HEFFERNAN INSURANCE BROKERS

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# 2025 SUMMER LEGISLATIVE RECAP

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# CONGRESS

# SUPREME COURT

## One Big Beautiful Bill

In May we saw the 'One Big Beautiful Bill ' pass the House and then narrowly pass the Senate a month later. In a surprising turn of events, it then became law on the heels of the 4th of July Holiday.

- Medicaid- One of the more contested components that made it to the final bill is the reduction to Medicaid funding. The Congressional Budget Office (CBO) estimates nearly 12 million individuals will lose their health insurance in the next 9 years under these cuts.
- Public Marketplace/Exchange Enrollment Verification- Increased scrutiny for individuals enrolling in marketplace plans and applying for premium subsidies are added under the bill. These provisions might increase enrollment under employer sponsored health plans.
- Maintains many provisions of the 2017 Tax Cuts and Jobs Act- Maintains the House's permanent extension of the 199A deduction, but retains the current 20% rate (instead of the House's 23% rate), makes permanent lower individual tax rates.
- Additional benefits related items include:
  - Maintains the current tax exclusion for employer sponsored health insurance
  - Increases the nonrefundable child tax credit, and ties the limit to inflation
  - Permanently restores the 163(j) business interest deduction at 30% of EBITDA
  - Permanently extends the safe harbor for pre-deductible reimbursement of telehealth services under high-deductible health plan without disrupting HSA eligibility (the Act updates the IRC section 223)
  - Increases the annual contribution limit for dependent care Flexible Spending Accounts (DCAs) from $5,000 to $7,500 for married couples filing jointly, and from $2,500 to $3,750 for married couples filing separately.
  - Maintains tax free employee student loan reimbursement up to $5,250 under Section 127 through 2026; limit begins to index for inflation in 2027
  - Does not include a moratorium on state regulation of AI models and systems
  - Does not adopt the expansions to Health Savings Account allowable contributions passed by the House

## Pharmacy Benefit Manager Reform Act of 2025

Members of the House will soon vote to pass the PBM Reform Act, HR 4317 which is intended to require significant change in the PBM space. Despite the fact that PBM reform was not included in the final OBBB, there is still strong bipartisan support for legislation in this cost prohibitive area of health care. According to Representative Buddy Carter of Georgia, the Act will officially prohibit 'spread pricing' in Medicaid and impose semi-annual PBM reporting on rebates and spending among other things. Industry leaders are hopeful this law will receive the necessary support to pass Congress and make its way to the President's desk.

## Kennedy et al v Braidwood

In a decision that did not come as a surprise, the Court upheld the Government's argument in defense of the Affordable Care Act (ACA) preventive care mandate, which requires services deemed 'preventive' to be covered by group and individual plans at zero cost to individuals. Petitioners leaned into the Constitutional provision regulating the way 'officers of the United States' are appointed, arguing that members of the US preventive services task force were not properly appointed to their positions. Thus, without proper appointments, the preventive care mandates promulgated by this Task Force were invalid. Justice Kavanaugh delivered the majority opinion, upholding this vital element of the ACA.

## US v Skrmetti

On June 18, SCOTUS rendered a much anticipated opinion, upholding a Tennessee law that prohibits healthcare providers from delivering gender affirming care to minors. The petitioners, transgender minors and their parents, challenged the state law on Equal Protection grounds, but the Court did not find the requisite facts necessary for heightened scrutiny.

*"The law does not prohibit certain medical treatments for minors of one sex while allowing those same treatments for minors of the opposite sex. SB1 prohibits healthcare providers from administering puberty blockers or hormones to any minor to treat gender dysphoria, gender identity disorder, or gender incongruence, regardless of the minor's sex; it permits providers to administer puberty blockers and hormones to minors of any sex for other purposes."*

[1] *The One Big Beautiful Bill passed the House on May 22, 2025, and then was revised by the Senate and passed on July 1*
[2] *The text of the act can be viewed online*

[11] *UNITED STATES v. SKRMETTI, No. 23–477. Argued December 4, 2024—Decided June 18, 2025*

# DEPARTMENT OF LABOR (DOL)

## Transparency in Coverage (TiC)

The Consolidated Appropriations Act (CAA) of 2020 contained directives to increase price transparency in the health insurance health service market. The Departments then issued a joint final rule in October, which was published to the Federal Register in November 2020 implementing the transparency rules applicable to employer plans, health insurance carriers, and health service providers. These requirements included online tools enabling individuals to 'price shop' for common medical services, and detailed historical cost disclosures for hospitals and health insurance carriers.

Building upon the TiC rules from 2020, Executive Order 14221 directed the DOL, IRS and HHS to "take steps to strengthen the implementation and enforcement of healthcare transparency regulations issued pursuant to E.O. 13877,7 including the TiC Final Rules, by ensuring standardized, easily comparable data across hospitals and health plans and transparent reporting of complete, accurate, and meaningful data." Machine readable files (MRFs) from 2022 were designed to list in-network provider rates for covered items and services, out-of-network allowed amounts and billed charges for covered items and services, and negotiated rates and historical net prices for covered prescription drugs. By October of this year, CMS will have an updated MRF 'schema' to reduce the file size, making these files more accessible, and importantly, including prescription drug data .

