



Missouri Alliance for HOME CARE

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September 10, 2021

SPECIAL EDITION:

- **Biden Administration Issues Sweeping Vaccine Rules for Health Care, Businesses** *(from NAHC Report)*
- **SESCO Management Consultants – CLIENT ALERT: Biden Mandates Vaccines for Federal Contractors and Private Employers**
- **HHS Announces the Availability of \$25.5 Billion in COVID-19 Provider Funding**

Biden Administration Issues Sweeping Vaccine Rules for Health Care, Businesses

The Biden administration announced yesterday that his administration will require COVID-19 vaccinations for workers in most health care settings that receive Medicare or Medicaid reimbursement. The National Association for Home Care and Hospice is currently studying the administration's announcement and look forward to receiving more details in the very near future.

That said, the policy will include, but is not limited to:

- home health agencies
- hospitals
- dialysis facilities
- ambulatory surgical settings.

According to the White House, these requirements will apply to approximately 50,000 providers and cover over 17,000 health care workers, a majority of health care workers across the country. "This action will create a consistent standard across the country, while giving patients assurance of the vaccination status of those delivering care," said the White House in a statement released Thursday.

Each individual violation of the vaccination rules could incur a \$14,000 penalty.

Additionally, the Department of Labor intends to write regulation requiring **all businesses with more than 100 employees** to either mandate vaccinations for all workers or require them to take weekly COVID-19 tests. The White House believes this will cover about 80 million workers, or two-thirds of the nation's workforce.

The Occupational Safety and Health Administration (OSHA) will issue an Emergency Temporary Standard (ETS) to implement that requirement.

CMS is developing an Interim Final Rule with Comment Period that will be issued in October to lay out the vaccination requirements for health care providers. Nevertheless, CMS expects Medicare and Medicaid facilities to comply with the new vaccination requirements now and health care workers in covered facilities are being urged to begin vaccination without further delay. Facilities are urged to use all available resources to support employee vaccinations, including employee education and clinics, as they work to meet new federal requirements.

“There is no question that staff, across any health care setting, who remain unvaccinated pose both direct and indirect threats to patient safety and population health,” said Xavier Becerra, Secretary for Health & Human Services. “Ensuring safety and access to all patients, regardless of their entry point into the health care system, is essential.”

In response to a question from NAHC President Bill Dombi, the CMS told NAHC that the *“staff vaccination requirement would only apply to Medicare and Medicaid-certified provider and supplier types that are regulated under the Conditions of Participation. If an entity is not regulated under the CoPs, then this requirement would not apply.”*

The announcement leaves some important questions unanswered. Such as:

- When will Interim Final Rule and the OSHA Emergency Temporary Standard be published?
- What will be the vaccination deadline for employees in the Interim Final Rule?
- What vaccination exemptions will exist in the Interim Final Rule?
- How will the vaccination exemptions be managed and monitored?
- How will employees be counted? Full-time, FTE, all individuals regarding duration of a workday?
- How will the mandate apply to franchise operations that individually do not have 100 employees, but exceed that number in combination?
- Are there other ways beside the federal CoPs that the Administration can use to expand the reach of the mandate?
- How does the mandate apply to self-directed care programs where the state or locality may be considered a joint employer?
- What are the penalties for non-compliance outside of the \$14,000 penalty referenced for an OSHA requirement?

The home care, home health, and hospice sectors of our health care system already suffer from severe staffing shortages and here is the very real possibility of even more significant staffing shortages should workers walk off the job rather than submit to vaccination. Shortages in staff will inevitably impact patients and patient care. This is a delicate balancing act in trying to keep patients and the workforce safe. NAHC hopes the Biden administration couples this action with efforts to help providers attract and retain more employees.

This action by the Biden administration builds on the vaccination requirement for nursing facilities recently announced by the Centers for Medicare & Medicaid Services (CMS), and will apply to:

- nursing home staff
- hospital staff
- staff in other CMS-regulated settings
- clinical staff
- persons providing services under arrangements
- volunteers
- staff not involved in direct patient, resident, or client care.

Requiring Employers to Provide Paid Time Off to Get Vaccinated

OSHA is developing a rule to require employers with more than 100 employees to provide paid time off for the time it takes for workers to get vaccinated or to recover if they suffer post-vaccination illness. This requirement will be implemented through the ETS.

New Support for Small Businesses Impacted by COVID-19

Small Business Administration (SBA) will increase the maximum amount of funding a small business can borrow through the COVID Economic Injury Disaster Loan (EIDL) program, which provides long-term, low-cost loans, from \$500,000 to \$2 million. (An SBA analysis of current COVID EIDL borrowers who qualify for the increase shows that more than 80 percent have 25 employees or less.)

