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Member Forum

January 28, 2022

Board Chair Report

Welcome

- Debbie Bennett, President & CEO, Hillcroft Services, Inc.

Today's Agenda

- Key Medicaid Updates - Lindsey Lux Kleman, Michael Cook, Lindsay Baywol, Kim Opsahl, Kelly Mitchell, FSSA
- Vaccine Mandates - Robert Markette, Hall, Render, Killian, Heath & Lyman
- Industry Update - John Barth, Katy Stafford-Cunningham, Brian Carnes, and Phillip Parnell, INARF

Upcoming Events

Professional Interest Section Meetings / Professional Development:

- February 10 - Financial Management (10 AM-Noon) / Human Resources (12:30-2:30 PM)
- February 17 – Child and Family Services (10 AM – Noon)

Upcoming Member Forum and Board of Directors Meetings:

- February 25 – Roundtables with State Officials / Board of Directors Meeting – Sheraton Indianapolis Hotel at Keystone Crossing
- March 25 - Member Forum / Board of Directors Meeting - Hybrid – English Foundation Building

Registration for each meeting is available 3 weeks in advance. Recordings and materials will be available on the INARF Member Portal within 2-3 business days following each meeting.

2022 Annual Conference

Key Medicaid Updates

Lindsey Lux Kleman, Michael Cook, Lindsay Baywol, Kim Opsahl, Kelly Mitchell, FSSA

INARF Leadership Forum
Indiana Medicaid Updates

Indiana Family and Social Services Administration
Office of Medicaid Policy and Planning
2022

Agenda

- Enrollment and Spend
- Electronic Visit Verification
- Telehealth
- HCBS Spend Plan
- Other DDRS Updates

Enrollment and Spend Data
State Fiscal Year 2021

Indiana Family and Social Services Administration
Office of Medicaid Policy and Planning
2022

Waiver & Group Home

Enrollment & Expenditures (SFY 2021 Data)

	Current Enrollment	Waiver or Group Home Expenditures	State Plan Expenditures	Total Expenditures
Family Supports Waiver	22,050	$ 180,471,888.90	$ 240,348,697.63	$ 420,820,586.53
Community Integration & Habilitation Waiver	9,263	$ 705,485,503.88	$ 83,613,818.81	$ 789,099,322.69
ICF/IID Group Homes	3,009	$ 280,207,456.25	$ 20,084,061.66	$ 300,291,517.91

For reference: FSSA Data & Analytics Request # 25546

Electronic Visit Verification

Indiana Family and Social Services Administration
Office of Medicaid Policy and Planning
2022

Policy Updates

- Removed GPS Distance Exception (*August 6, 2021*) – **still require GPS for mobile visit verification**
- Removed Unauthorized Services Exception (*November 3, 2021*)
- Removed EVV requirement for services provided in 24-hour congregate settings (*February 1, 2022)*
  - Bill claims using the HQ modifier

Current Initiatives

- EVV Provider Enrollment Changes – *to help ensure new providers continue to be aware of requirement*

- EVV Home Health – *to comply with EVV home health requirement as well as managed care integration*

EVV Claims Denial

- **Tentatively working towards Summer 2022 to begin denying payment for no EVV activity**

- OMPP Preparation Steps:
  - Formal IHCP notification with several months notice (and ongoing regular communications)
  - Formal notice on the IHCP Provider Healthcare Portal
  - Provider EVV claim “pre-check” process

Telehealth Implementation

Indiana Family and Social Services Administration
Office of Medicaid Policy and Planning
2022

Telehealth During PHE

Waiver Providers and Telehealth

- As part of Appendix K authority, Medicaid waiver providers were able to provide services virtually and receive IHCP reimbursement.

- **Key Limitation**: CoreMMIS does not allow modifier GT to be billed with HCBS claims.
  - Instead, providers needed to record that the service was performed via telehealth in the patient records.

Telehealth Legislative Updates

SEA 3: "Telehealth Matters," Cont.

