

# CLINE WILLIAMS

## WRIGHT JOHNSON & OLDFATHER

### **FEDERAL DISTRICT COURT HALTS CMS VACCINE MANDATE**

On November 29, 2021, the U.S. District Court for the Eastern District of Missouri issued an Order granting a preliminary injunction to halt the implementation and enforcement of the Centers for Medicare and Medicaid Services' (CMS) [Interim Final Rule](#) (the Rule) requiring healthcare employers to mandate COVID-19 vaccinations for staff.

This Order prevents CMS and the federal government from implementing and enforcing the Rule against any and all Medicare- and Medicaid-certified providers and suppliers within the States of Alaska, Arkansas, Iowa, Kansas, Missouri, Nebraska, New Hampshire, North Dakota, South Dakota, and Wyoming, pending a trial on the merits of the case. Thus, until there is a further court ruling, CMS will be unable to enforce the Rule's requirement that healthcare workers receive at least their first dose of COVID-19 vaccine prior to December 6, 2021.

In its Order, the court found that the states who challenged the Rule will likely succeed on the merits of their case. It reasoned that the states are likely to prove that (1) Congress has not provided CMS the authority to enact the Rule, (2) the Rule was an unlawful promulgation of regulations due to the bypass of notice and comment requirements, (3) the Rule is arbitrary and capricious. Additionally, the court found that enforcement of the Rule during the pending litigation would cause irreparable harm to the states, including impacts on staffing shortages and unfilled positions, which greatly affect patient care. Finally, the court reasoned that the public would suffer little, if any, harm from maintaining the "status quo" throughout the litigation of this case, especially compared to the crippling effect the mandate would have on states' healthcare facilities.

Many healthcare employers are curious about the next steps following this Order. Although no further court documents have been filed at this time, it is likely that the government will appeal this Order to the Eighth Circuit Court of Appeals. In the meantime, organizations may weigh the costs of continuing to prepare for compliance against challenges that could arise if the Order is reversed. Cline Williams continues to monitor this developing area of law and may provide additional updates and analysis.

Click here to review [the Order](#) issued by U.S. District Court for the Eastern District of Missouri.

Click here to review the Centers for Medicare and Medicaid Services' (CMS) [Interim Final Rule](#).

For more information on these issues, please reach out to a member of Cline Williams' [Health Care](#) or [Labor and Employment Law Section](#).

The information included in this document is for general informational purposes only and not for the purpose of providing legal advice. You should contact your attorney to obtain advice with respect to any particular issue or problem. Use of and reference to this document or any website it may appear on does not create an attorney-client relationship between Cline Williams and the user or browser.