

November 18, 2021 Updated

CMS Omnibus COVID-19 Health Care Staff Vaccination Interim Final Rule

Frequently Asked Questions

Basics

Q: When does this take effect?

A: The emergency regulation is effective as of November 5, 2021.

Q: Why is MidMichigan issuing a vaccinate mandate?

A: MidMichigan has a contract with the Centers for Medicare and Medicaid, in order to continue receiving CMS funding MidMichigan must abide by the terms of this contract, the vaccine mandate is part of those terms. Every healthcare organization in the country that receives CMS funding is bound by this vaccine mandate.

Eligibility

Q: Which staff are covered under this requirement?

A. This vaccination requirement applies to employees, contractors, independent practitioners, students and volunteers working at a facility that participates in the Medicare and Medicaid programs, regardless of clinical responsibility or patient contact. Even individuals who do not provide patient care but interact with those who do must be vaccinated. The vaccination requirement also applies to hospice and home care employees, contractors, independent practitioners, students and volunteers. Only 100 percent remote individuals, who never meet in-person with other employees, contractors, students or volunteers are exempt (or contractors who are employees of portable x-ray suppliers, organ procurement organizations and religious nonmedical health care institutions). "Staff" refers to all employees, contractors, students, independent practitioners and volunteers.

Q: Is testing an option in lieu of receiving the vaccination?

A: Unlike the OSHA mandate requirements (which do not apply to MidMichigan Health), there is no testing requirement or alternative for unvaccinated staff. Staff must either have a valid exemption or be vaccinated. This is a requirement of the CMS Interim Rule and not something that MidMichigan Health can amend.

Q: Does this requirement apply to staff who work offsite?

A: Yes. These requirements are not limited to those staff that perform their duties solely within a formal clinical setting, as many health care staff routinely care for patients and clients outside of such facilities (e.g. home health, home infusion therapy, etc.). To ensure maximum patient protection, all staff who interact with other staff, patients, residents, clients, or PACE program participants in any location beyond the formal clinical setting (such as homes, clinics, other sites of care, administrative offices, off-site meetings, etc.) must be vaccinated. As stated in the previous question, only 100 percent remote individuals, who never meet in-person with other employees, contractors, students or volunteers are exempt.

Q: Does this requirement apply to full time teleworkers?

A: No. Individuals who provide services 100 percent remotely and who do not have any direct

contact with patients and other staff, such as fully remote telehealth, are not subject to the vaccination requirements outlined in this regulation.

Q: Would a physician with admitting privileges in a hospital be covered under this requirement?

A: Yes, a physician admitting and/or treating patients in-person within a facility subject to the CMS health and safety regulations and included as a part of this requirement must be vaccinated so that the facility is compliant.

Requirements

Q: How quickly must staff be vaccinated for the facility to remain compliant with the regulation?

A: By December 6, 2021, all staff must receive the first dose of a primary series or a single dose COVID-19 vaccine or have requested and been approved for a medical or religious exemption.

Q. How does CMS define “fully vaccinated” for the purposes of this requirement?

A. For purposes of this regulation, CMS currently considers staff fully vaccinated if it has been two weeks or more since they completed a primary vaccination series for COVID-19. However, staff who have completed the primary series for the vaccine received 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. The completion of a primary vaccination series for COVID-19 is defined in the rule as the administration of a single-dose vaccine (such as the Janssen (Johnson & Johnson) COVID-19 Vaccine), or the administration of all required doses of a multi-dose vaccine (such as the Pfizer-BioNTech COVID-19 Vaccine (interchangeable with the licensed Comirnaty Vaccine) or the Moderna COVID-19 Vaccine). Additionally, staff who receive vaccines listed by the World Health Organization (WHO) for emergency use that are not approved or authorized by the FDA or as a part of a clinical trial are also considered to have completed the vaccination series in accordance with CDC guidelines.

Q: Are third doses or booster shots required?

A: No, not at this time. However, staff must inform MidMichigan if they receive a third dose or booster shot.