- "As used in this chapter, 'practitioner' means an individual who holds an unlimited license to practice as any of the following in Indiana"
  - *(unless a provisional license is specified)*

- Athletic Trainer
- Behavioral Health and Services Professional
- Behavioral Health Analyst
- Chiropractor
- Dental Hygienist
- Dentist
- Dental Resident
- Diabetes Educator
- Dietician
- Genetic Counselor
- Nurse
- Occupational Therapist
- Optometrist
- Pharmacist
- Physician
- Resident Physician
- Physician Assistant
- Physical Therapist
- Podiatrist
- Licensed Psychologist
- Respiratory Care Practitioner
- Speech-Language Pathologist/Audiologist
- Veterinarian

Post-Legislation/Post-PHE for HCBS Waivers

Appendix K Authority

- Medicaid waiver providers can continue to provide non-healthcare services virtually and receive IHCP reimbursement as part of Appendix K authority.
- The temporary authority to bill for these services was granted by the Centers for Medicare & Medicaid Services (CMS) through Appendix K as part of the federal response to the coronavirus disease 2019 (COVID-19) public health emergency.
  - **Therefore, the ability to bill for these virtual services will end six months after the public health emergency ends.**

Remote Support Services

- Medicaid waiver providers that deliver remote support services as part of preexisting waivers were previously approved to deliver these services by CMS.
  - **These providers can continue to deliver these services virtually as they fall outside the definition of "health care services" set in SEA 3.**

- These remote support services are only available under the Family Supports Waiver (FSW) and the Community Integration and Habilitation (CIH) Waiver.

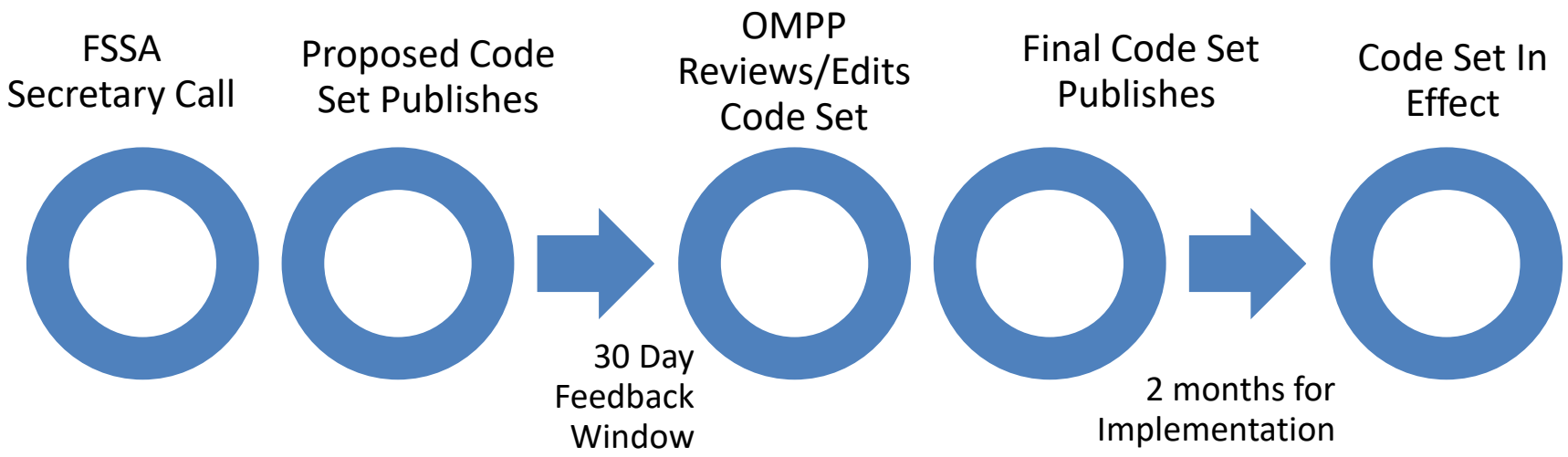
Case Management

- Providers that have been granted the authority to bill for case management when delivered virtually (such as via telephone or video conferencing) can continue to do so.
- Case management **is considered outside the definition of health care services established in SEA 3**.
  - FSSA divisions (such as OMPP, DA and DDRS) retain the authority to set parameters and approve or deny the ability to bill for case management provided virtually under the Appendix K or existing Medicaid authorities.
- **Provider types not listed as a "practitioner" in SEA 3 and not covered under Appendix K authority or a preexisting Medicaid waiver are not able to bill for virtual health (for example, telehealth) or virtual service delivery at this time.**

Proposed 2022 Telehealth Code Set

- Indiana Health Coverage Programs (IHCP) is aligning telehealth services available for reimbursement to comply with Senate Enrolled Act 3.
- The IHCP is establishing a telehealth and virtual services code set to designate which services will be reimbursed by IHCP.
- The new code set will be used during 2022 and will be revised as needed for 2023.
  - Please see BT2021112 for the full list of telehealth and virtual services proposed.
- OMPP is asking providers to submit feedback as well as billing questions on the proposed code set. Questions and feedback should be emailed to telehealth.ompp@fssa.in.gov by Jan. 31, 2022.

