



Healthcare Policy Roundup

May 1, 2018

Catch the Highlights!

- *Trump Administration to rewrite federal rule banning discrimination on the basis of gender identity*
- *New York advocates push to raise tobacco purchase age from 18 to 21*
- *Lawmakers criticize proposed work requirement for Native Americans on Medicaid*

Questions? Comments?

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Trump reconsiders transgender healthcare protections:

The Trump Administration has come under fire for opting to rewrite a federal rule barring healthcare discrimination based on gender identity. The regulation, known as Section 1557, was issued in 2010 as part of the Affordable Care Act and prohibits such discrimination in any health program or activity that receives federal financial assistance. This includes providers accepting Medicare and Medicaid payments as well as insurers that participate in health insurance marketplaces.

Trump Administration officials opted to rewrite the rule after a federal judge in Texas concluded that discrimination on the basis of gender identity did not necessarily entail sex discrimination. The judge temporarily halted protections for transgender patients after a network of Roman Catholic hospitals and the Christian Medical and Dental Associations challenged the regulation, arguing that Congress' understanding of "sex" does not include gender identity.

"That is an excruciatingly narrow and legally incorrect definition of the term 'sex,'" argued Lambda Legal Law and Policy Director Jennifer Pizer. Without protections, transgender patients could be denied healthcare services such as counseling, psychotherapy, hormone therapy and surgical procedures. The proposal comes at the heels of a long list of federal efforts to restrict rights for transgender individuals including military service, job opportunities and bathroom use.

Advocates push to raise tobacco purchase age:

Earlier this week, dozens of cancer patients, survivors and caregivers met with New York legislators to advocate for an increase in tobacco sale age limits. Efforts to increase the age minimum from 18 to 21 failed in the State Legislature last year, but supporters are hopeful that lawmakers will join five other states, including New Jersey and California, in raising the legal age limit.

The current bill has received staunch opposition from convenience store owners who believe that the proposed change could hurt business while having minimal impact on youth tobacco use. However, a recent [poll](#) conducted by the Global Strategy Group indicates that 72 percent of New Yorkers favor raising the minimum age for tobacco purchase. "Our results confirm what we, and you, probably already believed to be true for a long time," stated Kevin O'Flaherty, Director of Advocacy at Tobacco-Free Kids.



According to the American Cancer Society Action Network, about 95 percent of adult smokers begin smoking before they turn 21, and an estimated 28,200 New Yorkers will die from smoking-related illnesses in 2018. Nineteen different counties, including New York City, already prohibit the sale of tobacco products – including e-cigarettes – for individuals under the age of 21.

Senators rebuke Medicaid work requirement for Native Americans:

A group of U.S. senators have come out against federal efforts to impose work requirements on Native Americans seeking Medicaid coverage. On Friday, ten senators, including Senate Minority Leader Chuck Schumer (NY-D), penned a [letter](#) to Health and Human Services (HHS) Secretary Alex Azar labelling the mandate "potentially devastating" to tribes' access to care.

Earlier this year, HHS and the Centers for Medicare and Medicaid Services (CMS) issued a joint letter to tribal leaders stating that the federal government would be unable to require states to exempt Native Americans from Medicaid work requirements due to statutory constraints and "civil rights issues." Although the letter did not explicitly state what these issues were, the Trump Administration later told tribal leaders that exemption would constitute an illegal racial preference.

In last week's letter to Secretary Azar, lawmakers criticized the Administration's failure "to recognize the unique legal status of Indian tribes and their members under the U.S. Constitution, treaties, and the federal trust relationship." According to the group of senators, there is longstanding legal precedent that establishes Native American tribes as separate governments. HHS has yet to produce documents explaining why Native Americans would be subject to work requirements, despite requests from lawmakers, tribal leaders, and news sources.

The Trump Administration is entertaining proposals from state Medicaid programs to impose mandatory work requirements on most adult beneficiaries. Experts have castigated the initiative as a hoax that will reduce Medicaid enrollment by imposing complex paperwork requirements on people in need of health care.



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