

LEGAL UPDATE

Supreme Court Reinstates Vaccine Mandate for Health Care Workers

On Jan. 13, 2022, the U.S. Supreme Court [dissolved](#) the temporary injunctions blocking enforcement of the Centers for Medicare & Medicaid Services (CMS) [emergency rule](#) requiring COVID-19 vaccination of certain health care workers. As a result, the emergency rule will now be reinstated and can be enforced as written.

CMS had previously [indicated](#) that it would not enforce the emergency rule while the injunctions prohibited enforcement. In light of the Supreme Court's ruling, it is likely that CMS will begin enforcement of the emergency rule.

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.

These facilities must **establish a policy** ensuring that all eligible staff are vaccinated against COVID-19. Under the rule's planned timeline, staff members had to receive 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, and 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

In light of the Supreme Court's ruling, it is likely that CMS will resume enforcement of the vaccination emergency rule. As a result, affected health care facilities that have not already implemented a vaccination policy should establish a policy requiring staff to be COVID-19 vaccinated as soon as possible. In addition, affected health care facilities should implement procedures to determine and document workers' vaccination status.

Provided to you by [Clark & Associates](#)

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Important Dates

Jan. 13, 2022

The U.S. Supreme Court dissolved temporary federal court injunctions blocking enforcement of the emergency rule.

Dec. 6, 2021

Emergency rule's initial deadline for covered health care facilities to establish a policy requiring eligible staff to be COVID-19 vaccinated.

Jan. 4, 2022

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

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