Telehealth Code Set Timeline



HCBS Provider Stabilization Grants

Indiana Family and Social Services Administration
Office of Medicaid Policy and Planning
2022

HCBS Stabilization Grants

- As of January 25, 2022 – 772 responses received

- **Key Dates**:
  - January 25, 2022: priority payment deadline
  - February 10, 2022: final payment deadline
  - March 31, 2022: all payments issued

- All details available in *IHCP BT202203*

Other DDRS Updates

Indiana Family and Social Services Administration
Office of Medicaid Policy and Planning
2022

Questions?

Lindsey Lux
Medicaid Chief of Staff & Deputy Director

Michael Cook
Medicaid Director of Provider Services

Lindsay Baywol
Medicaid Policy Developer

Kim Opsahl
Division of Disability & Rehabilitative Services (DDRS) Director

Industry Update

John Barth, Katy Stafford-Cunningham, Brian Carnes, and Phillip Parnell, INARF

Secretary Rusyniak Meeting Summary

INARF Meets with Dr. Dan each Quarter to hear the perspectives of our industry directly.

Review of Key Issues and Responses:

- Hiring, COVID Impact, and Rates:
  - DSP hiring continues to be a challenge, made even more challenging by COVID-created employment market volatility.
  - Discusses current effort for a rate increases to address talent attraction and retention for VR base rates.
  - Dr. Dan reported that FSSA continued discussions with SBA regarding a proposed increase in the VR base rates were progressing but had no schedule for a decision.

Secretary Rusyniak Meeting Summary

Review of Key Issues and Responses:

- Routine Rate Review Process:
  - INARF discussed our agreement with previous FSSA Secretary, Dr. Sullivan to begin a reliable, scheduled rate review process.
  - Dr. Rusyniak indicated that moving in this direction is an "overarching goal."
  - He did caution that resources will always be stressed in the state environment.
  - As part of the FMAP Spend Plan, FSSA is contracted with Milliman to review all HCBS rates, across all FSSA divisions, and to plan a process of scheduled review. This is scheduled to begin in Q2.

Secretary Rusyniak Meeting Summary

Review of Key Issues and Responses:

- <u>Managed Care Status:</u>
  - FSSA announced recently that they expect to save $2.6 Billion over 6 years via their planned LTSS managed care program (**reminder: the program does not include the FSW or CIH waiver**).
  - Dr. Rusyniak reported that the savings are expected, largely, to come from the shift from institutional care to home based services over time as well as through care coordination.
  - Re: long-term staffing needs and how the new system will ensure adequate coverage, Dr. Rusyniak indicated that staffing is his "number 1 issue." Planning data analysis and stakeholder involvement.
  - Kelly Mitchell is now co-leading FSSA's workforce effort with Peggy Welch.

Case Management Innovation Status

- INARF is meeting monthly with BDDS to discuss the status of the implementation.
- Final auto-assignment number for those individuals who have not yet chosen a case management company was 139.
- To better understand the hesitancy to make an affirmative selection and to assess satisfaction with the implementation, DDRS is planning a satisfaction survey only for those auto-assigned.
- The types of questions to be asked include:
  - Rate current level of satisfaction
  - Choose a response for why the individual was auto assigned

Insurance COVID Test Coverage

HHS Mandate:

- **Effective January 15th**
  - Individuals with private health insurance coverage or covered by a group health plan who purchase an over-the-counter COVID-19 diagnostic test authorized, cleared, or approved by the U.S. Food and Drug Administration (FDA) will be able to have those test costs covered by their plan or insurance.
  - Required to cover 8 free over-the-counter at-home tests per covered individual per month.
  - No healthcare provider order or prescription needed
  - State Medicaid and Children's Health Insurance Program (CHIP) programs are currently required to cover FDA-authorized at-home COVID-19 tests without cost-sharing.
  - Medicare pays for COVID-19 diagnostic tests performed by a laboratory, such as PCR and antigen tests, with no beneficiary cost sharing when the test is ordered by a physician, non-physician practitioner, pharmacist, or other authorized health care professional.

