



Visit our COVID-19 Page
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Dear Member:

Voices for Vaccination – See What LTC Employees are Saying About the COVID-19 Vaccine



With special appreciation to the following who contributed to the creation of this video:

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MHCA is pleased to share our latest educational tool – Voices for Vaccination. The video features messages from stakeholders and testimonials from LTC employees statewide who share their thoughts and decision-making process around vaccination. MHCA

thanks our members and colleagues for taking the time to talk about this important topic. We encourage you to share these messages of hope far and wide. Watch here: [MHCA Vaccine PSA Feb2021 - YouTube](#)

OADS Vaccine Survey of Independent Living Settings

DHHS is evaluating the feasibility of holding COVID-19 vaccination clinics in Independent Living (IL) residences for older adults. OADS shared the following survey today, the purpose of which is to identify properties that are interested in and able to host a clinic for residents 70+ (and 65+ when that group becomes eligible). Please disregard if you have IL residents who have already been vaccinated.

The survey indicates a deadline of February 19th, but OADS will continue to take these on a rolling basis.

Survey link:

https://forms.office.com/Pages/ResponsePage.aspx?id=q6g_QX0gYkubzeoajy-GTiO3xL8jO01NmVkiWOLcF8dUQ040WTZQOUpGUUpCSzkzVEI4TkqzV1NBWC4u

Medicare Accelerated and Advance Payment (AAP) Repayment – Two Months and Counting

AAP repayments will begin for all Medicare providers who received AAP payments begin one year from date of the AAP receipt. Repayment start dates are specific to SNF providers associated with their date of AAP receipt. For many SNFs, repayment dates begin in April 2021. Provider do not need to take any action to repay.

Rather Medicare Administrative Contractors (MACs) automatically will begin to recover payment amounts reducing paid claims until the AAP is repaid. AHCA was successful with ensuring SNFs were including in the Continuing Appropriations Act, 2021 and Other Extensions Act. This law extended and modified the repayment schedule. Additionally, the law fixed the interest rate at 4%. Normally, AAP payment extensions are subject to the Treasury Department's given interest rate. Access to these provisions offer more time to repay and more predictability through a fix interest rate.

Based on the statutorily defined schedule, SNFs should assess their cash flow for quarter two of 2021. For an AHCA overview of the repayment schedule, additional AAP information (including options to request payment extensions), and MAC webpages, click [here](#).

To review the CMS FAQs, click here: <https://www.cms.gov/files/document/covid-advance-accelerated-payment-faqs.pdf>

CMS Releases ICF/IID Visitation Guidance

CMS recently released a [memo](#) on new visitation guidance at Intermediate Care Facilities for Individuals with Intellectual Disabilities (ICF/IIDs) and Psychiatric Residential Treatment Facilities (PRTFs) during COVID-19. According to CMS, the guidance provides ways an ICF/IID and PRTF can more safely facilitate in-person visitation and address the

psychosocial needs of the residents. CMS also encourage all ICF/IIDs and PRTFs to monitor the CDC website for information and resources and contact their health department when needed.

Answering Employer COVID-19 Vaccination Questions

Courtesy of Preti Flaherty
Peter Callaghan, Director in Employment Law Group

May we mandate the COVID-19 vaccine for our employees?

Yes. It is permissible but employers should carefully analyze whether they want to mandate vaccination or strongly encourage it. A mandate may implicate the ADA, Title VII, GINA and others. If an employee voices a religious objection or is unable to be vaccinated on account of a disability, an accommodation excusing the employee from the vaccine requirement may be in order. A mandate may also lead to morale problems or present difficult decisions about handling those who do not comply. [The EEOC issued a guidance on December 16, 2020](#) that should be consulted.

May we offer incentives to employees to receive the vaccine?

Yes. Employers considering incentives, such as time off, cash payments or gifts, should review whether such a program may be viewed as discriminatory. The ADA restricts incentives as part of wellness programs and screening questions that elicit medical information may trigger the ADA. Consider how to handle those who have a religious objection to the vaccine or who are unable to be vaccinated due to a disability: should those employees nevertheless receive the incentive. Attempting to screen those employees for why they are not vaccinated may lead to impermissible medical inquiries. The EEOC was asked for guidance this month by the business community and may provide the guidance to address these thorny issues.

How do we treat employees who do not receive the vaccine?

Carefully. The answer depends on the reason why the person is not vaccinated despite being eligible. If someone refuses, that person could be prevented from coming to work and could be terminated. But if the person is not vaccinated due to a religious objection or medical condition, the employer should take steps to explore whether and how to accommodate that person, such as restructuring the work area or work schedules or allowing for remote work. The traditional accommodation rules apply (is it a hardship or is there no viable accommodation) and only after exhausting all options should an unvaccinated employee be terminated. Employers should avoid asking questions that improperly elicit medical information and consider the employer may not want to know the reason someone has not received the vaccine. To protect against these traps, train personnel on what constitutes an impermissible medical inquiry and include warnings to employees that they should not inadvertently disclose protected medical or genetic information.

Is it permissible to require proof of vaccination?

Yes. But strongly consider why that may be requested (is it to relax certain safety practices for example) and how to handle employees who decline to provide the proof. While it may be a valid policy, enforcement may be difficult because it could lead to disputes over religious considerations or medical conditions. If someone declines to provide proof, strict enforcement of all safety guidelines may be the safest response.

Must employers continue to follow safe practice guidelines?

Yes. Everyone remains at some risk at this time. Those who have been vaccinated are protected, but they may still transmit the virus. And the science is uncertain about whether the vaccine is completely effective against variants. Some employees may not be vaccinated and remain at risk. At present it is unknown how long those who have been infected and recovered are immune and when they could be re-infected. The best practice to maintain a safe workplace for all employees and visitors is to continue to follow the federal and state guidelines, including use of face coverings, physical distancing, signage, cleanliness, remote work, travel restrictions and others. [OSHA issued an updated guidance on January 29, 2021](#) recommending that employers continue to employ safety measures for both vaccinated and unvaccinated employees. The CDC also recommends continued adherence to these safety measures.

Sincerely,

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