



## PACE Weekly: Recap of LeadingAge Updates

January 7, 2022

**LeadingAge Coronavirus Update Calls.** Having problems parsing CDC quarantine/isolation guidelines for “everyone” versus those for health care workers? You’re not alone. Check out our **Monday, January 10 3:30 PM ET Update call** to hear from Dr. Nimalie Stone of CDC. She will explain the most recent CDC guidance on isolation after a positive test, the December 23 updated [recommendations for healthcare personnel](#) and [strategies for mitigating staffing shortages](#), CDC’s work to promote boosters and other CDC issues. As always, Nimalie will explain things clearly and directly and take caller questions. If you haven’t registered for LeadingAge Update Calls, [you can do so here](#).

**Treasury Releases Final Rule on State and Local Relief Funds.** Today, the Department of the Treasury issued its final rule on the \$350 billion state and local fiscal recovery funds programs. These funds were provided by Congress to state and local governments by the American Rescue Plan in 2021. States and local governments were allocated the funds in 2021 and have been spending the funds at a brisk pace under the guidelines of a May 2021 interim final rule. The January 6 final rule provides some changes, clarification and flexibilities to the interim final rule. One change provides an expanded set of households and communities that are presumed to be “impacted” and “disproportionately impacted” by the pandemic, thereby allowing recipients to provide responses to a broad set of households and entities without requiring additional analysis. Further, the final rule provides a broader set of uses available for these communities as part of COVID19 public health and economic response, including making affordable housing, childcare, early learning, and services to address learning loss during the pandemic eligible in all impacted communities and making certain community development and neighborhood revitalization activities eligible for disproportionately impacted communities.

The final rule also offers more streamlined options to provide premium pay, by broadening the share of eligible workers who can receive premium pay without a written justification while maintaining a focus on lower-income and frontline workers performing essential work. The interim final rule also clarifies how state and local recipients can identify impacted nonprofits to help with loans or grants to mitigate financial hardship by looking at decreased revenue (e.g., from donations and fees), at increased costs (e.g., uncompensated increases in service need), at capacity to weather financial hardship, and at challenges covering payroll, rent or mortgage, and other operating costs. The final rule also expands the types of communities that can use their funds for affordable housing development. “Treasury has determined that ... the development of affordable housing to increase supply of affordable and high-quality living units are responsive to the needs of impacted populations, not only disproportionately impacted populations. This final rule reflects this clarification and builds on the objectives stated in the interim final rule to improve access to stable, affordable housing, including through interventions that increase the supply of affordable and high-quality living units, improve housing security, and support durable and sustainable homeownership,” the final rule says. The full final rule is [here](#), a summary of the final rule is [here](#).

**Updates to COVID-19 Return to Work and Vaccine Toolkits.** With the CMS and CDC new guidance and updates, the following toolkits, policy and procedures and forms have been updated:

- COVID - 19 Vaccine Employee Policy
- Screening and Monitoring - Return to Work criteria policy and procedure, including new grid from CDC update from 12/23
- Sample LOG for vaccine documentation
- Sample Religious Exemption Form
- Sample Medical Exemption Form

You can find the updates and forms [here](#).

**US Supreme Court Oral Arguments on CMS IFR and OSHA ETS.** Here is the link to the [US Supreme Court webpage](#). There you will find all the briefs that have been filed by the parties involved in the challenges to the CMS IRF and the OSHA Vaccination and Testing ETS. The Supreme Court will hear oral arguments on both cases starting at 10:00 AM ET on Friday, January 7. There is a link on the webpage to listen live to the oral arguments on Friday. We anticipate a decision to be issued relatively soon after the oral arguments and will forward it as soon as it is released.

#### **More on the CMS Interim Final Rule and OSHA Emergency Temporary Standard**

- **OSHA ETS Enforcement**

As we await for the Supreme Court decision, the [OSHA Vaccination and Testing ETS](#) remains in effect. OSHA will not issue any citations for noncompliance with any ETS requirement until January 10<sup>th</sup> and will not issue any citation for noncompliance with the testing provisions of the ETS until February 9<sup>th</sup> so long as employers are exercising reasonable, good faith efforts to come into compliance with the standard. All providers should be preparing diligently to comply with the OSHA Vaccination and Testing ETS. Moreover, now that the June 2021 Healthcare ETS has expired, the OSHA Vaccination and Testing ETS now applies to all providers with 100 or more employees.

Note - the recordkeeping provisions of the June Healthcare ETS are still in place and OSHA plans to enforce workplace safety through the OSHA general duty clause so providers need to continue to ensure a safe workplace under OSHA rules. The medical removal benefits, however, are no longer in effect.

- **CMS IFR Enforcement**

On December 28<sup>th</sup>, CMS updated its [guidance](#) and is now moving forward with enforcing the vaccine mandate in the 25 states where there is not an injunction in place. CMS updated the vaccine mandate compliance dates to January 27<sup>th</sup> (phase 1) and February 28<sup>th</sup> (phase 2) respectively, and the guidance contains additional information on how it will be enforced. Also, providers must be prepared to comply with the OSHA Vaccination and Testing ETS – especially those that are in states where an injunction of the CMR IFR rule is currently in place. For those in state where the CMS rule being enforced they need to comply with any OSHA ETS requirements that fall outside of the CMS IFR.

We realize how much of a mess this is for providers currently and hopefully the Supreme Court decision will clarify these issues – one way or the other.

Here is a [summary](#) that addresses the OSHA Healthcare ETS expiration and another [article](#) that discusses the interplay between the OSHA and CMS rules.

**Dispelling COVID Myths QuickCast.** In this 20-minute QuickCast in the LeadingAge Learning Hub, Dee Pekruhn separates fact from myth when it comes to getting vaccinated, and provides a curated list of resources for building confidence in COVID vaccines. You can access it by clicking [here](#).

**CDC Shortens Booster timing recommendation.** CDC revised its guidance on [Booster Shots](#) today to shorten the time from the last primary dose to the booster for Pfizer-BioNTech. The new interval is five months. It is still six months for Moderna.

**Senators send letter to Secretary Becerra on testing.** Senator Blunt (R-MO) and Senator Burr (R-NC) sent a letter to Secretary Becerra about testing and how the money allocated for testing in the various COVID relief vehicles is being used. You can find the letter [here](#). We will follow up with both offices to thank them for their efforts and to monitor the Administration's responses.

**HHS Monoclonal Antibodies distributions for this week.** Here is [the table of state by state distribution of Monoclonal Antibodies](#) (mAB) for the week of January 3-9. Reminder that mAB treatment has been found to not be effective for treating Omicron variant cases.