

their patients' health and safety," had a long history of establishing detailed requirements and conditions for health care facilities. The Court found the vaccine mandate to be squarely within the authority of CMS and ensures that providers take steps to avoid transmission of a dangerous disease to their patients. The fact that the rule covered all staff of the health care facility was justified, the Court said, because CMS had never before had to address an infection condition the scope and scale of COVID-19. The Court also said the scope of application was appropriate because many states had long had influenza vaccination requirements for health care facilities and, therefore, CMS had never had to require such a broad vaccination mandate before.

By February 28, 2022, employers covered under the CMS rule must ensure that 100% of its covered employees are vaccinated or face enforcement actions. It is CMS's position that this requirement applies even in states that have passed laws limiting vaccination requirements. According to CMS, its rule preempts any state laws to the contrary.

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