

LEGAL UPDATE

Vaccine Mandate for Health Care Workers Blocked Nationwide

On Nov. 29, 2021, a federal court [issued a temporary injunction](#) blocking enforcement of the Centers for Medicare & Medicaid Services (CMS) [emergency rule](#) requiring COVID-19 vaccination of certain health care workers. This injunction only applies to health care workers in the 10 states involved in the [lawsuit](#)—Alaska, Arkansas, Iowa, Kansas, Missouri, Nebraska, New Hampshire, North Dakota, South Dakota and Wyoming—while the lawsuit is pending.

On Nov. 30, 2021, another federal court issued a [similar preliminary injunction](#) covering the states not included in the first injunction. As a result, on Dec. 2, 2021, CMS issued a [memorandum](#) indicating that the agency will not enforce the vaccination emergency rule while the injunctions prohibit enforcement.

COVID-19 Vaccination Requirement

The CMS rule applies to Medicare- and Medicaid-certified provider and supplier types that are regulated under the Medicare health and safety standards, including hospitals, clinics and long-term care facilities.

The rule requires covered facilities to **establish a policy** ensuring that all eligible staff has received the first dose of a two-dose COVID-19 vaccine or a one-dose COVID-19 vaccine prior to providing any care, treatment or other services by Dec. 6, 2021. Under the rule, all eligible staff must have received the necessary shots to be fully vaccinated—either two doses of Pfizer-BioNTech or Moderna or one dose of Johnson & Johnson—by Jan. 4, 2022.

The regulation provides for exemptions based on recognized medical conditions or religious beliefs. **However, there is no weekly testing exception for unvaccinated workers.**

Impact on Employers

The two federal court temporary injunctions bar enforcement of the CMS rule nationwide while the lawsuit is pending.

Important Dates

Nov. 29 and 30, 2021

Federal courts blocked enforcement of rule requiring COVID-19 vaccines for health care workers.

Dec. 6, 2021

Emergency rule's deadline for health care facilities that participate in the Medicare and Medicaid programs to establish a policy requiring staff to be COVID-19 vaccinated.

Jan. 4, 2022

Emergency rule's deadline for eligible health care staff to be fully vaccinated against COVID-19.

CMS will not enforce the vaccination emergency rule pending a judicial decision on this matter.

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