CMS Revises COVID-19 Immunization Requirements for Long-Term Care Facilities



On October 26, 2022, the Centers for Medicare & Medicaid Services (CMS) issued revised guidance regarding COVID-19 immunization requirements for staff at Medicare and Medicaid-certified long-term care and skilled nursing facilities. The previous guidance, which CMS published earlier this year, required that 100 percent of all staff at applicable facilities must comply with applicable Centers for Disease Control and Prevention (CDC) COVID-19 vaccination requirements, and provided that noncompliance could lead to termination of Medicare and Medicaid participation. Citing relatively low-trending COVID-19 hospitalizations and deaths, the new guidance allows for more flexible staff vaccination requirements and enforcement.

Under the new guidance, a facility is deemed noncompliant with vaccination requirements if vaccination rates fall below 100 percent for all staff who do not meet an exception to CDC vaccine requirements, as opposed to the 100 percent of all staff requirements of the previous CMS guidance. This revised guidance aligns the vaccination requirements for long term care and skilled nursing facility staff with the requirements for the staff of other types of Medicare and Medicaid-certified facilities. The revised guidance also provides for a more balanced enforcement scheme that takes into account the scope and severity of noncompliance, including whether the facility demonstrates a good faith effort to correct noncompliance based upon a plan of correction that the facility submits to CMS, with the harshest penalties being issued for the most egregious forms of non-compliance.

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