



Surveying for the New Staff Vaccination Rule



Long-Term Care Surveyor Training

October 2022

1

Hello, and welcome to the Long-Term Care Surveyor Training for the new Staff Vaccination Requirement.

CMS-3415-IFC

- On November 5, 2021, CMS published CMS-3415-IFC entitled, “**Medicare and Medicaid Programs; Omnibus COVID-19 Health Care Staff Vaccination,**” revising the infection control requirements that most Medicare- and Medicaid-participating Facilities and suppliers must meet to participate in the Medicare and Medicaid programs.
- The rule requires each facility develop and implement policies and procedures to ensure all staff, regardless of clinical responsibility or resident contact, are fully vaccinated for COVID-19.
- The long-term care requirements will be located in the new federal tag F888

2

On November 5, 2021, CMS published an interim final rule, CMS-3415-IFC entitled, “**Medicare and Medicaid Programs; Omnibus COVID-19 Health Care Staff Vaccination,**” revising the infection control requirements that most Medicare- and Medicaid-participating Facilities and suppliers must meet to participate in the Medicare and Medicaid programs.

The rule requires each facility develop and implement policies and procedures to ensure all staff, regardless of clinical responsibility or resident contact, are fully vaccinated for COVID-19.

The long-term care requirements will be located in the new federal tag F888.

Key Term

Staff

- Refers to individuals who provide any care, treatment, or other services for the facility and/or its residents.
- Includes facility employees, individuals under contract or arrangement, such as hospice and dialysis staff, therapists, mental health professionals, licensed practitioners, adult students, trainees or volunteers.
- Staff would not include anyone who provides **only** telehealth or support services outside of the facility and **does not** have direct contact with residents and other staff.
- Facilities are not required to ensure the vaccination of individuals who very infrequently provide ad hoc, non-health care services (such as annual elevator inspection or services performed exclusively off-site).

3

One of the key terms we'd like to highlight is "Staff".

Staff Refers to individuals who provide any care, treatment, or other services for the facility and/or its residents.

Includes facility employees, individuals under contract or arrangement, such as hospice and dialysis staff, therapists, mental health professionals, licensed practitioners, adult students, trainees or volunteers.

Staff would not include anyone who provides **only** telehealth or support services outside of the facility and **does not** have direct contact with residents and other staff.

Facilities are not required to ensure the vaccination of individuals who very infrequently provide ad hoc, non-health care services (such as annual elevator inspection or services performed exclusively off-site).

Policies and Procedures Overview

Facilities must have policies and procedures that include processes for ensuring:

- All staff have received at least a single-dose COVID-19 vaccine or the first dose of a multi-dose COVID-19 vaccine series prior to providing any care or services;
- All staff, except those granted an exemption or for whom the vaccine must be temporarily delayed, are fully vaccinated for COVID-19.
- Those staff who are not fully vaccinated adhere to additional precautions in order to mitigate the spread of COVID-19;
- Staff are able to request an exemption from vaccination for medical or non-medical reasons;

4

Facilities must have policies and procedures that include processes for ensuring:

All staff have received at least a single-dose COVID-19 vaccine or the first dose of a multi-dose COVID-19 vaccine series prior to providing any care or services;

All staff, except those granted an exemption or for whom the vaccine must be temporarily delayed, are fully vaccinated for COVID-19.

Those staff who are not fully vaccinated adhere to additional precautions in order to mitigate the spread of COVID-19;

Staff are able to request an exemption from vaccination for medical or non-medical reasons;

Policies and Procedures Overview (cont.)

Facilities must have policies and procedures that include processes for:

- Ensuring documentation for medical exemption requests contains all of the necessary information;
- Tracking and securely documenting
 - each staff member's vaccination status, including any booster doses received,
 - staff who have requested and were granted an exemption to vaccination,
 - staff for whom the vaccine must be temporarily delayed; and
- Contingency plans for staff who are not fully vaccinated.

5

Policies and Procedures must include processes to ensure documentation for medical exemptions contain all necessary information, and tracks and securely documents the following:

Each staff member's vaccination status, including any boosters received;

Each staff who has requested and been granted an exemption to vaccination; and

Each staff for whom the vaccine must be temporarily delayed.

Policies and Procedures must also include processes for contingency plans for staff who are not fully vaccinated.