Q: What if one of my staff participated in a clinical trial?

A: According to the CDC, no additional doses are needed for staff who participated in a clinical trial at a site in the U.S. and received the full series of an “active” vaccine candidate (not placebo) and vaccine efficacy has been independently confirmed (by a data and safety monitoring board). Staff should consult with their doctor or other health care provider if they have questions about their vaccination.

Q: Does the regulation include testing requirements for unvaccinated staff?

A: No, this regulation only requires staff vaccination or exemption from vaccination at this time.

Q: Who (and or how) is the 100% working remote defined, and can we be made aware of such positions that we could apply for?

A: 100 percent remote means no time on campus or participating in in-person meetings

Q: What if I plan to retire prior to the mandate date? Do I still have to meet the Dec. 6 deadline or can I work until the final Jan 4 deadline?

A: As of December 6 you must have the first dose or an exemption

Exemptions

Q: Are exemptions allowed?

A: MidMichigan must allow for exemptions to staff with recognized medical conditions for which vaccines are contraindicated (as a reasonable accommodation under the Americans with Disabilities Act) or religious beliefs, observances, or practices (established under Title VII of the Civil Rights Act of 1964). CMS believes that exemptions could be appropriate in certain limited circumstances, but no exemption should be provided to any staff for whom it is not legally required or who requests an exemption solely to evade vaccination. There are very few clinical contraindications recognized by the CDC or identified in the vaccine EUA documents. Exemptions should be received by Dec. 5, 2021.

Q: Is there provision for certain individuals for whom a vaccination should be delayed, for example, because of a recent COVID-19 diagnosis?

A: Yes. Any staff that requires a temporary delay in vaccination as recommended by the CDC should submit a medical exemption form.

Q: Does the regulation include exemptions for staff that show they have COVID-19 antibodies?

A: No. Staff that have previously had COVID-19 are not exempt from these vaccination requirements. Available evidence indicates that COVID-19 vaccines offer better protection than natural immunity alone and that vaccines, even after prior infection, help prevent reinfections. CDC recommends that all people be vaccinated, regardless of their history of symptomatic or asymptomatic SARS-CoV-2 infection.

Q: What is the process for staff to seek a religious exemption?

A: Staff will be required to submit a form requesting a religious exemption. Please see the policy for the full process.

Q: What is the process for staff to seek a medical exemption?

A: Staff will be required to submit a form signed by their primary care physician or treating provider that demonstrates, with specificity, the recognized clinical contraindications to each COVID-19 vaccine. Additionally, a statement by the authenticating practitioner recommending that the staff member be exempted from MidMichigan's COVID-19 vaccination requirements is also expected. The form will be examined by a committee and a response will be provided in a reasonable amount of time.

Q: Who will be on the committee reviewing forms?

A: Currently, the committee is made up of a cross functional team. In the future, the committee will be led by Human Resources.

Q: What is the process/criteria by which they accept/decline the exemption.

A: Medical exemptions all require a provider's certification. Religious exemptions must demonstrate the sincerely held religious belief.

Q: Can you provide us specifics around the exemptions, what meets medical and what meets religious, where can I find the exact information/description.

A: We follow guidelines outlined by CMS and the EEOC. For medical exemptions, a treating provider needs to indicate what contraindications prevent the employee from getting each one of the vaccines. It's a pretty rigid process. For religious exemptions, MidMichigan is looking for an explanation of an individual's sincerely held religious beliefs. Not political, social, philosophical, economic beliefs or mistruths about the vaccine.

Q: Will I be required to come before this 'committee'

A: Unlikely, but the committee may send you questions to help them understand your sincerely held religious belief.

Q: If my exemption is not approved, will there continue to be vaccine clinics available to me?

A: Yes, we will continue to offer vaccines for our employees, providers and volunteers. You may also receive your vaccination from one of the many other locations such as retail options.

Q: While Step 3 of the discipline, unpaid leave, does an employee still retain their benefits?

A: Yes, if the Employee makes arrangements with HR to pay the insurance premiums.