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PRESIDENT BIDEN ANNOUNCES VACCINE MANDATES FOR CERTAIN EMPLOYERS

On September 9, 2021, President Biden unveiled his COVID-19 Action Plan. The following are of particular interest to employers:

FEDERAL CONTRACTORS

The Action Plan announced that the President has issued Executive Orders which require all federal workers and many federal contractors to be vaccinated. There is no alternative for testing in lieu of vaccination.

LARGER EMPLOYERS

In addition to the requirement for federal workers, the Action Plan also directs the Occupational Safety and Health Administration (OSHA) to issue an Emergency Temporary Standard (ETS) requiring employers with 100 or more employees to ensure that their workers are fully vaccinated or alternatively to require any unvaccinated worker to provide proof of a negative test on a weekly basis. As part of the ETS, OSHA will require covered employers to provide paid time off for the time it takes for workers to get vaccinated or to recover if they are under the weather post-vaccination.

HEALTHCARE EMPLOYERS

The Centers for Disease Control will require COVID-19 vaccinations for workers in most healthcare settings that receive Medicare or Medicaid reimbursement, including but not limited to hospitals, dialysis facilities, ambulatory surgical settings, and home health agencies. This follows the vaccination requirement for nursing facilities recently announced by CMS, and will apply to nursing home staff as well as staff in hospitals and other CMS-regulated settings, including clinical staff, individuals providing services under arrangements, volunteers, and staff who are not involved in direct patient, resident, or client care.

Although the Executive Orders requiring vaccinations for federal workers have already been issued, neither OSHA nor the CDC have released the details of the requirements for large employers and healthcare employers. While we recommend that you begin planning for these requirements, we also suggest not setting any policy in stone until they are officially released as the details will likely change in the agency rule-making process. Employers continue to have the option of requiring vaccinations of their

employees, subject to the reasonable accommodation of any medical conditions and religious objections.

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