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TRICARE Healthcare Delivery and State Laws and Regulations

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Purpose of this Briefing

- The Defense Health Board requested a briefing on DoD/MHS healthcare delivery and the impact of state laws and regulations on Managed Care Support Contractors' operations.

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General Preemption of State Law under the TRICARE Program

- As a matter of federal law, any state or local law relating to health insurance, prepaid health plans, delivery or finance is preempted and does not apply in connection with TRICARE regional contracts pursuant to 10 USC 1103 and 32 CFR 199.17(a)(7).
- That said, state laws do impact provider scope of practice in the private sector and beneficiary access to care in certain circumstances. As such, DHA and the Managed Care Support Contractors (MCSCs) face specific challenges arising from state law restrictions on providers and procedures.

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TRICARE Private Sector Care and State Laws and Regulations The BLUF

- DHA relies on the TRICARE MCSCs to handle State laws and regulations issues.
 - The TRICARE contracts require the contractor to provide health, medical and administrative support services to TRICARE-eligible beneficiaries.
 - ✓ The TRICARE Manuals provide instruction, guidance and responsibilities in addition to the requirements set forth in the incorporated federal statutes and regulations incorporated in the current TRICARE contracts.
- The MCSCs only reach back to DHA (THP) if they need guidance.

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State Laws and Regulations and Impact to TRICARE Private Sector Care

- State laws that limit or prohibit care for specific health conditions may impact administration of the TRICARE purchased care program in accordance with contract requirements
- Recently the two main health care services covered by TRICARE benefits that are currently impacted by various State laws are:
 - Termination of pregnancy
 - Gender-affirming healthcare for transgender youth

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Challenges Presented by State Laws and Regulations

- Access to Care for pregnancy termination/Gender dysphoria
 - Drive time and appointment availability standards are at risk when State laws limit services to healthcare.
 - Limitation can come in the form of services a provider is legally prohibited from offering as well as scope-of-practice rules that allow certain providers to perform a service while another provider cannot (e.g. doctor versus nurse practitioner).
 - Providers willing to deliver services within the restrictions of the State law are often times reluctant to be listed in the provider locator/directory due to safety concerns.
 - Moreover, when States prohibit certain healthcare services all together, the Managed Care Support Contractor spends additional time identifying providers in other States willing to render care.

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Challenges Presented by State Laws and Regulations Continued

- Referral challenges for pregnancy termination/Gender dysphoria
 - A larger volume of providers must be contacted to validate those willing and available to render the needed care.
 - Any delay in locating and assigning a provider to the referral impacts performance standards related to referral processing time.

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