

Nationwide Preliminary Injunction on Centers for Medicare & Medicaid Enforcing COVID-19 Vaccine Rule

By Michael R. Bertoncini & Sarah R. Skubas

December 1, 2021

Meet the Authors



Michael R. Bertoncini

Principal

(617) 305-1270

Michael.Bertoncini@jacksonlewis.com



Sarah R. Skubas

Principal

(860) 522-0404

Sarah.Skubas@jacksonlewis.com

Related Services

COVID-19

Disability, Leave and Health

Management

Healthcare

Workplace Safety and Health

The U.S. District Court for the Western District of Louisiana has granted a preliminary injunction enjoining the Centers for Medicare and Medicaid (CMS) from enforcing its COVID-19 vaccine mandate nationwide. *Louisiana et al. v. Becerra et al.*, No. 3:12-CV-03970 (W.D. La. Nov. 30, 2021). This injunction takes immediate effect.

The Louisiana federal court carved out of its order the 10 states that previously received a preliminary injunction from the [federal court in the Eastern District of Missouri](#).

Like its Missouri counterpart, the Western District of Louisiana held that CMS lacked authority to implement the mandate. Recognizing the need for uniformity, the court imposed the injunction nationwide, despite only 14 states being a party to the lawsuit before it.

The Biden Administration has filed a notice of appeal of the Eastern District of Missouri's preliminary injunction. A similar appeal of this nationwide action is expected. CMS-covered providers and suppliers, as well as indirectly affected third parties that provide services at covered providers and suppliers, are left without certainty.

Employers affected by the CMS mandate may consider various paths in light of the nationwide preliminary injunction, such as:

- Some covered employers may proceed with imposing the mandate by choice irrespective of the ruling. In doing so, employers must consider applicable state laws that may limit such a voluntary mandate. With the CMS rule enjoined, any preemptive effect it might have likely also is enjoined.
- Other covered employers who were not considering a mandatory vaccine requirement may return to their policy of not requiring vaccination, subject to any applicable state law mandates.
- Affected employers should communicate updates to employees with the understanding that the Louisiana ruling is preliminary. Appeals underway may result in the CMS mandate taking effect later.
- All affected employers should continue to monitor this quickly evolving vaccine mandate, as well as applicable state law, and be prepared to pivot, pending appeal rulings and further updates.

Please contact a Jackson Lewis attorney with questions.

©2021 Jackson Lewis P.C. This material is provided for informational purposes only. It is not intended to constitute legal advice nor does it create a client-lawyer relationship between Jackson Lewis and any recipient. Recipients should consult with counsel before taking any actions based on the information contained within this material. This material may be considered attorney advertising in some jurisdictions. Prior results do not guarantee a similar outcome.

Focused on employment and labor law since 1958, Jackson Lewis P.C.'s 1,000+ attorneys located in major cities nationwide consistently identify and respond to new ways workplace law intersects business. We help employers develop proactive strategies, strong policies and business-oriented solutions to cultivate high-functioning workforces that are engaged and stable, and share our clients' goals to emphasize belonging and respect for the contributions of every employee. For more information, visit <https://www.jacksonlewis.com>.