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Mr. John Blue
Alabama Council of Emergency Medical Services

Re: Injunction Prohibiting Implementing of CMS “Omnibus COVID-19 Health Care Staff Vaccination Interim Final Rule”

Dear Mr. Blue:

On November 30, in a lawsuit filed by the State of Alabama, State of Louisiana, and several other states in a federal district court in Louisiana, the court issued a preliminary injunction order prohibiting U.S. Department of Health and Human Services and the Center for Medicare and Medicaid Services from implementing the “Omnibus COVID-19 Health Care Staff Vaccination Interim Final Rule” (the “CMS Mandate”). It says: “[T]he U.S. Department of Health and Human Services and the Center for Medicare and Medicaid Services, along with their directors, employees, Administrators and Secretaries are hereby ENJOINED and RESTRAINED from implementing the CMS Mandate set forth in 86 Fed. Reg. 61555-01 (November 5, 2021), as to all healthcare providers, suppliers, owners, employees, and all others covered by said CMS Mandate.” This order applies in all states. Though in my previous letter I stated that the CMS Mandate does not apply directly to EMS providers, if an EMS provider is covered because of a contract with a provider subject to the CMS Mandate, while this order is in effect compliance with the CMS Mandate is not required.

This injunction could be reversed on appeal by the Fifth Circuit Court of Appeals (though that is unlikely since that court already has entered an order enjoining the similar but less onerous OSHA mandate), or on an appeal after that to the U.S. Supreme Court. It could even be vacated later by the court that entered it. But for now, compliance is not required.

If you have any questions, please contact me.

Sincerely,



Michael L. Jackson