

# SCOTUS BLOCKS OSHA VACCINE MANDATE FOR LARGE EMPLOYERS

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## MEANWHILE COURT UPHOLDS CMS MANDATE FOR HEALTHCARE WORKERS

On Thursday, January 13, the U.S. Supreme Court blocked the Occupational Safety and Health Administration (OSHA) vaccine-or-test mandate for large employers. At the same time, the Supreme Court ruled to allow the Centers for Medicare & Medicaid Services (CMS) mandate that requires employees of Medicare- and Medicaid-certified providers and suppliers to be fully vaccinated for COVID-19 to remain in place. Both of these cases will now be sent back to the lower courts to decide whether to permanently block or uphold the vaccine mandates. Please read on for details.

### OSHA Vaccine Mandate

The Supreme Court has issued a stay blocking the implementation of OSHA's emergency temporary standard (ETS). The ruling will remain in place until the lower courts rule on the constitutionality of the ETS.

The OSHA ETS was set to go into effect on January 10 and would have required businesses with over 100 employees to implement a vaccine-or-test policy with some exceptions. The rule faced legal challenges from 27 states, private businesses, religious groups and national industry groups. The court's vote was 6 to 3, with liberal justices dissenting.

### CMS Healthcare Worker Vaccine Mandate

In December, CMS had extended implementation deadlines due to the legal challenges. The current implementation schedule is below:

- **Phase 1: By January 27, 2022**, staff at all covered healthcare facilities must have received, at a minimum, the first dose of a two-dose vaccine or a single-dose COVID-19 vaccine prior to providing any care, treatment, or other services for the facility and/or its patients.

- **Phase 2: By February 28, 2022**, staff at all covered healthcare provider and suppliers must be fully vaccinated. Exceptions are made for those who have been granted exemptions from the COVID-19 vaccine or those staff for whom COVID-19 vaccination must be temporarily delayed, as recommended by the CDC.

## Next Steps for Healthcare Facilities

Healthcare facilities covered by the CMS rule should consider their options whether or not develop their vaccine policy and communicate it with employees so as to be in compliance in accordance with the implementation schedule.

We will continue to be watching the litigation as it moves forward.

**We will be reaching out to applicable clients regarding policy development.**

## For More Information

If you have any questions, please contact our HR team at **210-775-6082**, toll-free at **1-888-757-2104**, or [HRmanagement@BFGonline.com](mailto:HRmanagement@BFGonline.com).



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