

## **Federal Courts Block the Federal Contractor and Healthcare Worker Vaccine Mandates for Certain States (Including Ohio)**

**By Morris L. Hawk**

Yesterday, a federal judge in Kentucky issued a preliminary injunction blocking the Biden Administration's COVID-19 vaccine mandate for federal contractors in Kentucky, Ohio and Tennessee, and a federal judge in Louisiana blocked the healthcare worker vaccine mandate for healthcare facilities in Alabama, Arizona, Georgia, Idaho, Indiana, Kentucky, Louisiana Mississippi, Montana, Ohio, Oklahoma, South Carolina, Utah and West Virginia.

In the Kentucky case over the federal contractor mandate, the judge concluded that the federal government had likely exceeded its authority under the Federal Property and Administrative Services Act ("FPASA") in issuing the mandate, holding that the purpose of the FPASA was to promote economical and efficient federal contracting not to promulgate a public health measure. The judge also held that the Plaintiffs were likely to prevail on their claim that the mandate intrudes upon an area of law (public health and safety) that has been traditionally reserved to the States.

Because the Attorneys General of Kentucky, Ohio and Tennessee had challenged the mandate, the judge concluded his injunction was limited to those three states. Thus, at the moment, the January 18th deadline for federal contractor compliance with the mandate remains in effect in other states. The injunction will remain in place until the judge issues a final decision on the merits of the case.

In the Louisiana case challenging the healthcare worker vaccine rule, the judge similarly concluded that an injunction was appropriate because the plaintiff states were likely to succeed on their claim that the Center for Medicare and Medicaid Services exceeded its statutory authority by mandating vaccination for all healthcare workers who worked at facilities receiving Medicare and Medicaid funds.

The two injunctions discussed in this Alert are in addition to the injunction issued against OSHA's Emergency Temporary Standard, which remains in place. The situations as to these injunctions is prone to change quickly, but we will keep you updated on those changes. If you have questions about your company's or organization's obligations as to mandatory vaccines or the vaccine-or-test rule, don't hesitate to let us know.

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