Additional Precautions

- *Facilities have discretion to choose which additional precautions to implement that align with the intent of the regulation which is intended to “mitigate the transmission and spread of COVID-19 for all staff who are not fully vaccinated”.*
- Facilities may also consult with their local health department to identify other actions that can potentially reduce the risk of COVID-19 transmission by staff who are not fully vaccinated.

6

For Additional Precautions

Facilities have discretion to can choose which additional precautions to implement that align with the intent of the regulation which is intended to “mitigate the transmission and spread of COVID-19 for all staff who are not fully vaccinated”.

Facilities may also consult with their local health department for other actions to reduce transmission.

Exemptions from Staff Vaccination Requirements

- Facilities must have a process for staff to request an exemption from COVID-19 vaccination based on recognized clinical contraindications or applicable Federal laws addressing religious exemptions.
- The process should:
 - identify how an exemption is requested;
 - identify to whom the request must be made;
 - include collection and evaluation of exemption requests; **and**
 - include secure documentation and tracking of exemption request information.

Note: Staff who are unable to furnish proper documentation must be vaccinated or the facility must follow the actions for unvaccinated staff.

7

As required by the rule, facilities must have a process for staff to request an exemption from vaccination that is based on recognized clinical contraindications or applicable federal laws which address religious exemptions. The process should:
Identify how an exemption is requested, and to whom the request must be made;
Address the collection and evaluation of each exemption request, and include secure documentation and tracking of exemption request information. Staff who are unable to furnish proper documentation must be vaccinated or the facility must follow the actions for unvaccinated staff.

Exemptions from Vaccination Requirements

Certain allergies or medical conditions may provide grounds for a medical exemption

- In general, CDC considers a history of a severe allergic reaction (e.g., anaphylaxis) after a previous dose or to a component of the COVID-19 vaccine, an immediate allergic reaction of any severity to a previous dose, or known allergy to a component of the vaccine, to be a contraindication to COVID-19 vaccination. See the CDC's [Summary Document for Interim Clinical Considerations for Use of COVID-19 Vaccines Currently Authorized in the United States](#).
- Staff who requests a medical exemption from COVID-19 vaccination must provide documentation containing all of the required information.

Certain federal laws may provide grounds for a non-medical exemption

- Requests for non-medical exemptions, such as a religious exemption in accordance with Title VII, must be documented and evaluated in accordance with applicable federal law and each facility's policies and procedures.

8

Certain allergies or medical conditions may provide grounds for a medical exemption. CDC considers a history of a severe allergic reaction (e.g., anaphylaxis) after a previous dose or to a component of the COVID-19 vaccine, an immediate allergic reaction of any severity to a previous dose, or known allergy to a component of the vaccine, to be a contraindication to COVID-19 vaccination. Staff who requests a medical exemption from COVID-19 vaccination must provide documentation containing all of the required information.

Certain federal laws may provide grounds for a non-medical exemption

Requests for non-medical exemptions, such as a religious exemption in accordance with Title VII, must be documented and evaluated in accordance with applicable federal law and each facility's policies and procedures. Surveyors will not evaluate the details of the non-medical exemption request, or the rationale for the facility's acceptance or denial of the request, rather only ensure there is a process for requesting such exemption.

Temporarily Delayed Vaccination (*Revised*)

- In addition to medical contraindications, CDC recommends temporarily delaying administration of a COVID-19 vaccination due to clinical considerations such as: known COVID-19 infection until recovery from the acute illness (if symptoms were present) and criteria to discontinue isolation have been met.
- See the CDC's Summary Document for Interim Clinical Considerations for all clinical precautions. <https://www.cdc.gov/vaccines/covid-19/downloads/summary-interim-clinical-considerations.pdf>
- Facilities must have a process to securely document and track the status of staff for whom vaccination is temporarily delayed.

9

CDC recommends temporarily delaying administration of a COVID-19 vaccination due to clinical **considerations** such as:

individuals with **known COVID-19 infection until recovery from the acute illness (if symptoms were present) and criteria to discontinue isolation have been met.**

For more information you can go to the CDC website listed on the slide.

Facilities must have a process to securely document and track the status of staff for whom vaccination is temporarily delayed.