Waiver Amendment Update

CIH and FS Waiver Amendments went into effect on January 1, 2022

Changes for Both Waivers

- Permanent adoption of the rate increases applicable to specific FSW/CIH services and previously approved under the Appendix K temporary flexibilities as of July 1, 2021
- Case management - service definition revised to address transition to 1915 b(4) waiver and enhanced to add clarity
  - Allowing remote option for certain case management visits – will be expanded upon in policy manual
  - Caseload cap of an average of 45 cases per full time case manager
- Remote supports - service definition and provider qualifications clarified
  - Expanded service definition (e.g. includes information about how remote supports can foster independence)
  - Allows non-paid staff (such as family members) to serve as backup support

Changes for Both Waivers

Separation of vehicle modifications from specialized medical equipment and supplies services, creating two standalone services with their own separate cap limits

- Old service definition
  - CIH:
    - Specialized Medical Equipment – no cap; $500 per year for maintenance and repair
    - Vehicle Modifications: $15,000 lifetime cap; $500 per year for repair, replacement, or an adjustment to an existing modification
  - FSW:
    - Specialized Medical Equipment – no cap; $500 per year for maintenance and repair
    - Vehicle Modifications – $7,500 lifetime cap; $500 per year for repair, replacement, or an adjustment to an existing modification

Waiver Amendment Update

Changes for Both Waivers

Separation of vehicle modifications from specialized medical equipment and supplies services; creating two standalone services with their own separate cap limits.

New service definition:

- FSW:
  - Specialized medical equipment – lifetime cap of $7,500; $500 per year for service and repair
  - Vehicle modifications – $15,000 for one vehicle every 10 year period for an individual's household; $1,000 per year for repair, modifications, etc.
- CIH:
  - Specialized medical equipment – No service cap; $500 per year for service and repair
  - Vehicle modifications – $15,000 cap for one vehicle every 10 years; $1,000 per year for repair, modifications, etc.

Waiver Amendment Update

Changes for Family Supports Waiver

- FS waiver cap - increased from $17,300 to $19,614
  - To be in line with 14% rate increase
- Transportation - annual service limits increased for each level of non-medical transportation
  - As you may recall, when DDRS implemented the 14% rate increase for DSPs, there were reports of some individuals losing services due to multiple issues. DDRS increased the transportation cap to be in line with the overall FS wavier cap increase

HCBS Stabilization Grants Update

- Announced on January 10
- Total of $173 million for this grant program
- Currently active HCBS Medicaid providers who were also active during the COVID-19 public health emergency are eligible
- Must past through at least 75% of the grant directly to their workforce. Examples of recommended activities include
  - Bonuses for frontline staff active during the public health emergency
  - Recruitment and retention activities
  - Hazard Pay

HCBS Stabilization Grants Update

- Providers will receive between 7-8% of their claims' expenditures from CY 2019 or CY 2020 (the higher of the two years)
- Providers will receive payment between February and March 2022. Payments will be issued in two rounds
- Providers must **complete attestation by February 10 deadline**
- Timeline on spending grant funds – FSSA guidance: "The intent of the grant is to provide immediate relief to eligible HCBS providers and their workforce. We encourage providers to expend the funds immediately, especially the workforce stabilization passthrough portion. Federal requirements are that funding must be expended no later than March 31, 2024"
- Resources: INARF HCBS Grant FAQ, FSSA informational video, FSSA FAQ, presentation slides, and Attestation form

Electronic Visit Verification

Post and Pay: tentatively working towards full implementation by summer 2022. An IHCP publication announcing the change will be released at least 6 months in advance

November Alt EVV Webinar FAQ

Visit Verification Rate – November 2021: 96% Alt EVV, 80% Sandata

24 hour congregate care settings update:

- IHCP announced in Bulletin BT202205 that it is excluding the electronic visit verification requirement in 24-hour congregate settings effective February 1, 2022
- INARF Communication: EVV Congregate Setting Q&A
- If you have questions regarding this change, email Phillip Parnell at Phillip@inarf.org

EVV Claims Update:

- OMPP ran a report to determine the amount of claims that would be denied if EVV hard edits were in place
- The report was based on the top three claim details: No EVV record with training (0950), no EVV record without training (0951), and EVV record amount does not match claim record amount (0952)
- Dates of service: December 13-December 17
- Amount of claims - $3,271,060.20
- Over 386 providers were affected
- 90.1% of claim details hitting an EVV edit were for 0950/0951 (no EVV activity)
- 9.8% of claim details hitting an EVV edit were for 0952 (number of EVV units did not match claim units)

