

11/20/2020

Good Evening REDC Members,

Below is your policy update for the week. However, we did want to flag for those who may have missed it, TRICARE policy manual changes that is a big in easing contractual agreements with the program. Last, we have an update on the Wit v. UBH case. Also, with next week being Thanksgiving, your next update will come the following week!

Wishing all of you a nice weekend!

**Reminder: TRICARE Policy Manual Changes:**

**a. Removal of Freestanding Facility Language in TRICARE Policy Manual- Recommend non-TRICARE contracted RTCs Apply:**

i. Last spring, the Defense Health Agency removed the provisions around restrictions for freestanding facilities that are used by TRICARE East and West to restrict freestanding facilities to contract.

1. The following link shows the newly adjusted language, just stating that facilities must be TRICARE certified: <https://www.tricare.mil/CoveredServices/IsItCovered/EatingDisorderTreatment>

ii. We encourage your centers (if you are not already TRICARE contracted and certified) to begin the process. If there are still barriers, then let us know what they are ASAP so we can work with policymakers to address any issues with the Biden-Harris Administration or in the FY22 NDAA.

iii. Otherwise, hopefully you'll be on your way to contracting with TRICARE! Particularly if there is no longer a barrier upon entry, then we'd want to adjust SERVE Act text to take this part out.

iv. To Apply Via TRICARE West: <https://www.tricare-west.com/content/hnfs/home/tw/prov/become-a-provider.html>

v. To Apply Via TRICARE East: <https://www.humanamilitary.com/provider/access/become-a-tricare-provider/>

**b. TRICARE Moving PHP to "Outpatient":**

i. Another item we flagged recently was that TRICARE adjusted its policy manual to clarify that PHPs are outpatient services. Previously they considered them inpatient services under their policy manual.

ii. We're going to be connecting with DHA to see if this may mean anything new for pushing PHP telehealth under TRICARE, but did want to flag this minor change that occurred last month.

## Parity

- I. Free Webinar on *Wit v. UBH*—Monday, November 23 at 12 pm EST**
  - a. The Kennedy Forum is hosting a free webinar on the *Wit v. UBH* ruling
    - i. Register  
here: <https://www.thekennedyforum.org/events/game-changer-implications-of-the-wit-v-united-behavioral-health-ruling/>
- II. Senator Wyden (D-OR) Probes UnitedHealth Over MH/SUD Coverage**
  - a. Senate Finance Committee Ranking Member Wyden is seeking information from UnitedHealth about its administration of mental health and substance use disorder benefits, in the wake of series of lawsuits over its coverage denials.
    - i. “These unlawful practices have devastating consequences for UnitedHealth’s members, including adults of children, many of whom suffered severe health setbacks,” Wyden wrote, demanding details on the management of its behavioral health business.
    - ii. The full letter can be read [here](#).
- III. State Parity Working Group Slide Deck (*see attached*)**
  - a. Contains information on the *Wit v. UBH* ruling
  - b. State level parity legislation
  - c. Post-election outlook

## ACA Watch

- I. *California v. Texas* Supreme Court Case (*summary memo attached*)**
  - a. The Kaiser Family Foundation held a webinar to shed light on the ramifications of the *California v. Texas* lawsuit.
  - b. *California v. Texas* challenges the constitutionality of the individual mandate of the ACA.

- c. The question largely hinges on the severability of the individual mandate from the rest of the law.
  - i. 27% of non-elderly adults in the United States have a pre-existing condition that would've left them uninsurable in the pre-ACA individual market.
  - ii. The COVID-19 pandemic has shown us how fragile job-based coverage can be.
  - iii. If the ACA is overturned, states would be unable to replace federal funding needed to make preexisting protections affordable.
  - iv. If the ACA is overturned without a replacement plan, this would send the healthcare system into chaos. Millions of people would lose coverage and the health industry, which is almost 20% of the U.S. economy, will need to rethink how they do business.
- d. The oral arguments held on November 10 seem to bode well for supporters of the ACA. A decision can be made as early as February or as late as the spring.

## **II. New Coalition Pairs Mask Wearing & ACA Enrollment**

- a. A coalition of states, consumer groups and providers is launching a [national campaign](#) encouraging Americans to both wear face masks and enroll in ACA plans.
- b. It is a twist on prior outside campaigns to sign people up for the ACA during annual enrollment, with the group pointing to COVID-19 as a key reason for the uninsured to seek coverage
  - i. The effort is co-chaired by former Obama health official and Get America Covered co-founder Joshua Peck, KY Cabinet for Health and Family Services Deputy Secretary Carrie Banahan and Peter Lee, the executive director of CA's health exchange.

## **III. 804,000 ACA Sign-Ups During Enrollment's Second Week**

- a. About 1/5 of the enrollees are new sign-ups, in line with last week's figures.
- b. The 1.6 million sign-ups over two weeks are slightly ahead of last year's pace, despite New Jersey and Pennsylvania leaving the federal exchange and creating their own enrollment platforms.
- c. The HealthCare.gov enrollment season is scheduled to end December 15. In past years, the enrollment period pace has typically accelerated near the deadline.

- I. Senate Democrats Introduce the [Protect Our Heroes Act of 2020](#)**
- a. The bill has no chance of moving in the Republican-controlled Senate, but serves a messaging bill on Senate Democratic priorities.
- b. The bill would:
- i.** Provide \$10 billion in funding for the Strategic National Stockpile to purchase large quantities of designated PPE including N-95 masks, nitrile gloves, gowns, face shields, surgical masks
  - ii.** Allows the Defense Production Act and other existing authorities to expand the industrial capacity of domestic PPE production
  - iii.** Creates a \$1 billion grant program to help small business retool domestic facilities to produce critical PPE, with a priority given to minority-owned and other underserved small businesses as well as those owned by service disabled veterans.
  - iv.** Requires the federal government to release regular reports on the critical supplies needed to address the COVID-19 pandemic.
  - v.** Mandate an annual Government Accountability Office report on the country's access to the medical supplies needed to respond to this and future pandemics.

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