



OFCCP Extends Enforcement Moratorium for TRICARE Providers

On May 18, 2018, the Office of Federal Contract Compliance Programs ("OFCCP") issued a directive announcing a two-year extension of the enforcement moratorium for TRICARE providers. The enforcement moratorium, which has been in effect since May 7, 2014, will now expire on May 7, 2021.

TRICARE is the Department of Defense's healthcare program that provides medical benefits to active-duty and retired military personnel and their families through regional contractors, such as Humana Military and Health Net, which establish networks of healthcare providers to provide medical care to TRICARE beneficiaries. Whether TRICARE providers are covered government subcontractors, and therefore subject to affirmative action and recordkeeping requirements under Executive Order 11246, Section 503 of the Rehabilitation Act, and the Vietnam Era Veterans' Readjustment Assistance Act, has been hotly debated since the Obama Administration.

Citing the difficulties experienced by active-duty and retired service members and their families when accessing healthcare, OFCCP exercised its prosecutorial discretion to extend the enforcement moratorium by two years. OFCCP also amended the enforcement moratorium to include Veterans Affairs Health Benefits Program providers. Notably, the enforcement moratorium does not apply to healthcare providers holding separate, independent, non-healthcare-related federal contracts or subcontracts. Moreover, the moratorium does not affect Medicaid and Medicare healthcare providers, which are not considered contractors or subcontractors subject to OFCCP's jurisdiction.

As stated in OFCCP's press release, the extension "will provide OFCCP time to receive feedback from stakeholders, relieve uncertainty, and give OFCCP an opportunity to evaluate and address legislation that may be enacted on this issue." OFCCP is expected to begin formal rulemaking to permanently exempt TRICARE and Veterans Affairs Health Benefits Program participants from coverage in April 2019.

We are monitoring this matter closely and will provide updates as new information becomes available. If you have any questions regarding the extension of OFCCP's enforcement moratorium, please contact [Christopher K. Schuele](#) or your Reinhart attorney.

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