INARF General Assembly Update

Week 4

- Deadline – March 14
  - SB 284 – Telehealth Matters
  - HB 1123 – Medicaid Advisory Committee
  - HB 1158 – Health and Human Services Matters
  - HB 1001 – Administrative Authority, COVID Immunizations

Contribute to the PAC

Your contributions to the INARF PAC are a critical part of INARF's legislative advocacy efforts. They are used to support elected officials who serve as champions of the provider community. Please consider supporting the INARF PAC today.

INARF PAC

For more information and to contribute, visit: www.INARF.org/INARF-PAC

Taking Your Temperature

Annual Satisfaction Survey…

- On January 17, members at all levels within the organization received an invitation to complete the INARF 2022 Membership Satisfaction Survey
- The brief survey is focused on 5 key areas:
  1. Governmental Affairs and Public Policy Initiatives
  2. Support During Changes and Challenges
  3. Communications
  4. Technical Assistance
  5. Professional Development and Networking Opportunities
- We welcome your feedback as we work to improve our effectiveness as your Association
- The survey remains open through February 7

Vaccine Mandates

Robert Markette, Hall, Render, Killian, Heath & Lyman

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Vaccine Mandates for Health Facilities

Overview of the CMS and OSHA Vaccine Mandates

November 2021 / Robert W. Markette, Jr., CHC

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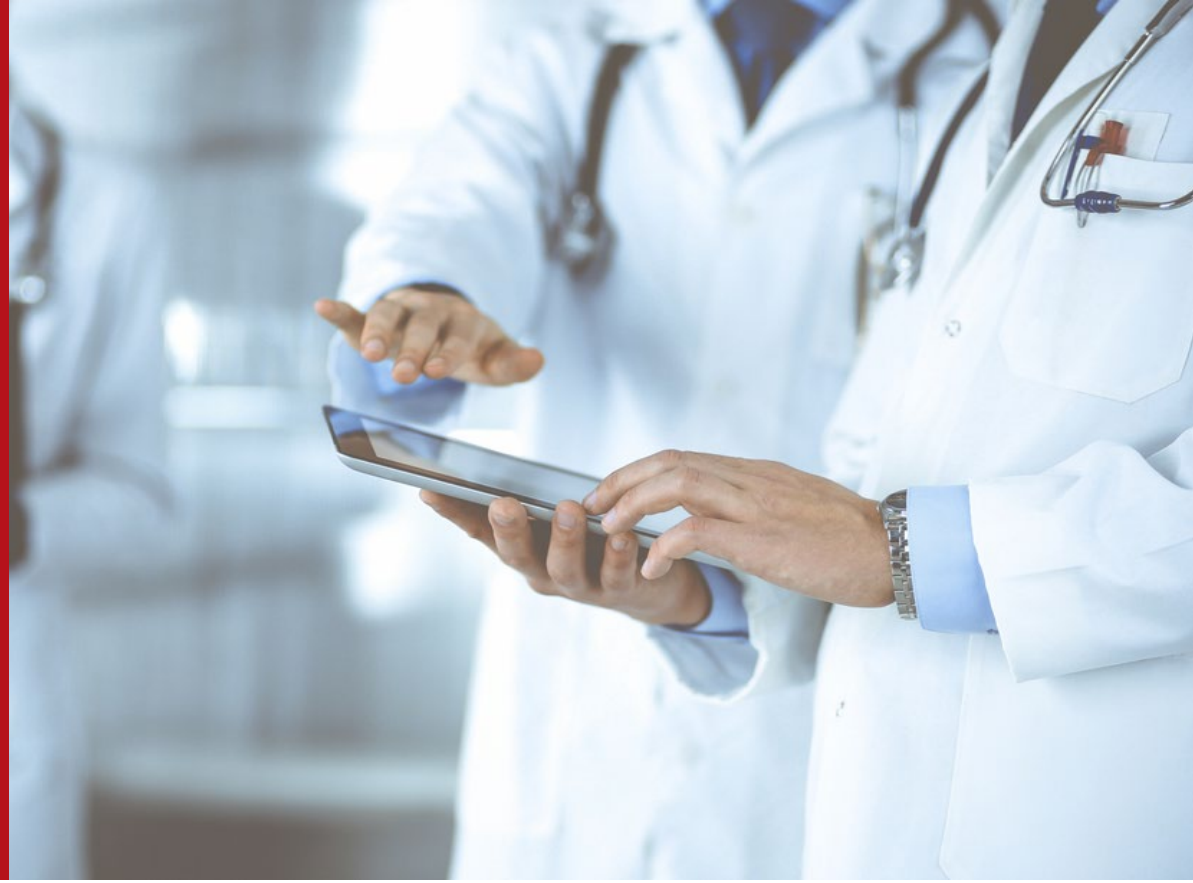

