



Legal Alert: Hospital's Participation in TRICARE Subjects it to Federal Contractor Affirmative Action Obligations

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Relying on the ARB's 2009 decision in *OFCCP v. UMPC Braddock*, a federal administrative law judge (ALJ) has held that a Florida hospital is a subcontractor of a managed care services provider's contract between TRICARE and Humana Military Healthcare Services Inc. (HMHS) and, thus, is subject to the affirmative action obligations imposed on federal contractors.

In *OFCCP v. Florida Hospital of Orlando* (October 18, 2010), the ALJ held that the hospital, which the ALJ characterized as having a contract with HMHS to provide health care services for TRICARE beneficiaries, has assumed some of HMHS's duties under its contract with TRICARE, which makes it a federal subcontractor. Accordingly, the ALJ held that the hospital is subject to the equal employment opportunity and affirmative action obligations imposed by Executive Order 11246, § 503 of the Rehabilitation Act, and the Vietnam Era Veterans' Readjustment Assistance Act (VEVRAA).

The ALJ's decision potentially will have far-reaching implications for health care providers who have operated under the assumption that participation in TRICARE does not subject them to the obligations imposed on federal contractors. For additional background on this issue, please see our Legal Alert dated August 12, 2009, which can be viewed at <http://www.fordharrison.com/shownews.aspx?show=5195>.

In light of the OFCCP's position regarding TRICARE participation, health care institutions should review their contracts. If you have any questions regarding the decision or other issues relating to federal affirmative action obligations, please contact any member of Ford & Harrison's Affirmative Action Compliance and Plan Development Practice Group or Bennet Alsher, balsher@fordharrison.com, Linda Cavanna-Wilk, lcavanna-wilk@fordharrison.com, Karen Tyner, kytyner@fordharrison.com or the Ford & Harrison attorney with whom you usually work.