

Centers for Medicare & Medicaid to Enforce Its COVID-19 Vaccination Rule, Sets New Deadlines

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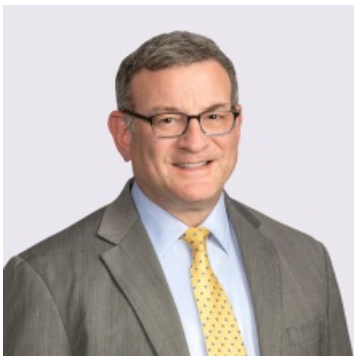
December 29, 2021

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The Centers for Medicare & Medicaid Services (CMS) will enforce its COVID-19 vaccination requirement in 25 states, the District of Columbia, and other territories, according to an [update](#) released on December 28, 2021.

CMS is [enjoined](#) from enforcing its COVID-19 vaccination rule in the other 25 states, which are involved in a case challenging its rule. Oral argument in that case is set before the U.S. Supreme Court on January 7, 2022.

Here is what affected covered providers and suppliers need to know:

- Except in 25 states, CMS will enforce its COVID-19 vaccination requirement in every state, territory, and the District of Columbia. *CMS will not enforce its requirement in:* 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.
- CMS established the following new compliance deadlines:
 - *Phase 1 – January 27, 2022:* All covered staff must receive their first dose of a multi-dose COVID-19 vaccine, unless they have pending requests for, or have been granted, medical or religious exemptions, or for whom COVID-19 vaccination must be temporarily delayed, as recommended by the Centers for Disease Control and Prevention, due to clinical precautions and considerations.
 - *Phase 2 – February 28, 2022:* All covered staff must be fully vaccinated or have received an approved medical or religious exemption.
- While CMS expects 100 percent compliance with its rule, it will provide facilities an opportunity to comply if they are found to be noncompliant by a site surveyor. CMS will issue sanctions based on the severity of noncompliance and facility type. Noncompliant covered providers and suppliers could be subject to plans of correction, civil monetary penalties, denial of payment, termination of agreement, or other available penalties under CMS' powers. According to CMS, the "sole enforcement remedy for non-compliance for hospitals and certain other acute and continuing care providers is termination;" but termination "would generally occur only after providing a facility with an opportunity to make corrections and come into compliance."
- Affected CMS-covered providers and suppliers that paused compliance with CMS' [Interim Final Rule](#) should resume compliance efforts to ensure they meet the January 27 and February 28 deadlines.

Because the definition of "covered staff" is broad, the CMS rule will also impact third-

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party employers that provide services at affected CMS providers and suppliers.
Affected employers should continue to monitor developments.

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