

Healthcare Law Alert: CMS Enforcing COVID-19 Vaccine Mandate in States Not Affected by Injunctions

12/30/2021

On December 28, 2021, CMS published **updated** information, in the form of a document titled [External FAQ](#), about the CMS COVID-19 vaccine mandate ([Interim Final Rule](#)) and the status of the litigation regarding the same. In short, in those states not affected by the injunctions issued in the litigation, including New Jersey, CMS is exercising its “enforcement authority” and advises that “the rule will be implemented and enforced on the following modified timeline: the deadline for Phase 1 implementation is January 27, 2022, and the deadline for Phase 2 implementation is February 28, 2022.”

As of December 15, 2021, the following states are affected by the injunctions: 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. Medicare- and Medicaid-certified providers in those states are not required to comply with the Interim Final Rule, and CMS has directed surveyors not to investigate compliance with the Interim Final Rule in facilities located in those states, pending future developments in the litigation. However, enforcement will apply to the remaining states.

Medicare- and Medicaid-certified providers covered by the Interim Final Rule and not currently exempted by the injunctions must act quickly to put into place policies and procedures to comply with the mandate. Should you need assistance in preparing or reviewing your COVID-19 vaccine policy, or if you have questions about the Interim Final Rule, please do not hesitate to contact us.

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