combination of the following:

Listening Session(s)

Additional venue for public comments; may be focused on hearing from specific groups (e.g. patients, providers, within a geographic region)

Community Review Board

Community members who might be affected by a proposed transaction share their experience and concern. CRB makes a recommendation to HCMO.

Public Hearing(s)

Community Review Boards may opt to convene a public hearing to share information about the transaction and hear from both the entities and the public.

Community Review Board Charge

Share input and ideas to inform the review

- Share stories and experiences about consolidation, access, cost, quality, and equity
- Highlight potential risks and benefits
- Identify additional data or information sources

Recommend whether to approve the transaction

- Advise on whether HCMO should approve, approve with conditions, or reject
- Suggest conditions that should be applied to an approved transaction

Public Hearings

A public hearing is an opportunity to:

- share information about the transaction
- hear from the parties to the transaction, and
- hear from the public.

Sample agenda may include:

- Presentation by OHA about the transaction
- Testimony from the entities
- Entities respond to questions from OHA and the board
- Public comment

Oregon currently has the most transparent market oversight program in the country.

Massachusetts

List of MCN Transactions

MCN Parties	Transaction Type ¹	Date HPC Received ²	CMIR?
UnitedHealth Group Amedisys	Provider merger/affiliation increasing NPSR \$10mil	September 21, 2023	No

Oregon

Filings and Submissions

- Notice of Material Change Transaction
- Appendix A: Answers to HCMO Notice
- Appendix B: Provider identifiers and addresses
- Appendix C: Home health and hospice locations
- Appendix D: Merger Agreement
- Appendix E: Redaction Log
- Appendix F: February 2, 2024 Supplemental Responses

Public Comments

OHA is accepting public comments throughout the review period. To submit a public comment about this transaction, please email hcmo.info@oha.oregon.gov and include the word "Amedisys" in the subject line of your message.

- Compiled Email Public Comments
- Public Comment from John Santa

Myth: HCMO doesn't respond to concerns raised in public comments.

Fact: HCMO takes public comments seriously and uses comments to identify areas for analysis, potential concerns, and potential risks to mitigate for a proposed transaction.

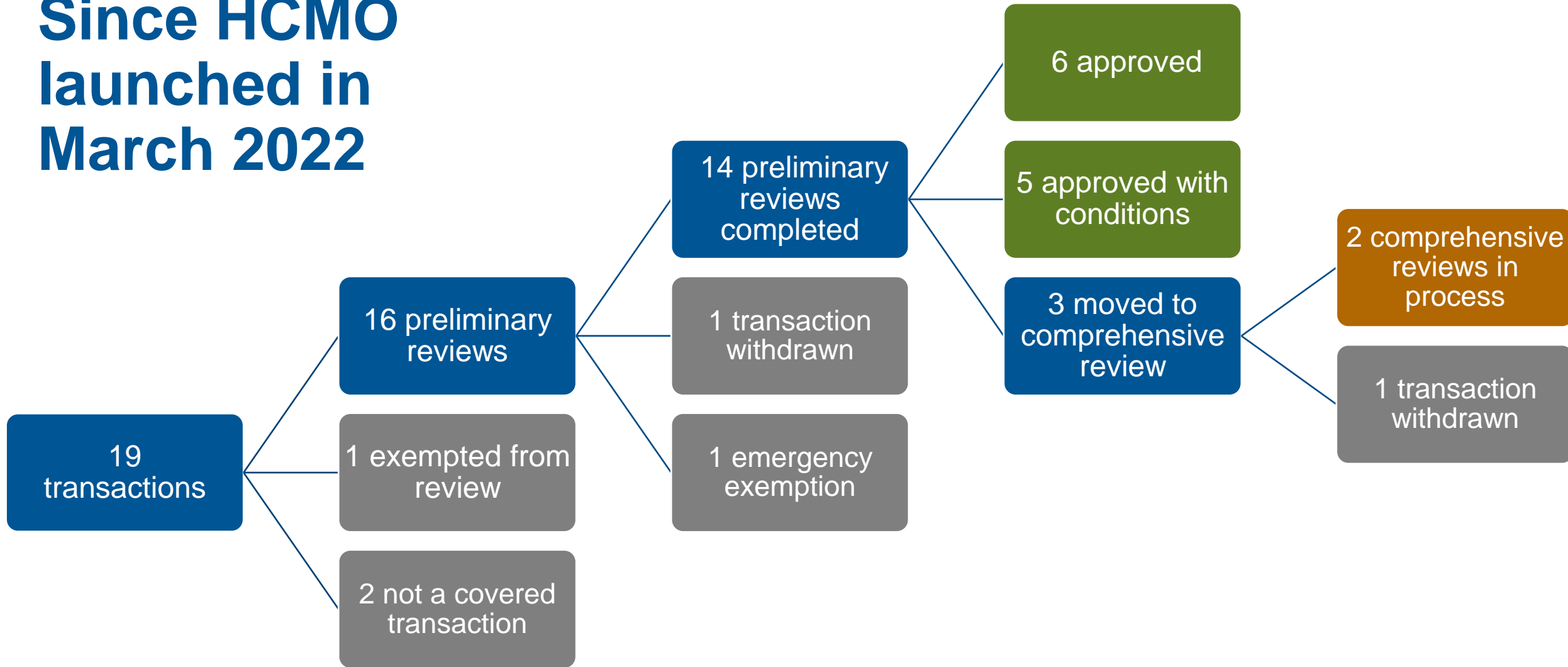
While HCMO reviews all comments, staff do not provide individual responses to comments to address questions and concerns raised in those comments.

