

# Supreme Court Temporarily Blocks Implementation of Vaccine Requirement for Large Businesses

January 13, 2022

Moments ago, the U.S. Supreme Court issued two rulings related to the federal government's COVID-19 vaccination requirements for large businesses and Medicare/Medicaid health care providers.

Below are highlights from the rulings.

In *re: National Federation of Independent Business v. OSHA*, the Supreme Court considered a vaccination requirement for large employer with 100 or more employees. In staying the implementation of the rule pending a decision by the Sixth Circuit Court of Appeals in the pending cases challenging the rule, the justices provided the following reasoning for their decision:

We do not doubt, for example, that OSHA could regulate researchers who work with the COVID-19 virus. So too could OSHA regulate risks associated with working in particularly crowded or cramped environments. But the danger present in such workplaces differs in both degree and kind from the everyday risk of contracting COVID-19 that all face. OSHA's indiscriminate approach fails to account for this crucial distinction—between occupational risk and risk more generally—and accordingly the mandate takes on the character of a general public health measure, rather than an “occupational safety or health standard.” 29 U. S. C. §655(b) OSHA's COVID-19 Vaccination and Testing; Emergency Temporary Standard, is stayed pending disposition of the applicants' petitions for review in the United States Court of Appeals for the Sixth Circuit and disposition of the applicants' petitions for writs of certiorari, if such writs are timely sought.

The Supreme Court also issued a separate ruling in *Biden v. Missouri*, which allowed the vaccine requirement for employees of Medicare and Medicaid health care providers to proceed. In its ruling imposing a stay of the preliminary injunctions issued by the Fifth Circuit and Eighth Circuit Courts of Appeal, pending a decision by those courts in the cases challenging the rule pending before them, the justices provided the following reasoning for their decision. The Supreme Court stated:

The challenges posed by a global pandemic do not allow a federal agency to exercise power that Congress has not conferred upon it. At the same time, such unprecedented circumstances provide no grounds for limiting the exercise of authorities the agency has long been recognized to have. We accordingly conclude that the Secretary did not exceed his statutory authority in

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requiring that, in order to remain eligible for Medicare and Medicaid dollars, the facilities covered by the interim rule must ensure that their employees be vaccinated against COVID-19.

A more detailed analysis about the Supreme Court's rulings in these important cases will be forthcoming.