



VACCINE UPDATE: FEDERAL VACCINE MANDATE FOR HEALTH CARE PROVIDERS AND EMPLOYERS WITH 100 OR MORE EMPLOYEES

The Federal Government, through the Centers for Medicare & Medicaid Services (CMS) and Occupational Safety and Health Administration (OSHA) issued guidelines and regulations pertaining to a federal vaccine mandate for health care providers and employers with 100 or more employees.

Compliance is required by January 4, 2022, and employers must: determine employee vaccination status; develop, implement and enforce a mandatory vaccine policy by December 5, 2021; provide employees with a reasonable amount of time to obtain the vaccine, including up to 4 hours of paid time off to receive each dose, and reasonable time and paid sick leave to recover from any side effects experienced; require employees to provide prompt notice when they test positive for COVID-19; remove all COVID-19 positive employees from worksite, regardless of vaccination status; ensure that any unvaccinated employee wears a face covering when indoors or when occupying a vehicle with another person; and consider applicable exemptions based on medical and religious accommodation requests.

Guidelines Specific to Employers With 100 or More Employees: Employers with 100 or more employees may offer a weekly testing alternative if they choose. Employers are not required to pay for weekly testing, unless required by collectively bargained or negotiated agreements or other laws. In determining the number of employees, all part-time and full-time staff are including at all office locations. The regulation does not apply to employees who report to a workplace where there are no other individuals present, work from home, or work exclusively outdoors. Failure to comply with the regulations may result in fines of up to \$13,653 per violation, with higher fines for willful or repeated offenses.

Guidelines Specific To Health Care Providers: Under CMS’ regulation affecting health care providers, providers are NOT permitted to offer a weekly testing option as an alternative to the vaccine mandate. The staff vaccination requirement applies to the following Medicare and Medicaid-certified provider and supplier types: Ambulatory Surgery Centers, Community Mental Health Centers, Comprehensive Outpatient Rehabilitation Facilities, Critical Access Hospitals, End-Stage Renal, Disease Facilities, Home Health Agencies, Home Infusion Therapy Suppliers, Hospices, Hospitals, Intermediate Care Facilities for Individuals with Intellectual Disabilities, Clinics, Rehabilitation Agencies, and Public Health Agencies as Providers of Outpatient Physical Therapy and Speech-Language Pathology Services, Psychiatric Residential Treatment Facilities (PRTFs) Programs for All-Inclusive Care for the Elderly Organizations (PACE), Rural Health Clinics/Federally Qualified Health Centers, and Long Term Care facilities. The regulation applies to clinical workers such as doctors and nurses, as well as non-clinical employees, students, trainees, and volunteers. This authority does not extend to certain facilities not regulated by CMS nor independent physicians/clinicians. Individuals providing services fully remote are not covered by the regulation. However, employees who work offsite are covered. Penalties include civil monetary penalties and, for certain providers, termination.

Should you have any questions regarding the above, please contact the [Garfunkel Wild Employment Group](#), the [Garfunkel Wild attorney](#) with whom you regularly work, or contact us at info@garfunkelwild.com.

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