

United States Senate

November 12, 2021

The Honorable Chiquita Brooks-LaSure
Administrator
Centers for Medicare and Medicaid Services
P.O. Box 8016
Baltimore, Maryland 21244-8013

Dear Administrator Brooks-LaSure,

On November 4, 2021, the Centers for Medicare and Medicaid Services (CMS) released the COVID-19 Healthcare Staff Vaccination interim rule (RIN 0938-AU75) for staff at Medicare- and Medicaid-certified providers and suppliers. Since the interim rule was published, I have spoken with Kansas healthcare professionals and providers who are concerned by the deleterious impact of the mandate.

Kansas healthcare providers acknowledge the need for vaccinations and encourage receiving them, but a federal rule requiring their staff to receive the vaccine against their will is far from the right solution. Although it was released only days ago, the CMS Healthcare Staff interim rule is already causing upheaval at both metropolitan and rural facilities. The mandate is directed at the same individuals who have been on the frontlines during the public health emergency, serving steadily despite exhaustion, stress, and long hours. During this time, our healthcare professionals have proven themselves beyond capable of protecting their staff and patients, establishing successful safety protocols that no doubt would continue in the absence of an overreaching, impractical federal government mandate.

The CMS Healthcare Staff Vaccination interim rule will not achieve its stated goal "to help protect the health and safety of residents, clients, patients, PACE participants, and staff."¹ Instead, it exacerbates a profession already battling staffing shortage and burnout, threatens Americans' access to care by causing staff resignations, and increases the risk of healthcare facility closures, especially in rural communities and Health Professional Shortage Areas.

Rescinding the COVID-19 Healthcare Staff Vaccination interim rule would certainly be the best solution, and I call on you and the Biden Administration to do so. However, if the rule is to stand, it is essential to make it more workable and realistic for healthcare providers.

From my conversations with Kansas healthcare professionals and CEOs, we have identified two particular provisions that would make the interim rule less harmful. The first suggestion is to include a testing option for staff who do not wish to receive the vaccine and allow the employers to decide if they or the employee will pay for the testing. Numerous CEOs I have spoken with inform me that a testing option will slow the hemorrhage of staff they are experiencing and will allow dedicated nurses and doctors to keep their positions.

¹ [2021-23831.pdf \(federalregister.gov\)](#)

Second, the interim rule will be particularly detrimental to rural hospitals and facilities in Health Professional Shortage Areas, which already run operations with a small number of staff. These facilities should be given additional flexibility in order to prevent them from having to close a department within the hospital or shutter their hospital completely due to lack of adequate staffing levels. Whether or not the country is under a public health emergency, neither CMS nor the Department of Health and Human Services (HHS) should ever accept the reality of a federal mandate giving rise to the circumstances that cause a rural hospital to close.

Vaccination is important in getting our country back to normal, and, according to Centers for Disease Control and Prevention (CDC) data accessed on November 9, 2021, 67.5% of the U.S. population has received at least one dose of a COVID-19 vaccine.² Implementing a strict federal mandate such as the CMS Healthcare Staff Vaccination interim rule will only generate a set of new complications, potentially costing more lives than it will otherwise save.

I urge you to reconsider and issue updated guidelines. Thank you for your consideration of rescinding the rule or in the absence of rescission, significant modification.

Best Regards,


Jerry Moran

² https://covid.cdc.gov/covid-data-tracker/#vaccinations_vacc-total-admin-rate-total