Contingency Plans

Facilities are required to have contingency plans for staff who are not fully vaccinated and should:

- Include actions the facility will take when staff decline vaccination and do not qualify for an exemption, such as:
 - establishing a deadline for staff to receive a single-dose vaccine or the first dose of a multi-dose vaccine,
 - obtaining temporary vaccinated staff until permanent vaccinated staff can be hired,
 - actively seeking vaccinated staff through advertising.
- Address staff who are not fully vaccinated due to an exemption or temporary delay in vaccination, such as implementing additional precautions.

10

Facilities are required to have contingency plans for staff who are not fully vaccinated. These plans should:

Include actions that will be taken when staff decline vaccination and do not qualify for an exemption, such as:

- deadlines for staff to receive a single-dose vaccine or the first dose of a multi-dose vaccine,
- obtaining temporary vaccinated staff until permanent vaccinated staff can be hired,
- seeking vaccinated staff through advertising.

Contingency plans should address staff who are not fully vaccinated due to an exemption or temporary delay in vaccination, such as implementing additional precautions.

Contingency Plans

Review facility records and **interview staff** to confirm the facility has implemented their contingency plan, if needed, by:

- verifying the actions taken for any staff who indicated they would not get vaccinated and did not qualify for an exemption.
- asking when staff was given a deadline to receive the first dose of a vaccine? Confirm the date.
- identifying what actions were taken, if the deadline has passed.

11

Surveyors should review records and **interview staff** to confirm the facility has implemented their contingency plan, if needed, by:

verifying the actions taken for staff who would not get vaccinated and did not qualify for an exemption.

asking when a deadline to receive the first dose of a vaccine was given? Confirm the date.

identify what actions were taken, if the deadline has passed.

Survey Process for Compliance (*Revised*)

- Surveyors will investigate for compliance with *staff vaccination* requirements as part of initial, standard recertification, and complaint surveys *specifically alleging noncompliance with the requirements, F888*.
- Updated survey tools include:
 - CMS 20054, Infection Prevention, Control & Immunizations.
 - LTCSP Procedure Guide,
 - COVID-19 Focused Infection Control (FIC) Survey Protocol,
 - Entrance Conference Worksheet, and
 - COVID-19 Staff Vaccination Matrix

12

Surveyors will investigate for compliance with these requirements as part of initial, standard recertification, and *complaint surveys specifically alleging noncompliance with the requirements, F888*. Updated Survey tools include:

- CMS 20054, Infection Prevention, Control & Immunizations,
- LTCSP Procedure Guide,
- COVID-19 Focused Infection Control (FIC) Survey Protocol,
- Entrance Conference Worksheet, and
- COVID-19 Staff Vaccination Matrix

Offsite Preparation (*Revised*)

- ***If there is a complaint or concern specific to NHSN***, obtain the facility's staff COVID-19 vaccination data from NHSN.
 - NHSN staff vaccination data for each facility are accessible through a link provided in the IPC Task and on the CMS [COVID-19 Nursing Home Data](#) webpage.
 - The facility's vaccination rate is listed in the column titled, "Recent Percentage of Staff who are Fully Vaccinated."
- **Record** the percentage of staff from the column above in the IPC Task.

13

*Now, surveyors are not required to verify the accuracy of National Healthcare Safety Network (NHSN) data however they may use discretion to do so when there is a concern or complaint. As part of Offsite Preparation, if there is a complaint or concern specific to NHSN, surveyors will begin by comparing the facility's staff vaccination data provided to the surveyors with what is reported to NHSN. Instructions over the next several slides will describe this process. First, **obtain** the facility's staff COVID-19 vaccination data from NHSN. The data can be obtained through a link provided in the IPC Task and on the CMS [COVID-19 Nursing Home Data](#) webpage.*

The facility's vaccination rate is listed in the column titled, "Recent Percentage of Staff who are Fully Vaccinated."

Record the percentage of staff from the column above in the IPC Task.

Entrance Conference (*Revised*)

Request the following documentation *when conducting a full review of compliance at F888*:

- COVID-19 policies and procedures for staff vaccination; and
- A list of staff (refer to COVID-19 Staff Vaccination Matrix) and their vaccination status, including:
 - the title, position, and assigned work area of each staff member

Note: Facilities may use the COVID-19 Vaccination Matrix for Staff or provide their own list of all staff as long as all information requested by the surveyor is included.

Facility staff who have been suspended or are on extended leave e.g., Family and Medical Leave Act (FMLA) leave, or Worker's Compensation Leave, would not count as unvaccinated staff for the determining compliance.

