

Alert: OSHA and CMS Issue Rules on COVID-19 Safety

Today, the Occupational Safety and Health Administration issued a rule requiring employers with 100 or more employees to ensure that their employees are fully vaccinated against COVID-19 by January 4, 2022, or that the employees produce a negative COVID-19 test at least once per week.

Briefly, this rule impacts covered employers as follows:

- Employers must pay workers for the time it takes to get vaccinated and provide sick leave for workers to recover from any side effects of vaccination.
- Employers are not required to pay for or provide testing for unvaccinated workers.
- Unvaccinated workers must continue to wear face coverings while at work, even with negative COVID-19 test results.

Employers who violate the rule can face fines of up to \$13,653 per violation for serious violations and ten times that for willful or repeated violations.

Even before the details of the new rule were released, dozens of states threatened to sue to stop its enforcement. The Biden administration has countered that the rule is designed to fulfill OSHA's mission to ensure that employees work in a safe and healthful environment by setting and enforcing standards.

Tips for covered employers:

- Inform employees of the deadline for vaccination,
- Collect information about the vaccination status of your workers,
- Develop a policy for testing, and
- Prepare now to answer questions from employees about the new rule.

The Centers for Medicare & Medicaid Services also issued its rule for health care workers that requires vaccination by January 4, 2022, but with no option for weekly testing in lieu of vaccination. The rule covers all employees – clinical and non-clinical – at health care facilities that receive federal funding from Medicare or Medicaid. Here too, covered employers should take steps now to advise their employees of the deadline for vaccination, begin collecting information about the vaccination status of their workers, and be prepared to answer questions from employees about the new rule.

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