

KHCA Clinical Update 1/21/22
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I hope you all were able to listen to the AHCA webinar this week about Implementing the CMS Vaccine Mandate. I know, I know, you have heard enough and now you just need the guidances to stay the same long enough to get them implemented. But I want to just review a few key points in case you haven't heard the webinar or the recording of the webinar. The link to the webinar can be found [here](#) and I would strongly encourage you to take the time to watch/listen to it.

- All Medicare certified health care facilities under the Medicare & Medicaid requirements of participation, which includes:
 - SNFs Medicare only
 - SNFs Medicaid only
 - SNFs Medicare and Medicaid
 - ICFs/IDD Medicaid
- The facilities that are not included are:
 - Als
 - SNFs that are not Medicare or Medicaid certified
- The dates for Kansas facilities are:
 - February 14th: first dose, J&J or pending exemption
 - March 15th: 2nd dose or approved exemption
- Required Policy & Procedure
 - Ensure all staff are fully vaccinated
 - Establish process to request exemptions
 - Document & track vaccine status
 - Detail additional precautions for unvaccinated staff
 - Establish contingency plan for unvaccinated staff
- Booster is not included in definition of fully vaccinated
- Staff covered:
 - Facility employees
 - Licensed practitioners
 - Students, trainees & volunteers
 - Any individuals under contract or under other arrangements who provide care, treatment or other services
 - *AHCA General Rule of Thumb: If the person comes into the facility at the request of the facility or resident & they interact with other staff or residents, they are covered unless they are a visitor to see the residents*
- Exemptions
 - Medical
 - Sincerely held beliefs

- Temporary medical delay required
- NO TESTING EXEMPTION
- Surveyors will not evaluate details of religious exemptions nor the rationale for accepting or denying such requests
- Staff with Approved Exemptions
 - SNFS need to have a “process for ensuring the implementation of additional precautions, intended to mitigate the transmission & spread of COVID-19 for all staff who are not fully vaccinated for COVID-19” (i.e., staff who have an approved exemption)
 - Additional precautions:
 - Use of NIOSH-approved N95 or equivalent for source control
 - Reassign to non-resident areas or modification of duties
 - Follow additional CDC recommended precautions
 - At least weekly testing or more frequent testing that currently required based on local, state or CDC recommendations
 - Check OSHA-required measures which should also be followed
- Surveyor Training Language
 - Are unvaccinated staff using additional precautions, including universal source control AND PHYSICAL DISTANCING AT ALL TIMES WHILE IN THE FACILITY?
 - If reassigned, when were you reassigned duties?
 - Are you being tested for COVID-19? If so, how often?
 - Determine if other additional precautions are in place to mitigate transmission of COVID-19
- CMS Assessment of Compliance
 - Review P&P to assure all required components are present and being followed
 - Assess vaccination status at the time of visit (based on staff working over the prior 4 weeks) using facility records
 - Ask for tracking record for all staff
 - Vaccine matrix to be provided by CMS (not yet available)
 - Compliance = 100% of staff are vaccinated or have an exemption or new staff have their first dose (or exemption) before starting to work
 - F888 citation issued if <100% vaccination
 - Surveyor training available on QSEP portal
https://qsep.cms.gov/pubs/ClassInformation.aspx?cid=0CMSSVAX_LTC
 - NOTE: If the facility’s staff vaccination rate is below 100% because of newly hired staff, who are not yet eligible to receive the 2nd dose in a 2-dose series, the facility will be considered compliant with the 100% staff vaccination requirement
 - Scope based on staff vaccination rates
 - Isolated >75%
 - Pattern 61% to 75%
 - Widespread <60%
 - Severity
 - Level 4 (J, K, L) < 100% vaccination and:
 - 3 or more residents with COVID-19 in past 4 weeks and
 - At least 1 hospitalization or death; OR

- Non-compliance with infection control practices, OR
 - 1 or more P&P components not developed or implemented
- Level 3 (G,H,I) <100% vaccination and:
 - 3 or more residents with COVID-19 in past 4 weeks without hospitalization or death; AND
 - 1 or more P&P components not developed or implemented
- Level 2 (D, E, F) <100% vaccination and:
 - No resident infections; OR
 - 1 or more P&P components not developed or implemented
- Level 1 (A, B, C)=100% vaccination and:
 - 1 or more P&P components not developed or implemented
- CMS “Good Faith” Efforts
 - Surveyors MAY lower S&S or enforcement action if prior to survey, facility:
 - Documented limited or no access to vaccine OR
 - Documented “aggressive steps” to have all staff vaccinated (advertising for new staff, hosting vaccination clinics)
- Enforcement
 - Within first 30 days after deadline, enforcement will be suspended if:
 - Vaccination rate is >80%
 - P&P in place
 - Plan to achieve 100% vaccination within 60 days
 - For 31-60 days after the deadline, enforcement will be suspended if:
 - Vaccination rate is >90%
 - P&P in place
 - Plan to achieve 100% vaccination within 30 days
 - After 90 days non-compliance may result in enforcement actions
- CMS Preempts Contrary State & Local Laws or Orders
 - Federal Register specifically states that this rule preempts any state or local law that conflicts with this rule

During the Q&A, there was discussion about open visitation for visitors and we were reminded by Dr Gifford that the facility can’t limit visitation but per RESIDENT RIGHTS, every resident has the right to request to only be visited by fully vaccinated visitors. You can use the KDADS Visitation Inventory to document that a resident requests only to be cared for or visited by a fully vaccinated person.