Additionally, CMS has updated their hospital MRF requirements, directing that a standard charge dollar amount, including the negotiated amount, be included in their posted files.

## Mental Health Parity Addiction Equality Act (MHPAEA)

Mental health remains a priority for Congress in 2025. FAIR Health, a national, non-profit public health charity, reports that "the percentage of patients with a telehealth claim for a mental health condition increased nationally and in every US census region in April, [2025]. Mental health conditions remained the top diagnostic category for patients with a telehealth claim nationally and in every region. Nationally, patients diagnosed with mental health conditions accounted for 63.0 percent of patients with a telehealth claim in April [2025]."

In May, the Departments collectively filed a long-anticipated response to the ERISA Industry Committee complaint challenging the September 2024 Final Rule. The reply requested, and was quickly granted, a stay of the proceedings, effectively giving employers a period of relief while the Departments examine redrafting or even replacing the Final Rules.

The existing MHPAEA and the comparative analysis requirement for any nonquantitative treatment limitations under the 2021 Consolidate Appropriations Act remain intact and enforceable. The 'stay' granted here applies to the enhanced fiduciary obligation under the September Final Rules, which would have required a 'certification' by employer plan sponsors, as well as other detailed benefits analysis. A lengthy self-compliance tool for employer plan sponsors and TPAs is available from the DOL.

*[3]Citation: 85 FR 72158*
*[4]Exec. Order No. 14221, 90 Fed. Reg. 11005 (Feb. 25, 2025)*
*[5]CMS FAQ Part 70 (May 22, 2025)*
*[6]Agency RFI, IRS 26 CFR Part 54 / EBSA 29 CFR Part 2590*
*[7]CMS updated Hospital Price Transparency (May 22, 2025)*
*[8]FAIR Health's July 15, 2025 Press Release*
*[9]Defendants Motion for Abeyance filed May 9, 2025*
*[10]Section 203, Title II Division BB of the CAA requires group health plans that offer both medical/surgical benefits and MH/SUD benefits and that impose non-quantitative treatment limitations (NQTLs) on MH/SUD benefits perform and document their' comparative analyses' of the design and application of NQTLs. Plans and issuers must make their comparative analyses available to the Departments or applicable State authorities, upon request.*

# STATE LEVEL ACTIVITY

# HEADLINES WE ARE WATCHING

### California

The Governor signed a budget bill in June officially delaying the effective date of California's expanded infertility coverage in the large group market. As previously reported, Senate Bill 729 will expand access to infertility benefits for all employees enrolled in fully insured, large group plans written in the state of California. Plans that renew on or after January 1, 2026 will see these enhanced benefits and new, more inclusive definition of 'infertility'.

Small group plans have the option of offering these enhanced benefits, and carriers in the small group market must 'make available' at least one plan with infertility benefits for small group employers. However, employers in this market are not mandated to offer a plan with enhanced infertility.

As with most state mandates, self-insured plans subject to ERISA are not required to add these benefits. Self-funded employers have the options to add these benefits if they wish to mirror the state required coverages.

### New York

Statutory disability in New York has been capped at $170 per week for decades. The current Senate has passed Bill S172, which would tie disability benefits to the state-wide average weekly wage figures, increasing over the next 4 years beginning in 2027.

~~Employers in New York will recall the new paid prenatal leave law that~~ took effect this year, granting 20 hours of paid leave to employees for any reason related to pregnancy. New York City took this law a step further by amending the existing Earned Safe and Sick Time Act (ESSTA) in June. Substantively, the NYC rule mirrors the NY State rule. The most significant addition is that New York City employers must maintain a written policy detailing the prenatal leave available and notify employees of the balance of paid prenatal leave hours available on each pay statement/period. These requirements take effect July 2, 2025.

### Washington

Senate Bill (SB) 5217 will amend Washington State's Healthy Starts Act as of January 1, 2027, providing expansive accommodations to pregnant employees and applying to employers of all sizes.

### Artificial Intelligence

With the rise in AI across many fields, the health insurance industry is grappling with the line between innovation and impermissibility. Several courts have allowed cases against carriers to proceed when their use of AI to make benefit claim determinations was challenged by participants. Arizona has been the first state to legislate against the use of artificial intelligence in the rendering of claim decisions. House Bill 2175 requires that a licensed physician in the state of Arizona must conduct a personal review before any claim denial will be upheld. We anticipate additional such laws to be passed in other states, especially since the OBBB does not include the restriction on state regulation of AI that was in the House version.



[12]*Estate of Gene B. Lokken v UnitedHealth Group (Civil No. 23-3514), Kisting-Leung et al. v Cigna Corp et al (Docket No. 2:23-cv-01477) CA Eastern*