

June 6, 2023

ILLINOIS HEALTH AND HOSPITAL ASSOCIATION
M E M O R A N D U M

From: A.J. Wilhelmi, President & CEO

SUBJECT: CMS Publishes Final Rule Ending The Staff Vaccination Requirement

On June 5, 2023, the Centers for Medicare & Medicaid Services (CMS) published a [final rule](#) lifting the COVID-19 vaccination mandate for healthcare workers and removing it as a condition of participation in Medicare.¹ The final rule amends [42 C.F.R. § 482.42\(g\)](#), the federal regulation containing the staff vaccination mandate for hospitals, by removing paragraph (g) (“Standard: COVID-19 Vaccination of hospital staff”). Rather than imposing and enforcing a vaccination mandate, CMS intends to encourage ongoing COVID-19 vaccination through its quality reporting and value-based incentive programs. The final rule also requires long-term care facilities to educate and offer the COVID-19 vaccine to residents, resident representatives, and staff.

As background, CMS issued an [interim final rule](#) on Nov. 5, 2021, which established requirements regarding COVID-19 staff vaccination for certain Medicare and Medicaid-certified providers and suppliers, including hospitals. The mandate went into effect in January 2022, following a series of legal challenges, which the Supreme Court ultimately [resolved](#), allowing the mandate to stand. The federal Public Health Emergency and the State of Illinois Disaster Proclamation both ended on May 11, 2023.

The regulatory change is effective 60 days after publication of the final rule, on Aug. 4, 2023. However, CMS has stated that “[s]ince facilities are no longer operating under PHE [Public Health Emergency] circumstances, and considering the lower policy priority of enforcement within the remaining time, [CMS] will not be enforcing the staff vaccination provisions between June 5, 2023 and August 4, 2023.”²

IHA will continue to track the impact of the expiration of the federal PHE and the state Disaster Proclamation and will provide links to these resources and other related information on IHA’s COVID-19 PHE sunset page, located [here](#).

[Contact us](#) with questions.

¹ 88 Fed. Reg. 36485 (June 5, 2023).

² 88 Fed. Reg. 36485, 36490.