

OHCA Vaccine Mandate Policy Toolkit for Home Health

CMS Mandate

Applies to all Medicare Certified home health agencies. If you have part of your organization set up separately for waiver or private pay services, please see the enclosed decision tree. This tool will help agencies understand which mandate is applicable. Additionally, it does not matter how much Medicare home health services you deliver.

Key Dates

- Rule: [CMS Interim Final Rule: Omnibus COVID-19 Health Care Staff Vaccination \(FAQs\)](#)
- Effective Date: November 5, 2021
- Phase 1- December 6, 2021
 - All staff receive first dose or has requested an exemption
 - Policies and Procedures established
- Phase 2- January 4, 2022
 - Primary Vaccination series completed on all staff who have not been granted an exemption or has vaccination delayed due to clinical precautions.

Required Policies and Procedures

- Ensuring all staff are fully vaccinated
- Exemption for Religious Reasons
 - [EEOC Guidance on Religious Discrimination](#)
 - [EEOC Religious Discrimination Compliance Manual](#)
 - EEOC Religious Exemptions [Template Form](#)
 - Federal Contractors Religious Exemption [Template Form](#)
- Exemptions for Medical Reasons
 - Documentation Requirements:
 - Must be signed and dated by a licensed practitioner, other than the individual requesting the exemption, who is acting within their scope of practice.
 - Must specify which of the authorized COVID-19 vaccines are clinically contraindicated for the staff member.
 - Must state the recognized clinical reasons for the contraindications.
 - Must include a statement by the practitioner recommending the exemption based on recognized clinical contraindications.
 - [CDC Guidance](#) for Recognized Medical Conditions Contraindicating COVID-19 Vaccine
- Precautions for unvaccinated
 - Can include things like testing, masking, physical distancing and removing staff from patient care work
 - [CDC Guidance](#) Interim Infection Prevention and Control Recommendations for Healthcare Personnel During the Coronavirus Disease 2019 (COVID-19) Pandemic
- Tracking and documenting vaccination status and exemption reasons, detailing the following:
 - The vaccination status of all covered staff.
 - The vaccination status of any staff who have had booster doses [recommended by CDC](#).

- The vaccination status of staff members for whom vaccination must be temporarily delayed, as [recommended by CDC](#), due to clinical precautions and considerations.
- Information provided by staff members who have been granted exemptions
- Contingency Plan for the unvaccinated
 - Disaster planning and emergency preparedness
 - Temporary utilization of unvaccinated personnel
 - Staffing Agencies

Conditions of Participation

- **§ 484.70 Condition of participation: Infection prevention and control.** The HHA must maintain and document an infection control program which has as its goal the prevention and control of infections and communicable diseases.
 - d) Standard: COVID–19 Vaccination of Home Health Agency staff. The home health agency (HHA) must develop and implement policies and procedures to ensure that all staff are fully vaccinated for COVID–19. For purposes of this section, staff are considered fully vaccinated if it has been 2 weeks or more since they completed a primary vaccination series for COVID–19. The completion of a primary vaccination series for COVID–19 is defined here as the administration of a single-dose vaccine, or the administration of all required doses of a multi-dose vaccine.
 - (1) Regardless of clinical responsibility or patient contact, the policies and procedures must apply to the following HHA staff, who provide any care, treatment, or other services for the HHA and/or its patients:
 - (i) HHA employees;
 - (ii) Licensed practitioners;
 - (iii) Students, trainees, and volunteers;
 - (iv) Individuals who provide care, treatment, or other services for the HHA and/or its patients, under contract or by other arrangement. –
 - (2) The policies and procedures of this section do not apply to the following HHA staff:
 - (i) Staff who exclusively provide telehealth or telemedicine services outside of the settings where home health services are directly provided to patients and who do not have any direct contact with patients, families, and caregivers, and other staff specified in paragraph (d)(1) of this section;
 - (ii) Staff who provide support services for the HHA that are performed exclusively outside of the settings where home health services are directly provided to patients and who do not have any direct contact with patients, families, and caregivers, and other staff specified in paragraph (d)(1) of this section.
 - (3) The policies and procedures must include, at a minimum, the following components:
 - (i) A process for ensuring all staff specified in paragraph (d)(1) of this section (except for those staff who have pending requests for, or who have been granted, exemptions to the vaccination requirements of this section, or those staff for whom COVID–19 vaccination must be temporarily delayed, as recommended by the CDC, due to clinical precautions and considerations) have

