



November 19, 2021

Dear Contractor

With the increasing numbers of COVID-19 cases rising within the Commonwealth, on August 10, 2021, Governor Tom Wolf announced that all Commonwealth employees in state health care facilities and high-risk congregate care facilities must be fully vaccinated against COVID-19 by September 7, 2021. Those employees that were not vaccinated, would be required to undergo weekly COVID-19 testing.

Due to the continuing rise in COVID-19 cases and the critical need to protect individuals within the care and control of the Commonwealth, the vaccination requirement is being extended to all contractors that perform regular services or construction, maintenance or repairs on the property of state health care facilities and high-risk congregate care facilities through their own employers or contracted resources. Regular services are generally defined as services done on facility property (indoors or outdoors) more than one day per month. Deliveries of goods or supplies to loading docks is not included in the definition of regular services. Interaction with facility staff or individuals under the care and control of the Commonwealth is not required. The affected facilities include, but may not be limited to, state hospitals, state centers for people with intellectual disabilities, youth forestry camps and youth development centers, veterans homes, community health centers, state correctional institutions, and community correctional centers. Facility management may expand which contractors will fall under the definition of regular services.

Pursuant to the terms and conditions of your contract with the Commonwealth, you are required to ensure all personnel comply with the facility rules, policies and procedures. Accordingly, **effective December 1, 2021**, all current contractors, contractor staff, and contracted staffing resources providing services at state health care facilities and high-risk congregate care facilities will be required to be fully vaccinated in order to enter the facility itself and the grounds surrounding the facility. Those contractors, contractor staff, and contracted staffing resources that are not fully vaccinated must undergo weekly COVID-19 testing. **All new contractors, newly assigned contractor staff, and newly assigned contracted staffing resources providing regular services beginning after the effective date of this requirement must be fully vaccinated prior to being permitted on-site at the state health care facilities and high-risk congregate care facilities.**

Please note that the U.S. Department of Health and Human Services, Centers for Medicare & Medicaid Services (CMS), has issued an Interim Final Rule (IFR) establishing COVID-19 vaccination requirements for the staff of Medicare- and Medicaid-certified providers and Suppliers that is applicable to certain Commonwealth facilities. Contractors, their staff, and subcontractors providing services to the following facilities are subject to the CMS IFR regarding vaccinations:

Department of Human Services

Clarks Summit State Hospital	South Mountain Restoration Center
Danville State Hospital	Torrance State Hospital
Ebensburg State Hospital	Warren State Hospital
Norristown State Hospital	Wernersville State Hospital
Polk Center	White Haven Center
Selinsgrove Center	

Department of Military and Veterans Affairs

Delaware Valley Veterans Home	PA Soldiers' & Sailors' Home
Gino Merli Veterans Center	Southeastern veterans Center
Hollidaysburg Veterans Home	Southwestern Veterans Center

Contractors, their staff, and subcontractors providing services to the above referenced facilities must be aware of and comply with the CMS IFR. An explanation of the requirements are contained in Appendix A to this notice.

The cost of testing will be borne by the contractors and cannot be passed through to the Commonwealth. If a using agency is currently providing testing to its own employees, it may choose to make that testing available to contractors, contractor staff, and contracted staffing resources. Testing must be done by healthcare practitioners, healthcare facilities or clinical laboratories. Results of at-home COVID-19 testing kits will not be accepted. Contractor will not be paid for time spent by employees or contracted staffing resources getting tested for COVID-19. All positive COVID-19 test results must be provided to the using agency within 24 hours of receipt of results. All individuals that test positive, whether vaccinated or not, must comply with Department of Health quarantine procedures and may not return to the facility until the quarantine period is over.

Contractors are responsible for certifying that all Contractor employees or contracted resources that will be providing services in state health care facilities and high-risk congregate care facilities are either fully vaccinated or is tested for COVID-19 on a weekly basis. Such certification shall be provided to the facility or agency staff member designated by the facility or agency. The Contractor is also responsible to maintain the records of vaccination or testing and to obtain a consent from each employee or contracted staffing resource allowing the Contractor to provide high level data to the Commonwealth regarding compliance with this directive (name of individual and compliant/non-compliant status). Non-compliant contractors, contractor staff, and contracted staffing resources will not be allowed on the property of a state health care

facility or high-risk congregate care facility until such Contractor certification has been received. Additionally, continued failure by the Contractor to comply with or enforce the requirements of this directive may result in the Contractor being found to be in default of its contract.

In addition to the vaccination or testing requirements, contractors, contractor staff, and contracted staffing resources must be masked at all times within all Commonwealth facilities until such time as these requirements are rescinded.

Questions regarding this communication or the CMS IFR and its applicability should be directed towards the facility contact person for the contract or the agency contracting office.

Sincerely,

A handwritten signature in black ink, appearing to read 'Kenneth J. Hess', with a stylized flourish extending to the right.

Kenneth J. Hess
Deputy Secretary for Procurement
Commonwealth of Pennsylvania
Department of General Services

Appendix A

COVID-19 Vaccination Requirement from the U.S. Department of Health and Human Services, Centers for Medicare & Medicaid Services (CMS) for the staff of Medicare- and Medicaid-certified providers and suppliers

As you are likely aware, the United States Department of Health and Human Services, Centers for Medicare & Medicaid Services (CMS) has issued an Interim Final Rule (IFR) establishing the COVID-19 vaccination requirements for the staff of Medicare- and Medicaid-certified providers and suppliers.

We recognize that vendors and their employees who provide services at our facilities have questions about implementation of the IFR requirements at these facilities and we will provide additional information as necessary about our implementation of the new rule in the coming days. However, it is imperative to note, we have concluded that **our facilities are covered by the IFR and your employees or sub-contractors who provide services at these facilities must be fully vaccinated by January 4, 2022, unless they have an approved ADA or religious accommodation.**

Please be advised that the IFR, published on November 5, 2021, applies to all individuals who provide care, treatment, or other services at a covered facility, under contract or by other arrangement and regardless of their clinical responsibility or patient contact. Within 30 days of the IFR publication (December 6, 2021), individuals subject to the IFR must have received, at a minimum, the first dose of a two-dose series or a single dose COVID-19 vaccine prior to providing any care, treatment or other services for the facility and/or its patients. No later than 60 days after the IFR publication (January 4, 2022), individuals subject to the IFR must complete the primary vaccination series. Non-compliant facilities will be subject to enforcement provisions set forth in the IFR.

There is no "test out" option. Also, individuals who have previously had COVID-19 are not exempt from these vaccination requirements. The IFR permits exemptions from the vaccine mandate for individuals with ADA or religious accommodations. Please ensure that your organization has a process in place to address your employees' and/or sub-contractors' accommodation requests and direct them to submit any such requests to your organization by December 5, 2021. You must be able to demonstrate by December 6, 2021, to your contact(s) at the facility or facilities that each individual currently subject to the IFR has requested or been granted a lawful exemption.

While a federal court recently granted a stay of a similar mandate released by the Occupational Safety & Health Administration (OSHA), that ruling has no impact on this CMS IFR.

In addition to being a federal mandate, vaccines are the best way to protect against contracting COVID-19 and spreading it to others, which is critical to the work we do. As stated in the IFR, available evidence indicates that COVID-19 vaccines offer better protection than natural immunity alone and that vaccines, even after prior infection, help prevent reinfections. CDC recommends that all people be vaccinated, regardless of their history of symptomatic or asymptomatic COVID-19 infection.