Presenter

Robert W. Markette, Jr.
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Disclaimer

The information presented here today is general guidance on the new regulations. The exact applicability of these regulations is very fact-specific for each organization and should be vetted with legal counsel.

TODAY'S AGENDA

1. OSHA Vaccine Mandate
2. CMS Vaccine Mandate
3. Questions – Certainly.

THE OSHA VACCINE ETS

Supreme Court Ruling: NFIB v. OSHA:

- Challenge by a wide range of groups to OSHA mandate.
- Supreme Court ruled that an injunction was appropriate, because Plaintiff's were likely to succeed.
- "Although COVID–19 is a risk that occurs in many workplaces, it is not an occupational hazard in most. COVID–19 can and does spread at home, in schools, during sporting events, and everywhere else that people gather. That kind of universal risk is no different from the day-to-day dangers that all face from crime, air pollution, or any number of communicable diseases. Permitting OSHA to regulate the hazards of daily life—simply because most Americans have jobs and face those same risks while on the clock—would significantly expand OSHA's regulatory authority without clear congressional authorization."

Supreme Court Ruling: NFIB v. OSHA

- On January 26, 2022, In light of the Supreme Court's ruling, OSHA announced it was "withdrawing the Vaccination and Testing ETS as an enforceable emergency temporary standard."
- NO LONGER NEED TO COMPLY WITH THIS RULE.
- If you were subject to this rule, no longer need to require staff be vaccinated or undergo testing.

Supreme Court Ruling: NFIB v. OSHA

- Remember June Health Care ETS. OSHA withdrew this due to time limit on ETS.

- OSHA will issue another similar ETS. (This did not contain a vaccine mandate.)

THE CMS VACCINE MANDATE

CMS Vaccine Mandate

- On November 4, CMS released its Interim Final Rule ("IFR") requiring COVID-19 vaccinations for individuals working in Medicare- and Medicaid-participating facilities, as well as individuals working in certain other settings involving face-to-face interactions with patients.
- The IFR specifies available medical and religious exemptions to the mandate, but contrary to what was previously published by CMS, testing is not an express exemption to the vaccine requirement.
- Facilities and other settings affected by the IFR are not required to ensure separate compliance with the vaccine rule also being issued by the Department of Labor's Occupational Safety and Health Administration (OSHA) as the vaccination deadlines are the same for both rules

CMS Vaccine Mandate: Biden v. Missouri

- This mandate was challenged as well by multiple states, but not by healthcare providers.
- Supreme Court upheld CMS Mandate 5-4. Ruled that the CMS mandate "falls within the authorities that Congress has conferred on" the Secretary of HHS.
- Providers how fall within the rules coverage will need to comply with the mandate.
- Because of the ongoing litigation and related injunctions, CMS has changed the compliance deadlines.

Compliance Deadlines Have Been Changed

- Effective date of **Phase 1** of the CMS IFR is February 14, 2022. Personnel subject to the mandate must have at least one dose of the COVID-19 vaccine by that date.
- Effective date of **Phase 2** of the CMS IFR, which requires individuals to have received the entire recommended vaccine course is March 15, 2022.
- Personnel who have completed the Primary Vaccine Sequence prior to the Phase 2 deadline, but have not completed the 14 day period can work, but must follow precautions for unvaccinated until the 14 days pass.
- Note there are three separate sets of deadlines: injunction states, states that were not subject to an injunction and Texas.

CMS Issues Vaccine Mandate for Health Facilities

- DELAY DUE TO CLINICAL CONSIDERATIONS
- Personnel who cannot complete a primary vaccine series prior to the deadlines, “due to clinical precautions and considerations, including, but not limited to, individuals with acute illness secondary to COVID-19, and individuals who received monoclonal antibodies or convalescent plasma for COVID-19 treatment” can request, and be granted, an extension on the deadlines.