SBA will ensure that no small business has to start repaying these loans until two years after they receive the funding, so small businesses can get through the pandemic without having to worry about making payments.

Next, SBA will make it easier for small businesses with multiple locations in hard-hit sectors like restaurants, hotels, and gyms to access these loans.

SBA will offer a 30-day exclusive window of access where only small businesses seeking loans of \$500,000 or less will receive awards after the new improved loan product launches.

Paycheck Protection Program (PPP) Loan Forgiveness Process

The administration's plan is to make it easier for more than 3.5 million PPP borrowers with loans of \$150,000 or less to get their loans wiped clean. Under the new streamlined approach, SBA sends a pre-completed application form to the borrower who can review, sign, and send back to SBA, which then works with the lender to complete the forgiveness process.

SBA expects more than 2.5 million additional small businesses to take advantage of this streamlined process in the months ahead, helping them avoid needless bureaucracy and avoid costly principal and interest payments on their loans.

Launching Community Navigator Program to Connect Small Businesses to Assistance

The ARP invested \$100 million to establish a new SBA Community Navigator program, which will deploy trusted community partners in underserved communities to better connect business owners to federal, state, and local resources. Community Navigators will work with small business owners every step of the way to ensure that they are able to access the help that they need. Under the President's plan, the SBA will complete the competitive review process to select Community Navigators and put them to work in underserved communities this Fall.

Access to Booster Shots

The Administration is [preparing for COVID-19 vaccine boosters](#) to start as early as the week of September 20th, subject to authorization or approval by the FDA and a recommendation from the CDC's Advisory Committee on Immunization Practices (ACIP). Booster shots will be free and are to be made available at 80,000 locations around the country.

The National Association for Home Care & Hospice has strongly communicated to HHS how important it is that shipments of booster vaccines be sent directly to home care providers, so that safe and efficient booster vaccinations of the elderly and disabled – the most at-risk population – can take place in the home.

Affordable and Available At-Home Tests

Walmart, Amazon, and Kroger will offer to sell rapid at-home tests at-cost for the next three months. In addition, Medicaid must cover at-home tests for free for beneficiaries, and states should ensure that any tools they use to manage at-home testing do not establish arbitrary barriers for people seeking care. The administration also plans to expand the number of retail pharmacy sites around the country where anyone can get tested for free through the HHS free testing program to 10,000 pharmacies.

The administration is also urging:

- states to require school employees to be vaccinated;
- schools to set up regular testing in their schools for students, teachers, and staff consistent with CDC guidance.

Getting Life-Saving Monoclonal Antibody Treatment to Those Who Need It

The Administration will increase the average weekly pace of shipments of free monoclonal antibody treatment to states by a further 50 percent in September. Monoclonal antibody treatments have been shown to reduce the risk of hospitalization by up to 70 percent for unvaccinated people at risk of developing severe disease. As hospital systems experience increased COVID-19 cases, many have identified monoclonal antibody treatment as a key tool to improve health outcomes, prevent hospitalizations and reduce the strain on overburdened hospitals.

Expanding the Pool of Health Care Professionals Providing Treatment by Deploying Federal Monoclonal Antibody Strike Team

The COVID-19 Surge Response Teams have conducted in-person technical assistance and virtual trainings for physicians and health system officials to increase education and interest in administering these treatments. To ensure that more patients can access these lifesaving COVID-19 therapeutics, the Administration's COVID-19 surge response effort will launch monoclonal antibody strike teams to deploy clinical personnel through HHS, FEMA, and DOD to help hospitals and health systems stand up the delivery of this key treatment option. HHS will also take action to amend the Public Readiness and Emergency Preparedness (PREP) Act declaration to allow more providers, including pharmacists, to administer this treatment.

SESCO Management Consultants – CLIENT ALERT:

Biden Mandates Vaccines for Federal Contractors and Private Employers

In President Joe Biden's press conference yesterday, he announced that he has directed Department of Labor's Occupational Safety and Health Administration (OSHA) to require all private employers with 100 or more employees to mandate all employees be vaccinated or be tested at the employer's expense at least once per week. OSHA will issue an Emergency Temporary Standard to introduce the vaccine requirement. Companies that fail to comply could face fines of \$14,000 per violation.

The President also signed an Executive Order requiring all federal contractors (regardless of size) and all government employees be vaccinated against Covid-19, with no option of being regularly tested to opt out. Health care workers at facilities receiving funds from Medicare and Medicaid are also required to be fully vaccinated, expanding the mandate to hospitals, home care facilities and dialysis centers around the country.

