CMS Suspends Enforcement of Vaccine Mandate in Response to Court-Ordered Injunctions

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As noted in our recent article "Enforcement of CMS Vaccine Mandate Blocked Nationwide," on November 29 and 30, U.S. District Courts for the Eastern District of Missouri and the Western District of Louisiana issued preliminary injunctions temporarily restricting the Centers for Medicare and Medicaid Services ("CMS") from implementing and enforcing its vaccine mandate ("Mandate").

On December 2, CMS recognized the impact of those two court Orders. It notified state survey agency directors that "it has suspended activities related to the implementation and enforcement of [its vaccine mandate] pending future developments in the litigation." CMS emphasized that while the preliminary injunctions are in effect, "surveyors must not survey providers for compliance with the requirements of [the vaccine mandate]."

CMS's course of action should give some comfort to covered providers and suppliers who continue to take a wait-and-see approach and have paused their timelines on COVID vaccine mandates for employees. Because uncertainty continues to dominate the legal landscape, covered providers and suppliers should carefully chart their next steps with legal counsel.

Frost Brown Todd continues to closely monitor the various legal developments concerning the CMS Mandate. For more information about this article, please contact Catherine Burgett, Jeff Shoskin, Anne Duprey, or any attorney in Frost Brown Todd's Labor and Employment Practice Group.

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