received, at a minimum, a single dose COVID–19 vaccine, or the first dose of the primary vaccination series for a multi-dose COVID–19 vaccine prior to staff providing any care, treatment, or other services for the HHA and/or its patients;

- (ii) A process for ensuring that all staff specified in paragraph (d)(1) of this section are fully vaccinated for COVID– 19, except for those staff who have been granted exemptions to the vaccination requirements of this section, or those staff for whom COVID–19 vaccination must be temporarily delayed, as recommended by the CDC, due to clinical precautions and considerations;
- (iii) A process for ensuring the implementation of additional precautions, intended to mitigate the transmission and spread of COVID–19, for all staff who are not fully vaccinated for COVID–19;
- (iv) A process for tracking and securely documenting the COVID–19 vaccination status of all staff specified in paragraph (d)(1) of this section;
- (v) A process for tracking and securely documenting the COVID–19 vaccination status of any staff who have obtained any booster doses as recommended by the CDC;
- (vi) A process by which staff may request an exemption from the staff COVID–19 vaccination requirements based on an applicable Federal law;
- (vii) A process for tracking and securely documenting information provided by those staff who have requested, and for whom the HHA has granted, an exemption from the staff COVID–19 vaccination requirements;
- (viii) A process for ensuring that all documentation, which confirms recognized clinical contraindications to COVID–19 vaccines and which supports staff requests for medical exemptions from vaccination, has been signed and dated by a licensed practitioner, who is not the individual requesting the exemption, and who is acting within their respective scope of practice as defined by, and in accordance with, all applicable State and local laws, and for further ensuring that such documentation contains
 - (A) All information specifying which of the authorized COVID–19 vaccines are clinically contraindicated for the staff member to receive and the recognized clinical reasons for the contraindications;
 - (B) A statement by the authenticating practitioner recommending that the staff member be exempted from the HHA’s COVID–19 vaccination requirements for staff based on the recognized clinical contraindications;
- (ix) A process for ensuring the tracking and secure documentation of the vaccination status of staff for whom COVID–19 vaccination must be temporarily delayed, as recommended by the CDC, due to clinical precautions and considerations, including, but not limited to, individuals with acute illness secondary to COVID–19, and individuals who received monoclonal antibodies or convalescent plasma for COVID–19 treatment;
- (x) Contingency plans for staff who are not fully vaccinated for COVID–19.

OSHA Vaccine Mandate

The OSHA Healthcare Emergency Temporary Standard issued in June 2021 applies to all Medicare certified home health agencies and most personal care waiver service home health agencies. Some employees, including those which do not have any contact with clients such as Administrative Office staff, are not subject to the OSHA Healthcare ETS. If your agency employs more than 100 people, and you are not Medicare certified, your employees not covered under the OSHA Healthcare ETS will be subject to the OSHA COVID-19 Vaccine Mandate.

Please keep apprised of the status of extension of the OSHA Healthcare ETS, which is set to expire December 21, 2021.

