

Ending of Federally Mandated COVID-19 Vaccination Requirements, COVID-19 Public Health Emergency

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Meet the Authors

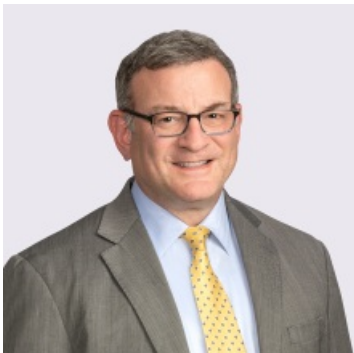


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The Biden–Harris Administration has [announced](#) that, at the end of the day on May 11, 2023, it will end COVID-19 vaccination requirements for federal employees, federal contractors, and international air travelers. The COVID-19 public health emergency also will end on the same day.

In addition, the Administration announced that the Department of Health and Human Services (HHS) and the Department of Homeland Security will start the process to end their vaccination requirements for Head Start educators, healthcare facilities certified by the Centers for Medicare & Medicaid Services (CMS), and certain noncitizens at the land border.

According to the Administration, the COVID-19 vaccination requirements were announced in 2021 “to promote the health and safety of individuals and the efficiency of workplaces, protecting vital sectors of our economy and vulnerable populations.”

It noted, “Our Administration’s vaccination requirements helped ensure the safety of workers in critical workforces including those in the healthcare and education sectors, protecting themselves and the populations they serve, and strengthening their ability to provide services without disruptions to operations.”

According to the Administration, the country is in a different phase of the pandemic and these government requirements are no longer necessary. “Since January 2021, COVID-19 deaths have declined by 95%, and hospitalizations are down nearly 91%. Globally, COVID-19 deaths are at their lowest levels since the start of the pandemic.”

Impact on Healthcare Providers

The CMS mandate originally was announced by Secretary of Health and Human Services Xavier Becerra, who administers the Medicare and Medicaid programs. While there were legal challenges to the mandate, the [U.S. Supreme Court’s Jan. 13, 2022, 5-4 decision](#) ruled in favor of the government, allowing the CMS COVID-19 vaccine mandate to continue. The decision permitted CMS to enforce, in all states and U.S. territories, its [interim final rule](#) requiring many Medicare and Medicaid providers to ensure their covered staff are vaccinated against COVID-19.

The Administration states that HHS will start the process to end the CMS vaccination requirement, but it has not provided further guidance as to when or how that will occur.

The removal of the CMS requirement will allow healthcare employers to make their own decisions about whether to continue a COVID-19 vaccination requirement. Affected CMS–covered employers should review existing policies and practices

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around vaccination requirements, remembering that state or local requirements may still impose continuing COVID-19 vaccination requirements. In addition, some jurisdictions may bar COVID-19 vaccination requirements in the absence of the federal mandate.

Please contact a Jackson Lewis attorney with questions.

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