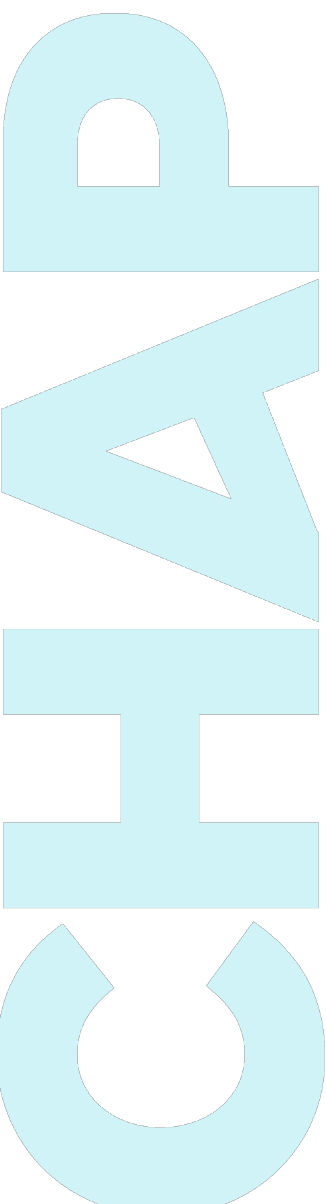


Memorandum: *Revised* Guidance for the Interim Final Rule - Medicare and Medicaid Programs; Omnibus COVID-19 Health Care Staff Vaccination - Ref: QSO-22-11-ALL *Revised 04/05/22*

The following are the revised areas in the Interim Final Rule:

- **Staff who have been suspended or are on extended leave** (e.g., suspension, or out on Family and Medical Leave Act (FMLA) leave, or Worker’s Compensation Leave, would not count as unvaccinated staff for the determining compliance.
- **Life Safety Code:** Surveying for staff vaccination requirements is not required on Life Safety Code (LSC)-*only complaints, or LSC-only follow-up surveys*. Surveyors may modify the staff vaccination compliance review if the facility was determined to be in substantial compliance with this requirement within the previous six weeks.
- **“Temporarily delayed vaccination”** refers to vaccination that must be temporarily deferred, as recommended by CDC, due to clinical considerations, including known COVID-19 infection until recovery from the acute illness (if symptoms were present) and criteria to discontinue isolation have been met.
- There are a variety of actions or **job modifications** a facility can implement to potentially reduce the risk of COVID-19 transmission examples include, but are not limited to: ...
 - **NOTE:** This requirement is not explicit and does not specify which actions must be taken. The examples above are not all inclusive, and represent actions that can be implemented. However, facilities can choose other precautions that align with the intent of the regulation which is intended to “mitigate the transmission and spread of COVID-19 for all staff who are not fully vaccinated.”
- **Re: Contracted Staff:** The Agency will provide their process for how the Agency ensures that their contracted staff are compliant with the vaccination requirement.



- **Personnel file review:** Surveyors will select a sample of staff based on current staff sample selection guidelines. Surveyors should also examine the documentation of each staff identified as unvaccinated due to medical contraindications. The sample should include (as applicable): Direct care staff, including those contracted staff meeting the definition of staff (vaccinated and unvaccinated), Contracted staff, Direct care staff with an exemption.
 - There should be a minimum of 6 direct care/patient engagement staff. This includes direct care contracted staff that are onsite at time of the survey. Of this 6- person sample, 4 should include vaccinated staff/contractors and 2 unvaccinated staff/contractors (1 that is not fully vaccinated and 1 with a medical exemption or temporary delay.) Two of the direct care staff sampled should be contractors.
 - The list of vaccinated staff maintained by the facility are used for sampling staff.
 - Surveyors should choose a sample of at least of 2 contracted staff (1 vaccinated and 1 unvaccinated or exempt) not included in those direct care contracted staff outlined above.

NOTE: Failure for contract staff to provide evidence of vaccination status reflects noncompliance and should be cited under the requirement to have policies and procedures for ensuring that all staff are fully vaccinated, except for those staff who have been granted exemptions or a temporary delay.

Link: <https://www.cms.gov/medicareprovider-enrollment-and-certificationsurveycertificationgeninfopolicy-and-memos-states-and/revised-guidance-interim-final-rule-medicare-and-medicaid-programs-omnibus-covid-19-health-care-1>

(For your reference: Home Health Agencies - Page 51, Hospice - Page 110, HIT - Page 169)