



**American Hospital  
Association**

Liberty Place, Suite 700  
325 Seventh Street, NW  
Washington, DC 20004-2802  
(202) 638-1100 Phone  
[www.aha.org](http://www.aha.org)

December 6, 2013

The Honorable Tim Walberg  
Chairman  
Committee on Education and the Workforce Subcommittee on Workforce Protections  
United States House of Representatives  
2181 Rayburn House Office Building  
Washington, DC 20510

Dear Chairman Walberg:

On behalf of the American Hospital Association's (AHA) nearly 5,000 member hospitals, health care systems and other health care organizations, and our 43,000 individual members, I am writing to express our support for your legislation, the *Protecting Health Care Providers from Increased Administrative Burdens Act* (H.R. 3633). This bill will help ensure the continuing availability of a robust network of hospital care for TRICARE and Federal Employees Health Benefit Program (FEHBP) participants by clarifying the Office of Federal Contract Compliance's (OFCCP) role and its oversight and enforcement activities over hospitals that provide services to military families, federal employees and other recipients of care under federal health reimbursement programs.

For many years, the OFCCP's policy has been that hospitals providing health care services to participants in federally funded health benefit programs, including TRICARE, FEHBP and Medicare, are not considered federal contractors. TRICARE is the health care program for military service members and their families; the FEHBP is the health care program for civilian employees and their families. Medicare is the health care program for individuals 65 years or older. The OFCCP's previous position was consistent with the position taken by the agencies specifically charged with administering these programs. Its current position is unprecedented and, if accepted, would convert a majority of our nation's hospitals into "federal contractors" overnight, without advance notice to or agreement by those hospitals.

Recently, however, the OFCCP has undertaken an aggressive attempt to expand the agency's jurisdiction over hospitals by asserting that hospitals' participation in managed care networks offered through TRICARE, FEHBP and even Medicare Parts C and D effectively makes them "federal subcontractors" and, thus, subject to OFCCP's burdensome regulatory scheme. OFCCP has continued to pursue this policy despite Congress' previous passage of language in the *National Defense Authorization Act for Fiscal Year 2012* (NDAA) [P.L. 112-81] that specifically exempted TRICARE network providers from federal contractor status. These continued actions by OFCCP make passage of this bill critically important for the nation's hospitals.



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Hospitals are subject to myriad anti-discrimination laws and regulations, including anti-discrimination regulations that are appropriately enforced by many federal, state and local agencies. Subjecting hospitals to additional paperwork burdens and the costs associated with OFCCP regulations makes little sense at a time when hospitals are being asked to do more with less reimbursement. It effectively would divert financial resources from patient care in order to satisfy the OFCCP's administrative requirements, forcing hospitals to make difficult choices about their ongoing participation in various federal health care reimbursement programs that OFCCP argues is the basis for the agency's oversight and enforcement.

The OFCCP's attempt to expand its jurisdiction and its real lack of clear guidance for providers has forced hospitals to engage in ongoing lengthy and costly litigation to remove the uncertainty surrounding scope of OFCCP's jurisdiction.

H.R. 3633 will provide clear direction for OFCCP policy and ensure that the burdens of complying with OFCCP's unnecessary and costly regulatory scheme does not come at the cost of reducing hospitals' robust participation in networks of care for TRICARE, FEHBP and Medicare patients and threaten access for our nation's military families, federal employees and other federal health care program beneficiaries.

Thank you for introducing this legislation. The AHA looks forward to working with you to ensure its enactment.

Sincerely,

Rick Pollack  
Executive Vice President