

OHCA Vaccine Mandate Policy Toolkit for ICFs/IID

Key Dates

- Rule: [CMS Interim Final Rule: Omnibus COVID-19 Health Care Staff Vaccination \(FAQs\)](#)
- [QSO-22-09-ALL](#) – Contains general guidance for CMS IFR
 - [Attachment F](#) - ICF/IID specific guidance including survey process, level of deficiency determinations and plans of correction.
- Effective Date: November 5, 2021
- Phase 1- January 27, 2022
 - Policies and Procedures established AND
 - All staff receive first dose or has requested an exemption OR
 - 80% if staff have received first dose and has a plan to achieve full vaccination within 60 days. These providers will received a notice of non-compliance (Form 2567) but will NOT have enforcement actions.
 - From Survey Guidance: “States should work with their CMS location for cases that exceed these thresholds, yet pose a threat to patient health and safety. Facilities that do not meet these parameters could be subject to additional enforcement actions depending on the severity of the deficiency and the type of facility (e.g., plans of correction and termination).”
- Phase 2- February 28, 2022
 - Policies and procedures established AND
 - Primary Vaccination series completed on all staff who have not been granted an exemption or has vaccination delayed due to clinical precautions.
 - 90% if staff have received first dose and has a plan to achieve full vaccination within 30 days. These providers will received a notice of non-compliance (Form 2567) but will NOT have enforcement actions.
 - From Survey Guidance: “States should work with their CMS location for cases that exceed these thresholds, yet pose a threat to patient health and safety. Facilities that do not meet these parameters could be subject to additional enforcement actions depending on the severity of the deficiency and the type of facility (e.g., plans of correction and termination).”
- CMS Final Enforcement Date- March 28, 2022
 - Providers who do not have 100% staff compliance (completion of primary vaccination series completed who have not been granted an exemption) will be subject to enforcement actions.

Required Policies and Procedures

- Ensuring all staff are fully vaccinated
 - Staff is defined to include all of the following:
 - Facility employees;
 - Licensed practitioners;
 - Students, trainees, and volunteers; and
 - Individuals who provide care, treatment, or other services for the facility and/or its clients, under contract or by other arrangement.

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- We believe this includes day services, but are hoping for more guidance from CMS to understand applicability to others (school employees, physicians, therapists, etc.)
- Exemption for Religious Reasons
 - [EEOC Guidance on Religious Discrimination](#)
 - [EEOC Religious Discrimination Compliance Manual](#)
 - EEOC Religious Exemptions [Template Form](#)
 - Federal Government 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
- Accommodations for unvaccinated
 - Can include things like testing, masking, physical distancing and removing staff from patient care work (note: these are examples, but accommodations are up to each provider)
 - [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
 - Accommodations for staff with medical or religious exemptions (see above)
 - Disaster planning and emergency preparedness
 - Temporary utilization of unvaccinated personnel
 - Staffing Agencies, contracted services & others included in the regulation

Conditions of Participation

§ [483.430 Condition of participation: Facility Staffing](#)

(f) Standard: COVID-19 Vaccination of facility staff. The facility 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

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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 client contact, the policies and procedures must apply to the following facility staff, who provide any care, treatment, or other services for the facility and/or its clients:

- (i) Facility employees;
- (ii) Licensed practitioners;
- (iii) Students, trainees, and volunteers; and
- (iv) Individuals who provide care, treatment, or other services for the facility and/or its clients, under contract or by other arrangement.

(2) The policies and procedures of this section do not apply to the following facility staff:

- (i) Staff who exclusively provide telehealth or telemedicine services outside of the facility setting and who do not have any direct contact with clients and other staff specified in [paragraph \(f\)\(1\)](#) of this section; and
- (ii) Staff who provide support services for the facility that are performed exclusively outside of the facility setting and who do not have any direct contact with clients and other staff specified in [paragraph \(f\)\(1\)](#) 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 \(f\)\(1\)](#) 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 facility and/or its clients;
- (ii) A process for ensuring that all staff specified in [paragraph \(f\)\(1\)](#) 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;

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- (iv) A process for tracking and securely documenting the COVID-19 vaccination status of all staff specified in [paragraph \(f\)\(1\)](#) 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 facility 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; and
 - (B) A statement by the authenticating practitioner recommending that the staff member be exempted from the facility'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; and
- (x) Contingency plans for staff who are not fully vaccinated for COVID-19.

Survey Process