

CMS Division of Tribal Affairs



When will enforcement of this rule begin?

Kansas

Alabama
Alaska
Arizona
Arkansas
Georgia
Idaho
Indiana
Iowa

Kentucky
Louisiana
Mississippi
Missouri
Montana
Nebraska
New Hampshire

North Dakota
Ohio
Oklahoma
South Carolina
South Dakota
Utah
West Virginia
Wyoming

Phase One
February 14, 2022

Phase Two
March 15, 2022

Texas

Phase One
February 22, 2022

Phase Two
March 21, 2022



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What is fully vaccinated?

- For purposes of this regulation, CMS currently considers staff fully vaccinated if it has been two weeks or more since they completed all required doses (one dose of Johnson & Johnson or both doses of Pfizer-BioNTech or Moderna) of the initial vaccination.

However, staff who have completed the initial vaccination by the Phase 2 implementation date are considered to have met these requirements, even if they have not yet completed the 14-day waiting period required for full vaccination.

Please note booster shots are not required as part of this regulation.



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How do we meet this requirement?

- Your facility must have a process or plan in place for documenting and tracking staff vaccinations. You must appropriately document all COVID-19 vaccinations, which can be in an immunization record, health information files, or other relevant documents.
- You must keep all medical records, including vaccine documentation, confidential and stored separately from an employer's personnel files. Acceptable forms of proof of vaccinations include:
 - CDC COVID-19 vaccination record card (or legible photo of the card),
 - Documentation of vaccination from a health care provider or electronic health record,
 - State immunization information system record
- Ultimately, it is up to you to ensure that you have a process or plan in place for capturing COVID-19 vaccination status for all staff, including individuals who provide services under contract or other arrangements.



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How will this new requirement be enforced on facilities?

- CMS works directly with the state survey agencies and federal surveyors in the regional offices to regularly review compliance with Medicare/Medicaid regulations across multiple health care settings. While onsite, the surveyors will review:
 - The facility's COVID-19 vaccination policies and procedures
 - The number of resident and staff COVID-19 cases over the last 4 weeks
 - The facility's list of all staff and their vaccination status
- CMS will use this information, in addition to interviews and observations, to determine your compliance with these requirements. Additionally, Accrediting Organizations will be required to update their survey processes to assess facilities they accredit for compliance with vaccination regulations.



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How do the penalties work?

- CMS has a variety of established enforcement remedies:
 - For nursing homes, home health agencies, and hospice (beginning in 2022), this includes civil monetary penalties, denial of payment, and even termination from the Medicare and Medicaid programs as a final measure.
 - The remedy for non-compliance among hospitals and certain other acute and continuing care providers is termination.



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Resources

- Website to find out if your facility is enrolled in Medicare:
 - <https://qcor.cms.gov/main.jsp>
- CMS current listing of tribal facilities enrolled in Medicare:
 - <https://www.cms.gov/Outreach-and-Education/American-Indian-Alaska-Native/AIAN/Spotlight>
- Link to today's PowerPoint presentation:
 - <https://www.cms.gov/Outreach-and-Education/American-Indian-Alaska-Native/AIAN/Spotlight>
- Tribal Affairs infographic for COVID-19 Health Care Staff Vaccination Interim Final Rule:
 - <https://www.cms.gov/Outreach-and-Education/American-Indian-Alaska-Native/AIAN/Spotlight>
- CMS FAQ guide for COVID-19 Health Care Staff Vaccination Interim Final Rule:
 - <https://www.cms.gov/files/document/cms-omnibus-covid-19-health-care-staff-vaccination-requirements-2021.pdf>
- CMS Division of Tribal Affairs mailbox
 - TribalAffairs@cms.hhs.gov



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Question



Answer