14

During the Entrance conference the surveyor **ONLY Requests the following *when conducting a full review of compliance at F888***:

Policies and procedures for staff vaccination; **and**

A list of staff (refer to COVID-19 Staff Vaccination Matrix) **and** their vaccination status, including:

- the title, position, and assigned

work area of each staff member

Note: Facilities may use the COVID-19 Vaccination Matrix for Staff or provide their own list of all staff as long as all information requested by the surveyor is included.

Facility staff who have been suspended or are on extended leave e.g., Family and Medical Leave Act (FMLA) leave, or Worker's Compensation Leave, would not count as unvaccinated staff for the determining compliance.

Entrance Conference cont. (Revised)

Request the following documentation *when conducting a full review of compliance at F888*:

- Ask the facility how they ensure their contractor staff are compliant with the vaccination requirement.
- List of contract companies that provide services to the facility/residents with the following information:
 - The name of the contract company; and
 - whether the company provides direct care or non-direct care; and
 - how often services are provided (e.g., daily, weekly); and
 - the approximate number of contract staff provided by the company.

15

During the Entrance conference the surveyor **ONLY Requests** the following *when conducting a full review of compliance at F888*:

- Information on how the facility ensures that their contractor staff are compliant with the vaccination requirement.
- A list of contract companies that provide services to the facility/residents which includes:
 - The name of the contract company; and
 - whether the company provides direct care or non-direct care; and
 - how often services are provided (e.g., daily, weekly); and
 - the approximate number of contract staff provided by the company.

Investigative Procedures *(Revised)*

When there is a complaint or concern related to NHSN, compare the NHSN data retrieved during offsite prep to the staff vaccination information provided by the facility. The percent of staff vaccinated obtained from NHSN and provided by the facility should be reasonably consistent, but may not be exactly the same due to reporting lag time.

- If there is a 10% or less difference between the NHSN data and data obtained onsite, no further investigation is required.
- If there is a 10% or greater difference, interview facility staff and review the documentation to determine which source is incorrect and the explanation for the discrepancy.

16

When there is a complaint or concern related to NHSN, the survey team will compare the NHSN data retrieved during offsite prep to the staff vaccination information provided by the facility. The percent of staff vaccinated obtained from NHSN and provided by the facility should be reasonably consistent, but may not be exactly the same due to reporting lag time.

If there is a 10% or less difference between the NHSN data and data obtained onsite, no further investigation is required.

If there is a 10% or greater difference, determine which source is incorrect and the explanation for the discrepancy.

Investigative Procedures

- If it is determined the information presented by the facility is incorrect and NHSN is correct, or both sources are incorrect, this likely demonstrates the facility's failure to have a process for tracking and securely documenting the COVID-19 vaccination status for all staff, consider citing F888.
- If it is determined the information reported to NHSN is incorrect and the information reviewed onsite is correct, the surveyor should instruct the facility to immediately correct the NHSN information.
- If the surveyor identifies that a data field is blank, instruct facilities to obtain additional information on submitting data to NHSN by emailing NH_COVID_Data@cms.hhs.gov.

Note: The determination that one source is incorrect does not automatically infer that the other source is correct.

17

If the facility information is incorrect and NHSN is correct, or both sources are incorrect, it is likely the facility has failed to have a process for tracking and securely documenting, consider citing F888.

If the information reported to NHSN is incorrect, and information reviewed onsite is correct, instruct the facility to immediately correct the NHSN information.

If the surveyor identifies that a data field is blank, instruct facilities to obtain additional information on submitting data to NHSN by emailing NH_COVID_Data@cms.hhs.gov.

Staff Vaccination Formula *(Revised)*

For the purpose of calculating the staff vaccination rate, staff are considered vaccinated when they receive the COVID-19 vaccination. The 14-day waiting period, as defined by the CDC, does not have to occur for the staff to be included in the vaccination rate.

$$\% \text{Vaccinated} = \frac{\# \text{ Completely vaccinated (6)} + \# \text{ Granted exemption (8 and 9)} + \# \text{ Temporarily delayed (10)}}{\# \text{ of total staff}} \times 100$$

Note: Numbers in parentheses correspond with the columns in Staff Vaccination Matrix

Note: If the facility's staff vaccination rate is below 100% because of newly hired staff, who are not yet eligible to receive the second dose in a two-dose series, the facility will be considered compliant with the 100% staff vaccination requirement.