Myth: Public comment is a majority vote.

Fact: While public comment is one of the many inputs that inform HCMO's transaction reviews, it is not the sole determining factor for whether HCMO approves or disapproves a proposed transaction.

About HCMO: Reviews To-Date

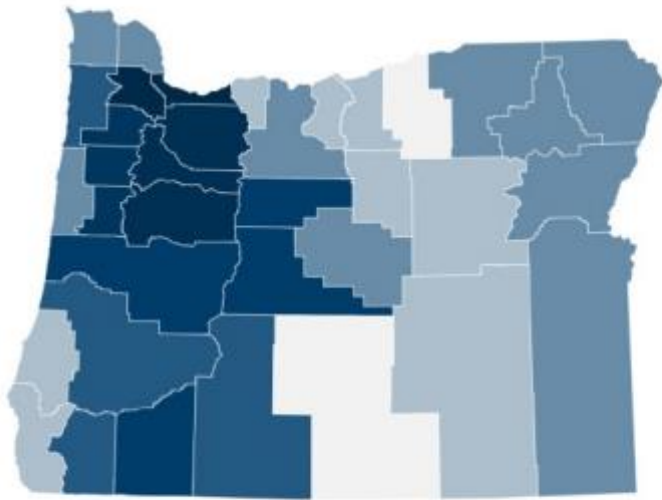
Since HCMO launched in March 2022



As of April 5, 2024

As of December 2023:

HCMO reviewed transactions that impact **34** counties in Oregon.



Darker color indicates more transactions in the area

Reviewed transactions have the potential to impact at least:

2 hospitals

56 provider locations

4,800 health care workers

100,000 patients

500,000 health plan members

HCMO and OHPB Priorities

OHPB approved HCMO's guiding principles before the program launched

When reviewing proposed material change transactions, OHA shall:



Focus on the health of people living in Oregon



Ground all analyses in the impact to health equity, access to care, health care quality, and costs



Meaningfully engage the public & stakeholders in a robust & transparent process, which may include the creation of stakeholder review boards