Given many governors, pro-business groups and trade associations are vowing to challenge Biden's directives, it is SESCO's current recommendation for those employers who do not wish to mandate vaccines for all employees to "count to ten" before implementing such policy. SESCO will continually monitor developments as to when the regulation will be implemented and subsequently the progress of legal challenges.

As we have communicated previously, employers can currently mandate that all employees be vaccinated regardless of the number of employees. Many employers have decided to do so; however, given the current economic and staffing challenges some have made business decisions to not mandate the vaccine.

SESCO Management Consultants will continue to monitor and report on developments with respect to the COVID-19 pandemic.

HHS Announces the Availability of \$25.5 Billion in COVID-19 Provider Funding

*Combined application for American Rescue Plan rural funding and Provider Relief Fund
Phase 4 will open on September 29*

The Biden-Harris Administration announced today that the U.S. Department of Health and Human Services (HHS), through the Health Resources and Services Administration (HRSA), is making \$25.5 billion in new funding available for health care providers affected by the COVID-19 pandemic. This funding includes \$8.5 billion in American Rescue Plan (ARP) resources for providers who serve rural Medicaid, Children's Health Insurance Program (CHIP), or Medicare patients, and an additional \$17 billion for Provider Relief Fund (PRF) Phase 4 for a broad range of providers who can document revenue loss and expenses associated with the pandemic.

"This funding critically helps health care providers who have endured demanding workloads and significant financial strains amidst the pandemic," said HHS Secretary Xavier Becerra. "The funding will be distributed with an eye towards equity, to ensure providers who serve our most vulnerable communities will receive the support they need."

Consistent with the requirements included in the Coronavirus Response and Relief Supplemental Appropriations Act of 2020, PRF Phase 4 payments will be based on providers' lost revenues and expenditures between July 1, 2020, and March 31, 2021. As part of the Biden-Harris Administration's ongoing commitment to equity, and to support providers with the most need, PRF Phase 4 will reimburse smaller providers—who tend to operate on thin margins and often serve vulnerable or isolated communities—for their lost revenues and COVID-19 expenses at a higher rate compared to larger providers. PRF Phase 4 will also include bonus payments for providers who serve Medicaid, CHIP, and/or Medicare patients, who tend to be lower income and have greater and more complex medical needs. HRSA will price these bonus payments at the generally higher Medicare rates to ensure equity for those serving low-income children, pregnant women, people with disabilities, and seniors.

Similarly, HRSA will make ARP rural payments to providers based on the amount of Medicaid, CHIP and/or Medicare services they provide to patients who live in rural areas as defined by the [HHS Federal Office of Rural Health Policy](#). As rural providers serve a disproportionate number of Medicaid and CHIP patients who often have disproportionately greater and more complex medical needs, many rural communities have been hit [particularly hard](#) by the pandemic. Accordingly, ARP rural payments will also generally be based on Medicare reimbursement rates.

"We know that this funding is critical for health care providers across the country, especially as they confront new coronavirus-related challenges and respond to natural disasters," said Acting HRSA Administrator Diana Espinosa. "We are committed to distributing this funding as equitably and transparently as possible to help providers respond to and ultimately defeat this pandemic." In order to expedite and streamline the application process and minimize administrative burdens, providers will apply for both programs in a single application. HRSA will use existing Medicaid, CHIP and Medicare claims data in calculating payments. The application portal will open on September 29, 2021. To help ensure that these provider relief funds are used for patient care, PRF recipients will be required to notify the HHS Secretary of any merger with, or acquisition of, another health care provider during the period in which they can use the payments. Providers who report a merger or acquisition may be more likely to be audited to confirm their funds were used for coronavirus-related costs, consistent with an overall risk-based audit strategy.

To promote transparency in the PRF program, HHS is also releasing [detailed information - PDF](#) (PDF - 175 KB) about the methodology utilized to calculate PRF Phase 3 payments. Providers who believe their PRF Phase 3 payment was not calculated correctly according to this methodology will now have an opportunity to request a reconsideration. Further details on the PRF Phase 3 reconsideration process are forthcoming.

Additionally, in light of the challenges providers across the country are facing due to recent natural disasters and the Delta variant, HHS is announcing today a final 60-day grace period to help providers come into compliance with their [PRF Reporting requirements](#) if they fail to meet the deadline on September 30, 2021, for the first PRF Reporting Time Period. While the deadlines to use funds and the Reporting Time Period will not change, HHS will not initiate collection activities or similar enforcement actions for noncompliant providers during this grace period.

For more information about eligibility requirements, the documents and information providers will need to complete their application, and the application process for PRF Phase 4 and ARP Rural payments, visit: <https://www.hrsa.gov/provider-relief/future-payments>.