- Must utilize same precautions as unvaccinated (exempt) staff until complete a primary vaccine sequence.

Facilities/Suppliers Affected by the CMS IFR

Provider/Supplier
Ambulatory Surgical Centers (ASCs)
Hospices
Psychiatric Residential Treatment Facilities (PRTFs)
Programs of All-Inclusive Care for the Elderly (PACE)
Hospitals
Long Term Care (LTC) Facilities
Intermediate Care Facilities for Individuals with Intellectual Disabilities (ICFs-IID)
Home Health Agencies (HHAs)
Comprehensive Outpatient Rehabilitation Facilities (CORFs)
Critical Access Hospitals (CAHs)
Clinics, Rehabilitation Agencies, and Public Health Agencies as Providers of Outpatient Physical Therapy and Speech-Language Pathology Services (Organizations)
Community Mental Health Centers (CMHCs)
Home Infusion Therapy (HIT) Suppliers
Rural Health Clinics (RHCs)/Federally Qualified Health Centers (FQHCs)
End-Stage Renal Disease (ESRD) Facilities

Personnel Subject to CMS IFR

- Facility/provider employees;
- Licensed practitioners;
- Students, trainees and volunteers; and
- Individuals who provide care, treatment or other services for the facility/provider and/or its patients, under contract or other arrangement.

CMS intends to interpret the last category very broadly and cites examples of administrative team members and Organ Procurement Organization team members as individuals subject to the IFR due to the potential for even incidental or irregular contact with patients.

Personnel Subject to CMS IFR

- "any individual that performs their duties at any site of care, *or has the potential to have contact with anyone at the site of care*, including staff or patients, must be fully vaccinated to reduce the risks of transmission of SARS-CoV-2- 2 and spread of COVID-19." 86 Fed. Reg. 61570-61571.

- CMS suggests this applies broadly enough to reach vendors.
- When in doubt, assume coverage.

Personnel Subject to CMS IFR - Vendors

- CMS comments discuss the application of this rule to one-off vendors/contractors:
  - Emergency visit of a plumber to fix a toilet who is appropriately masked and does not interact with staff – no vaccine.
  - Contractors on site as part of construction project who interact with staff or enter spaces occupied by staff.
- But…"[p]roviders and suppliers are not required to ensure the vaccination of individuals who infrequently provide ad hoc non-health care services (such as annual elevator inspection), or services that are performed exclusively off-site." 86 Fed. Reg. 61571

CMS IFR Exemptions

- Medical Exemption: will require certification by a licensed practitioner (other than the individual requesting the exemption) operating within the scope of the practitioner's practice, identifying the specific, recognized clinical reasons for contraindications that form the basis of the exemption request. (Disability may be broader)
- Religious/Disability Exemptions: governed by the ADA and Title VII as those laws require an employer to provide reasonable accommodations for employees who, because of a disability or a sincerely held religious belief, practice or observance, do not get vaccinated against COVID-19, unless providing an accommodation would pose an undue hardship on the operation of the employer's business.
  - Facilities must have a process for handling those requests and be prepared to make "reasonable accommodations" for the personnel requesting this type of exemption.

CMS IFR Exemptions

- Medical exemption and EEOC guidance:
  - Employee must request, but request does not need to mention EEOC or include the word accommodation. EEOC FAQ K.6.
  - If a particular employee cannot [receive a COVID-19 Vaccine] because of a disability, the employer may not require compliance for that employee unless it can demonstrate that the individual would pose a 'direct threat' to the health or safety of the employee or others in the workplace. **A 'direct threat' is a 'significant risk of substantial harm' that cannot be eliminated or reduced by reasonable accommodation."**

CMS IFR Exemptions

- Sincerely Held Religious Belief EEOC Guidance
  - Employee must request, but request does not need to mention Title VII or religious accommodation. EEOC FAQ K.6.
  - Once an employer is on notice that an employee's sincerely held religious belief, practice, or observance prevents the employee from getting a COVID-19 vaccine, the employer must provide a reasonable accommodation unless it would pose an undue hardship.
  - EEOC guidance explains that the definition of religion is broad and protects beliefs, practices, and observances with which the employer may be unfamiliar. Therefore, the employer should ordinarily assume that an employee's request for religious accommodation is based on a sincerely held religious belief, practice, or observance.

