

ALERT

Employment Law

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BREAKING NEWS: SUPREME COURT ALLOWS CMS VACCINE MANDATE TO BE ENFORCED

Yesterday afternoon, the U.S. Supreme Court, in a narrow 5 to 4 decision, lifted two injunctions blocking a Centers for Medicare & Medicaid Services (“CMS”) Vaccine Mandate. This means CMS may move forward with enforcement of its Vaccine Mandate pending further appeals in the Fifth and Eighth Circuits.

Employers who are subject to the CMS Conditions of Participation are required to ensure that their covered staff are vaccinated against COVID-19 unless a medical or religious exemption applies. A facility’s failure to comply may lead to monetary penalties, denial of payment for new admissions, and ultimately termination of participation in the programs.

While the decision by the Supreme Court is not the final word on the CMS Vaccine Mandate, the decision provides the roadmap for CMS to defend the Vaccine Mandate on appeal.

- If the Eighth or Fifth Circuit decides that the Vaccine Mandate is not legal, an appeal to the Supreme Court will certainly be made, in which case we expect the Supreme Court to uphold the Vaccine Mandate, based on yesterday’s opinion.
- If the Eighth or Fifth Circuit each decide that the Vaccine Mandate is legal and appeals are made to the Supreme Court, we expect the Supreme Court to uphold the Vaccine Mandate, based on yesterday’s opinion.

If you have any questions about the CMS Vaccine Mandate or what the Supreme Court decision means to your facility, please do not hesitate to let us know.

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