



CMS Sets New Deadlines for COVID-19 Vaccine Mandates for 25 States; OSHA Withdraws ETS for Healthcare Workers

January 4, 2022

CMS Vaccine Mandates Enforced in Half the States

The Administration reversed its previous position that it would not enforce the vaccine mandates for healthcare workers until the pending litigation was concluded and issued new guidance. Click [here](#) for the CMS guidance issued on December 28 setting new dates for healthcare workers to be vaccinated against Covid-19 in those states that are not subject to federal court injunctions.

The following states are exempt at this time due to federal court orders in Missouri and Louisiana: Alabama, Alaska, Arizona, Arkansas, Georgia, Idaho, Indiana, Iowa, Kansas, Kentucky, Louisiana, Mississippi, Missouri, Montana, Nebraska, New Hampshire, North Dakota, Ohio, Oklahoma, South Carolina, South Dakota, Texas, Utah, West Virginia and Wyoming.

On Friday, January 7, the US Supreme Court is holding a hearing to decide whether to overturn the injunction in these states. Click [here](#) for the pleadings in *Becerra v. Louisiana* and Click [here](#) for the pleadings in *Biden v. Missouri*. Also before the Court on Friday are oral arguments on the OSHA mandate for employers with 100+ employees. Click [here](#) for *National Federation of Independent Business v. Department of Labor*, and [here](#) for *Ohio v. Department of Labor*. It is unusual for the Supreme Court to hear oral arguments on an expedited basis – perhaps an indication that the Court understands the need for a speedy resolution.

Under the new guidance, healthcare workers in all other states and the District of Columbia must receive the first shot by January 27, 2022, and be fully vaccinated by February 28, 2022, or receive an exemption.

After the deadlines, facilities with staff vaccination rates below 100% will be considered non-compliant and may be subject to fines, denial of payment and termination from the Medicare and Medicaid programs. The provider-specific guidance outlines the survey and correction process for each provider type, defines levels of deficiency and the opportunities for facilities to become compliant before penalties are to be imposed.

OSHA Withdraws Most of the Emergency Temporary Standard (ETS) for Healthcare Workers

The six-month ETS expired on December 21, 2021 and OSHA officially withdrew it on December 28, 2021. Click [here](#) for the notice. However, the reporting provisions remain in effect because they were adopted under a separate provision. OSHA also announced that it intends to continue to work expeditiously to issue a final standard to protect healthcare workers from COVID-19 hazards.

We will keep you updated as developments warrant.

For additional information, please contact our General Counsel Diane Turpin at diane.turpin@shcare.net or 202-578-5444.