18

This slide shows the staff vaccination formula. Surveyors should note that for purposes of calculating the staff vaccination rate, staff are considered vaccinated when they receive a COVID-19 vaccination. The 14 day waiting period does not have to occur to include the staff in the vaccination rate. If the facility's staff vaccination rate is below 100% because of newly hired staff, who are not yet eligible to receive the second dose in a two-dose series, the facility will be considered compliant with the 100% staff vaccination requirement.

Compliance determination at F888

The facility is **compliant** if it demonstrates:

- All policies and procedures have been developed and implemented, **and**
- 100% of staff have received a single-dose vaccine, all doses of a multi-dose vaccine, have been granted an exemption, or have a temporary delay.

19

A facility is considered compliant if it demonstrates that all policies and procedures have been developed and implemented, and 100% of all staff have received the necessary doses to complete the primary vaccine series, which means a single dose vaccine, or all doses of a multiple dose vaccine series, or have been granted an exemption, or have been identified as having a temporary delay for vaccination.

Example #1

The Facility employs 304 staff. 133 staff received all doses of a multi-dose vaccine, 167 received a single-dose vaccine, 1 has been granted a medical exemption, and 3 have been granted a non-medical exemption.

- $133 + 167 + 1 + 3 = 304$ $304 \div 304 = 1 \times 100 =$ **100% of staff** are vaccinated, have a granted exemption, or have a temporary delay.
- The Facility is compliant with the 100% vaccination requirement and will not be cited for non-compliance related to staff vaccination rate.
- The Facility may still be cited if non-compliance with the other requirements (e.g., policies and procedures) is identified.

20

Here is an example of calculating the percent of staff vaccinated at 90 days: The Facility employs 304 staff. 133 staff received all doses of a multi-dose vaccine, 167 received a single-dose vaccine, 1 has been granted a medical exemption, and 3 have been granted a non-medical exemption.

$133 + 167 + 1 + 3 = 304$ $304 \div 304 = 1 \times 100 =$ **100% of staff** are vaccinated, have a granted exemption, or have a temporary delay.

The Facility is compliant with the 100% vaccination requirement and will not be cited for non-compliance related to staff vaccination rate.

The Facility may still be cited if non-compliance with the other requirements (e.g., policies and procedures) is identified.

Example #2

The Facility employs 156 staff. 119 staff received all doses of a multi-dose vaccine, 28 received a single-dose vaccine, and 9 received one dose of a multi-dose vaccine.

- $119 + 28 = 147$ $147 \div 156 = 0.942 \times 100 = 94.2$ or **94% of staff** vaccinated, have a granted exemption, or have a temporary delay.
- The Facility is non-compliant with the 100% vaccination requirement and will be cited using tag F888.

21

Another example of calculating the percentage of staff at 90 days: The Facility employs 156 staff. 119 staff received all doses of a multi-dose vaccine, 28 received a single-dose vaccine, and 9 received one dose of a multi-dose vaccine.

$119 + 28 = 147$ $147 \div 156 = 0.942 \times 100 = 94.2$ or **94% of staff** vaccinated, have a granted exemption, or have a temporary delay.

The Facility is non-compliant with the 100% vaccination requirement and will be cited using tag F888.

Investigative Procedures

- **Review** the facility's policies and procedures for staff COVID-19 vaccination.
- **Use** the Infection Prevention, Control & Immunizations Facility Task, along with the interpretive guidance, to investigate and determine if the facility meets the requirements for COVID-19 vaccination of staff.
- **Focus** investigations on staff that provide services in the facility on a regular basis (e.g., weekly).

22

Now we are going to switch gears and talk about how surveyors will investigate for these requirements. Surveyors will review the facility's policies and procedures. You will use the infection prevention, control and Immunizations facility task and interpretive guidance and determine if the facility meets the requirements. Investigations should be focused on staff that provide services in the facility on a regular basis, for example weekly.

Sample Selection (Facility Staff and others) *(Revised)*

Randomly select 4 staff from the completed COVID-19 Staff Vaccination Matrix, as described below, unless concerns exist for specific staff (e.g., complaints, infection control practice observations).