CMS IFR Exemptions

- Sincerely Held Religious Belief EEOC Guidance
  - The fact that no religious group espouses such beliefs or the fact that the religious group to which the individual professes to belong may not accept such belief will not determine whether the belief is a religious belief of the employee or prospective employee
- These quotes all come out of the EEOC's FAQ and enforcement guidance documents.
- You should consider this guidance when evaluating requests for medical and religious exemptions.

CMS IFR Exemptions

- Remote Exemption: individuals who provide services solely on a remote and/or telehealth basis and who do not have direct contact with patients or with other staff who are required to receive the vaccine. In addition, the IFR's vaccine requirements exclude staff who provide support services exclusively outside of the affected setting, ***and who do not have any direct contact with patients or other staff who are required to receive the vaccine.***

- ***This is a very narrow exemption:*** **"We considered excluding individual staff members who are present at the site of care less frequently than once per week from these vaccination requirements, but were concerned that this might lead to confusion or fragmented care."** ***86 Fed. Reg. 61570-61571***

CMS IFR Enforcement

- CMS will ensure compliance with these requirements through a survey and enforcement processes.
- Guidance is forthcoming to surveyors, but CMS said surveyors will review facility records and interview facility personnel.
- If a facility does not meet the IFR requirements, the facility will be cited by a surveyor and have an opportunity to return to compliance before additional actions occur.
- Penalties for non-compliance will depend on the severity of the noncompliance.

CMS IFR Exemptions

- Survey Guidance – QSO-22-07-All
- "[s]urveyors will not evaluate the details of the request for a religious exemption, nor the rationale for the HHA's acceptance or denial of the request."
- Surveyors will review the process the agency follows related to receiving, reviewing and granting exemptions. T
- Your process for receiving, reviewing and granting or denying requests for religious or other exemptions will be important for compliance.

What should you be doing now:

- Determine what rule(s) covers your organization
- Create timeline of key dates (e.g., if covered by CMS, employees must have first dose of vaccination by Dec. 6)
- Develop policies, procedures, and tracking process
- If covered by OSHA Vaccine Mandate, develop weekly testing process and/or submission of test results
- Develop communication strategies
- Develop exemption request process. This will include proper exemption forms and a review process. It will also include documenting requests that are granted.

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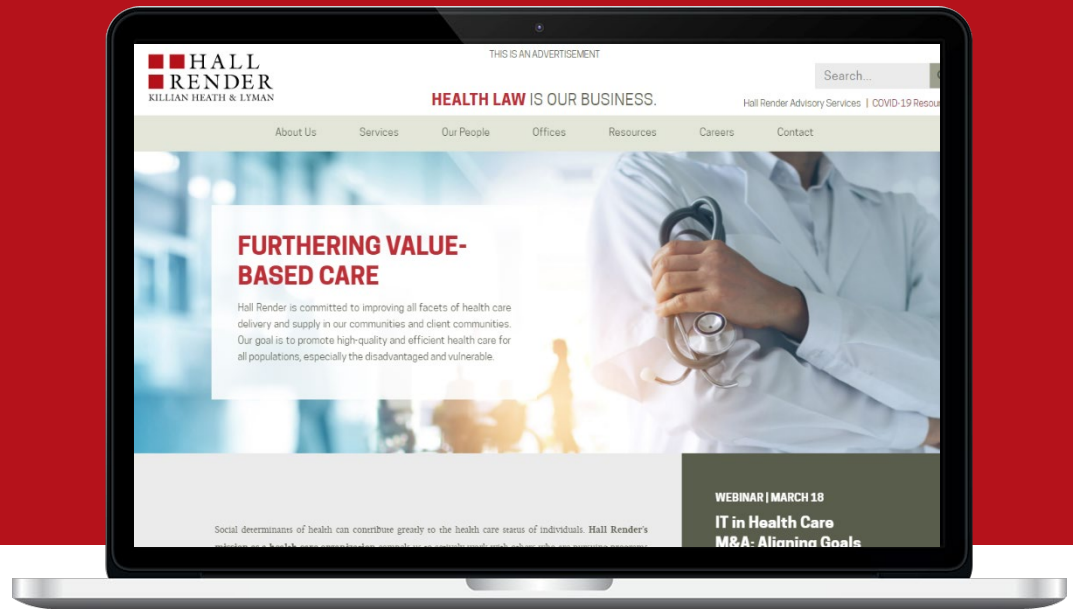
For more information on these topics visit hallrender.com.



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Thank you!

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