

Publications

Health Care Alert: CMS to Mandate COVID-19 Vaccinations for Nursing Home Staff

Related Attorneys

Suzanne J. Scrutton

Robin P. Amicon

Related Industries

Health Care

CLIENT ALERT | 8.20.2021

On August 18, 2021, President Biden announced that his administration will require Medicare and Medicaid-participant nursing homes to mandate COVID-19 vaccinations or risk losing Medicare and Medicaid funding. The Centers for Medicare & Medicaid Services (CMS), in collaboration with the Centers for Disease Control and Prevention (CDC), is reportedly in the process of drafting an emergency regulation that is expected to be issued next month. The CMS press release regarding this upcoming mandate can be found [here](#).

The release states “[k]eeping nursing home residents and staff safe is [CMS]’ priority,” and that it is clear that “higher levels of staff vaccination are linked to fewer outbreaks among residents, many of whom are at an increased risk of infection, hospitalization, or death.” According to CMS Administrator Chiquita Brooks-LaSure, CMS will continue to work with its partners at the CDC, long-term care associations, unions, and other stakeholders to advance policies that keep residents and staff safe, and that it will work with nursing homes to address staff and resident concerns with compassion and by following the science.

Further, CMS stated that approximately 62% of nursing home staff are currently vaccinated as of August 8 nationally, and the vaccination among staff at the state level ranges from a high of 88% to a low of 44%. Further, CMS noted that the emergence of the Delta variant has driven a rise in cases among nursing home residents from a low of 319 cases on June 27, 2021 to 2,696 cases on August 8, 2021, with many of the recent outbreaks occurring in facilities located in areas with the lowest staff vaccination rates.

Notably, CMS concluded with this paragraph in the release:

“CMS strongly encourages nursing home residents and staff members to get vaccinated as the Agency undergoes the necessary steps in the rule-making process **over the course of the next several weeks**. CMS expects nursing home operators to act in the best interest of residents and their staff by complying with these new rules, which the Agency expects to issue in September.

CMS also expects nursing home operators to use all available resources to support employees in getting vaccinated, including employee education and vaccination clinics, as they work to meet this staff vaccination requirement.”

At this time, it appears that the new rule will only apply to staff in nursing homes. We understand that many long-term care providers understandably have concerns about this and how the mandate could affect an already difficult workforce shortage.

We will keep you updated as this rule develops and are here to address any questions or concerns you have about how this new rule may affect your organization.