



Supreme Court to Hear Oral Arguments Regarding Vaccine Mandates on January 7

January 04, 2022

On December 22, 2021, the Supreme Court announced that it will hear oral arguments regarding the CMS vaccine mandate for healthcare workers and the Occupational Safety and Health Administration (OSHA) Emergency Temporary Standard (ETS) mandate for employers who employ 100 or more workers.

CMS issued an interim final rule on November 5, 2021, requiring the staff of twenty-one types of Medicare and Medicaid healthcare providers to receive one vaccine by December 6, 2021, and to receive the second vaccine by January 4, 2022. More information on the specifics of this mandate can be found [here](#). The interim final rule was immediately challenged in the courts, and it is currently subject to preliminary injunctions in 25 states. The agency asked the Supreme Court to take up the matter and, in the meantime, will enforce its mandate only in those states where no injunction applies. Note that there are new deadlines for complying with the CMS mandate: the first vaccine dose must be administered by January 27, 2022, and the second dose by February 28, 2022. More information on this decision (including a list of the states where the mandate does not currently apply) can be found [here](#).

The OSHA ETS (imposed on employers with 100 or more employees) is currently in effect, as discussed in the December 21, 2021 [article](#) in *Compliance Corner*. As noted in that article, the agency announced that it would not issue citations for noncompliance with any requirements under the ETS until January 9, 2022. It will not issue citations for noncompliance with the standard's testing requirements before February 9, 2022. The plaintiffs challenging this mandate appealed the most recent US Court of Appeals for the Sixth Circuit decision to the Supreme Court.

These mandates are expected to remain in force (subject to the parameters established by the respective agencies) until the Supreme Court issues a ruling. We will continue to provide updates as the cases develop.

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