Key Dates

- Rule: [OSHA Emergency Temporary Standard for Vaccine Mandates \(FAQs\)](#)
- Effective Date: November 5, 2021
- Phase 1- December 6, 2021
 - Comply with all requirements except for COVID testing Requirements
 - Policies and Procedures established
- Phase 2- January 4, 2022
 - Compliance with testing for unvaccinated staff that do not meet an exemption

Required Policies and Procedures

- [OSHA Mandatory Vaccination Template Policy](#)
- [OSHA Vaccination, Testing and Face Covering Template Policy](#)
- Employer policy on vaccination
 - Permitted exemptions
 - Establishes, implements, and enforces a written policy allowing any employee not subject to a mandatory vaccination policy to choose either to be fully vaccinated against COVID-19 or provide proof of regular testing for COVID-19.
- Determination of employee vaccination status
 - List of acceptable documents or attestation
- Employer support for employee vaccination
 - Provide up to 4 hours paid time, including travel time, at the employee's regular rate of pay (employer cost)
 - Provide reasonable time and paid sick leave to recover from side effects experienced following any primary vaccination dose to each employee for each dose (approx. 2 days)
 - May use employee sick leave, if no accrued sick leave, employer cost
- COVID-19 testing for employees who are not fully vaccinated
 - Must be tested for COVID-19 at least once every 7 days, within 7 days of the test
 - Employees who work less regularly must have a test result within 7 days of entering workplace.
 - Maintain a record of every test
 - Employee cost.
 - Antigen tests that are self-administered cannot also be self read. Agencies can monitor reading of result through telehealth proctor.

- Employee notification to employer of a positive COVID-19 test and removal
 - Remove employee from workplace until they received a negative test (if antigen positive), meet [CDC return to work criteria](#), or are cleared by a licensed healthcare provider.
- Face coverings
 - Requirements:
 - (A) completely covers the nose and mouth;
 - (B) Is made with two or more layers of a breathable fabric that is tightly woven (i.e., fabrics that do not let light pass through when held up to a light source);
 - (C) Is secured to the head with ties, ear loops, or elastic bands that go behind the head. If gaiters are worn, they should have two layers of fabric or be folded to make two layers;
 - (D) Fits snugly over the nose, mouth, and chin with no large gaps on the outside of the face;
 - (E) Is a solid piece of material without slits, exhalation valves, visible holes, punctures, or other openings
 - Must wear indoors or when in a vehicle for work purposes unless eating or drinking, when alone in a room with closed doors and floor to ceiling walls, when wearing a respirator, or when it is a hazard risk for the employee.
- Notices and information provided to employees
 - The requirements of this ETS and associated policies and procedures
 - COVID-19 vaccine efficacy, safety, and the benefits of being vaccinated, by providing the document, "[Key Things to Know About COVID-19 Vaccines](#),"
 - Requirements of 29 CFR 1094.35(b)(1)(iv) prohibiting discrimination for reporting work-related injuries and illness or retaliation ([OSHA Fact Sheet](#))
 - The prohibitions of 18 U.S.C. 1001 and of section 17(g) of the OSH Act, which provide for criminal penalties associated with knowingly supplying false statements or documentation ([OSHA Fact Sheet](#))
- Reporting of COVID-19 fatalities and hospitalizations to OSHA
 - Each work-related COVID-19 fatality within 8 hours of the employer learning about the fatality.
 - Each work-related COVID-19 in-patient hospitalization within 24 hours of the employer learning about the in-patient hospitalization
 - [OSHA Fact Sheet](#)
- Record availability
 - By the end of the next business day after a request, the employer must make available, for examination and copying, the individual COVID-19 vaccine documentation and any COVID-19 test results for a particular employee to that employee and to anyone having written authorized consent of that employee.
 - By the end of the next business day after a request by an employee or an employee representative, the employer must make available to the requester the aggregate number of fully vaccinated employees at a workplace along with the total number of employees at that workplace.
 - The employer must provide to the Assistant Secretary for examination and copying:

- Within 4 business hours of a request, the employer's written policy and the aggregate numbers of fully vaccinated employees at a workplace along with the total number of employees at that workplace, and
- By the end of the next business day after a request, all other records and other documents required to be maintained by this ETS .