- 2 vaccinated direct care staff
 - 1 certified nurse aide (CNA)
 - 1 additional direct care staff
- 2 unvaccinated staff (if available)
 - 1 unvaccinated staff without exemption or temporary delay
 - 1 unvaccinated staff with a medical exemption

Note: If the surveyor identifies any staff that were not vaccinated and were not granted an exemption or have a temporary delay (and weren't marked as such on the staff matrix), that individual(s) should be added to the sample.

23

The sample selection will include a total of 8 staff for COVID-19 immunization review, which will include 4 staff and 4 contractor staff. Sample selection of staff will include 2 vaccinated direct care staff (1 must be a CNA and the other will be a direct care staff) and 2 unvaccinated staff (1 unvaccinated staff without an exemption or temporary delay and 1 unvaccinated staff with a medical exemption).

Additionally, if the surveyor identifies any staff who are not vaccinated, were not granted an exemption or have a temporary delay, and weren't identified as such on the staff matrix, add the individual(s) to the sample.

Sample Selection (Contracted Staff)

Select 2 contract companies (1 direct care and 1 non-direct care) from the list of contracted companies provided by the facility during the entrance conference.

Ask the facility for a list of contracted staff from each of the two companies selected who are scheduled to provide services during the survey.

Randomly select 2 contracted staff from each list to make up a total of 4 contracted staff:

- 2 non-direct care contracted staff
- 2 direct care contracted staff

Note: If there are no contracted staff scheduled to be onsite during the survey, you do not need to increase the sample size for another category.

24

Sample selection of contracted staff will include 2 direct care contracted staff and 2 non-direct care contracted staff for a total of up to 4 contracted staff.

Select 2 contract companies (1 direct care and 1 non-direct care) from the list of contracted companies provided by the facility during the entrance conference. Ask the facility for a list of contracted staff from each of the 2 companies selected who are scheduled to provide services during the survey. Select 2 non-direct care contracted staff and 2 direct care contracted staff.

If there are no contracted staff scheduled during the survey time period, surveyors do not need to increase the sample size of the contracted staff to equal 4.

Record Review of Vaccinated Staff

Review documentation to verify staff vaccination status

- Documentation must demonstrate administration of:
 - a single-dose COVID-19 vaccine, OR
 - all required doses for a multi-dose vaccination series, AND
 - any booster doses received

Note: See requirements at §483.80(d)(3) in F887 for verification and maintenance of documentation related to staff COVID-19 vaccination.

25

In addition to observation and interview, surveyors must review documentation to verify staff vaccination status. Documentation must demonstrate administration of a single dose vaccine, or all required doses for a multi-dose vaccination series, and any booster doses received. Additional information can be found at F887 for verification and maintenance of documentation related to staff vaccination.

Record Review for Medical Exemption Requests

Review documentation for staff who requested a medical exemption to determine if the requests are secure, tracked and contains:

- which COVID-19 vaccine is clinically contraindicated;
- the recognized clinical reason for the contraindication;
- a statement recommending the staff member be exempted from the COVID-19 vaccination requirement; and
- a signature and date by a licensed practitioner, who is not the individual requesting the exemption.

26

Surveyors will review documentation to determine if medical exemption requests are secure, tracked and contain:

which COVID-19 vaccine is clinically contraindicated;

the recognized clinical reason for the contraindication;

a statement recommending the staff be exempted from vaccination requirement; and

a signature and date by a licensed practitioner, who is not the individual requesting the exemption.

Unvaccinated Staff Who Do Not Have an Exemption or Temporary Delay

Interview staff and **Review** documentation for unvaccinated staff without an exemption or temporarily delayed vaccination:

- Are you scheduled to receive a COVID-19 vaccine? If so, confirm it is scheduled.
- If the staff isn't scheduled to receive a vaccine: Did you request an exemption?
- When did the facility become aware staff did not have an exemption or a reason for temporary delay?
- What actions did the facility take to educate and offer COVID-19 vaccines to staff?
- What actions did the facility take when staff indicated that they will not get vaccinated and do not qualify for an exemption?

27

Surveyors should interview staff and **review documentation for unvaccinated staff without an exemption or temporarily delayed vaccination to determine:**

If the staff is scheduled to receive a COVID-19 vaccine? If so, confirm it is scheduled.

If the staff isn't scheduled to receive a vaccine: Did the staff request an exemption?

When did the facility become aware staff did not have an exemption or a reason for temporary delay?

What actions did the facility take to educate and offer COVID-19 vaccines to staff?