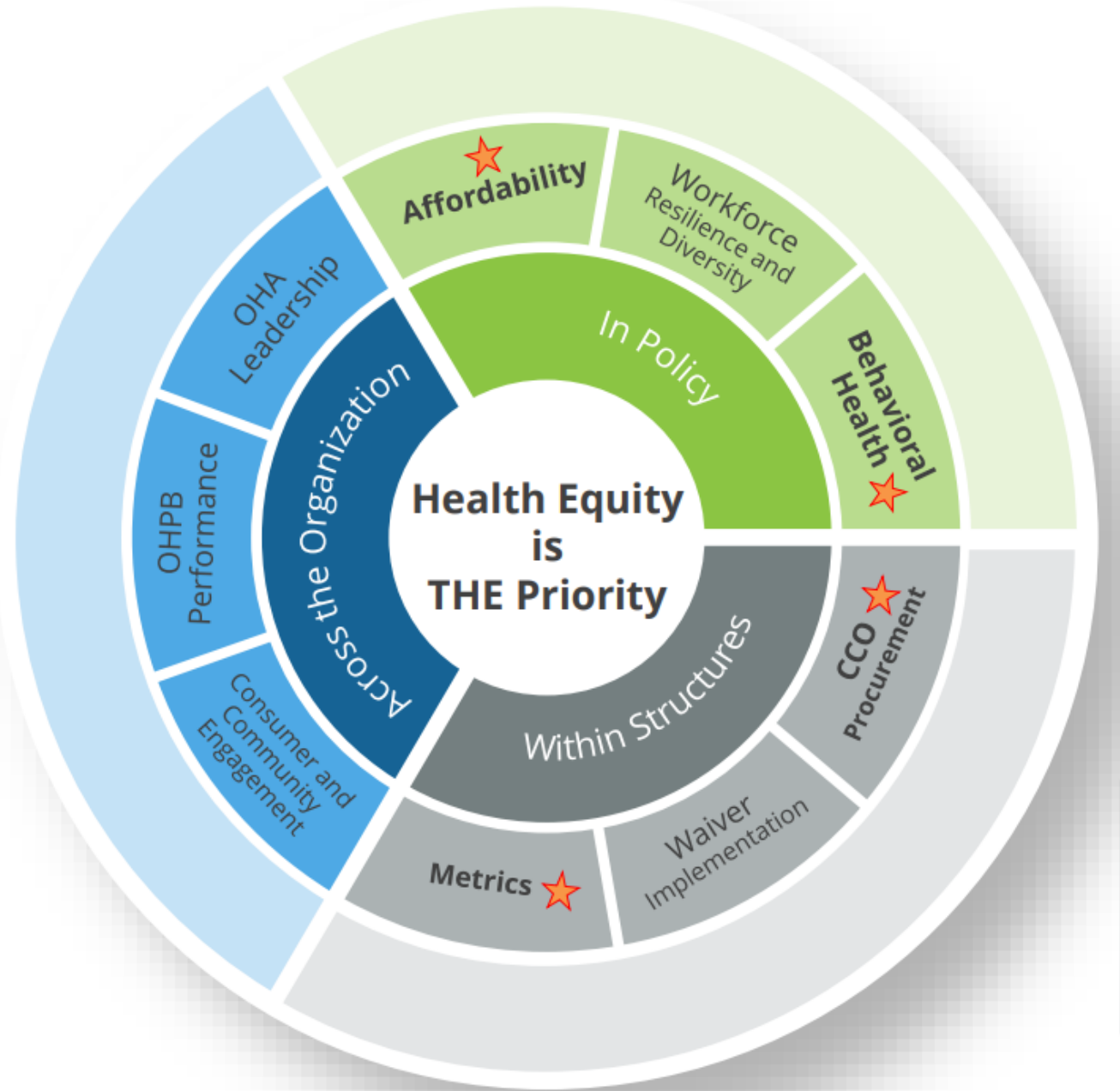


Use resources wisely and collaborate with DCBS & DOJ when applicable



OHPB 2024-2025 Priority Framework

HCMO supports OHPB strategic priorities related to health equity and affordability



For More Information



<https://www.oregon.gov/oha/HPA/HP/Pages/health-care-market-oversight.aspx>



HCMO.info@oha.Oregon.gov