

OFCCP Finalizes Rule Confirming No Jurisdiction Over TRICARE Providers

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OFCCP has [finalized its rule making to](#) officially confirm the Agency does not, and should not, exert authority over TRICARE providers. OFCCP first took this position in a [proposed rule making in November 2019](#). In the final rule, OFCCP concluded it does not have jurisdiction over healthcare providers based solely on TRICARE provider network agreements. In addition, OFCCP instituted a national interest exemption for TRICARE providers. This rule finally provides legal certainty and formal regulatory guidance to organizations that provide TRICARE services.

With that said, it is critical to understand that both the proposed and final rule make it clear that

OFCCP will retain authority over a health care provider participating in such a network arrangement if the health care provider holds a separate covered Federal contract or subcontract.

Notably, OFCCP's Final Rule does not affect its jurisdiction over healthcare providers participating in the Federal Employees Health Benefits Program (FEHBP), or Veterans Administration health benefit provider (VAHBP) agreements. Thus, while the Final Rule does not affect jurisdiction in these areas, OFCCP states in the Final Rule that it

will consider additional subregulatory guidance as necessary to provide certainty and clarity

to the status of FEHBP and VAHBP providers.

For now, at least, this story seems to have finally reached a conclusion.

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