What actions did the facility take when staff indicated that they will not get vaccinated and do not qualify for an exemption?

Compliance Determination for F888 *(Revised)*

- After investigating using the Infection Prevention, Control and Immunizations Facility Task, determine compliance with the requirements using the critical element questions.
- If the facility is non-compliant with the 100% vaccination requirement and/or has not developed and implemented the required policies and procedures, cite F888.
- Failure of contract staff to provide evidence of vaccination status reflects noncompliance and should be cited at F888 under the requirement to have policies and procedures for ensuring that all staff are fully vaccinated, except for those staff who have been granted exemptions or a temporary delay at 483.80(i)(3)(ii).

28

Compliance determination for F888.

Long-term care surveyors will use the Infection Prevention, Control and Immunizations Facility Task, to determine compliance with the requirements using the critical element questions.

If the facility is non-compliant with the 100% vaccination requirement and/or has not developed and implemented the required policies and procedures, cite F888.

Failure for contract staff to provide evidence of vaccination status reflects noncompliance and should be cited at F888 under the requirement to have policies and procedures for ensuring that all staff are fully vaccinated, except for those staff who have been granted exemptions or a temporary delay at 483.80(i)(3)(ii).

Scope and Severity

- *CMS is directing the level of severity and scope for noncompliance at F888 to be cited at severity level 1, with a scope of widespread, or "C." Noncompliance is based on the failure to implement policies and procedures at 483.80(i)(3)(ii).*
- *Situations indicating egregious noncompliance, such as a complete disregard for the requirements, should be cited at severity level 2, with a scope of widespread, or "F." When egregious cases of noncompliance, state survey agencies should notify the CMS location of the information.*

29

After surveyors determine that the facility is non-compliance at F888, CMS direct surveyors to cite at severity level 1, with a scope of widespread, or "C". However, situations indicating egregious noncompliance, such as a complete disregard for the requirements, should be cited at severity level 2, with a scope of widespread, or "F". Examples of egregious noncompliance could include more than 50% of staff being unvaccinated (unless exempted, or temporarily delayed), and/or no policies or procedures as required. When egregious cases of noncompliance, state survey agencies should notify the CMS location of the information.

Plan of Correction and Good Faith Effort

- Facilities must submit a plan of correction (POC) demonstrating a good faith effort to correct the noncompliance.
- Examples of actions which demonstrate a good faith effort include but are not limited to:
 - If the facility has no or has limited access to the vaccine, and the facility has documented attempts to obtain vaccine access (e.g., contact with health department and pharmacies).
 - If the facility provides evidence that they have taken aggressive steps to have all staff vaccinated, such as advertising for new staff, hosting vaccine clinics, etc. For example, if the POC demonstrates that the facility staff vaccination rate is 90% or more, and all policies and procedures were developed and implemented, this would be *considered a good faith effort and the deficiency could be cleared, with the facility returned to substantial compliance.*

30

In regards to the plan of correction (POC) and good faith effort, the facility must submit a plan of correction (POC) to demonstrate a good faith effort to correct the noncompliance. If the POC demonstrates that the facility staff vaccination rate is 90% or more, and all policies and procedures were developed and implemented, this would be considered a good faith effort and the deficiency could be cleared, with the facility returned to substantial compliance.

Modification of F888 Compliance Review

Note: If the facility was determined to be in substantial compliance with F888 within the previous six weeks for staff COVID-19 vaccinations, it is not necessary to conduct a full compliance review of Critical Element (CE) questions pertaining to F888.

31

If the facility was determined to be in substantial compliance with F888 within the previous six weeks for staff COVID-19 vaccinations, surveyors are not required to conduct a full compliance review of Critical Element (CE) questions pertaining to F888.

Resources & Contact Information

- The updated associated survey documents, may be found under the “[Survey Resources](#)” link, in the Downloads section, of the CMS Nursing Homes website.
- The updated documents will also be added to the Long-Term Care Survey Process software application.
- For questions regarding LTC requirements, email: DNH_TriageTeam@cms.hhs.gov.

32

Updated survey documents, may be found under the “[Survey Resources](#)” link, in the Downloads section, of the CMS Nursing Homes website.

The updated documents will also be added to the Long-Term Care Survey Process software application.

For questions regarding LTC requirements, email: DNH_TriageTeam@cms.hhs.gov.