



MassHealth
HCBS Waiver Provider Bulletin 17
February 2022

TO: Acquired Brain Injury (ABI) and Moving Forward Plan (MFP) Waiver Providers
Participating in MassHealth

FROM: Amanda Cassel Kraft, Assistant Secretary for MassHealth

RE: Updated COVID-19 Vaccine Requirements for Home Care Agency Workers

COVID-19 Primary Series Vaccination Requirement

On September 1, 2021, the Baker-Polito administration announced a vaccine requirement for all rest homes, assisted living residences (ALRs), hospice programs, and home care workers providing in-home, direct care services under a state contract or state program as part of a continued effort to protect older adults and more vulnerable populations against COVID-19. On September 8, 2021, the Massachusetts Department of Public Health (DPH) promulgated 105 CMR 159.000: *COVID-19 Vaccinations for Certain Staff Providing Home Care Services in Massachusetts*, which required certain home care workers to receive the COVID-19 vaccine. As described in that regulation, the vaccine requirement applies to home care agency workers (HCAWs), which is defined, in part, as individuals who are employed by a Home and Community-based Waiver Services provider pursuant to [130 CMR 630.000](#) and who provide one or more of the following services defined in that regulation: home health aide, homemaker, occupational therapy, personal care, physical therapy, respite services, skilled nursing services, speech/language therapy, supportive home care aide. This vaccine requirement also applies to Non-Agency (self-employed) Home and Community-based Services Waiver providers. See [105 CMR 159.000](#).

This bulletin communicates updates to the HCAW vaccine requirement previously issued through HCBS Waiver Provider Bulletin 14 to also include a COVID-19 additional dose/booster vaccination requirement. All requirements in HCBS Waiver Provider Bulletin 14 remain in effect.

COVID-19 Primary Series Vaccination Requirement

To implement this requirement for Home and Community-based Services Waiver providers, all HCAWs as defined above, as well as all Non-Agency Home and Community-based Services Waiver providers that provide in-home, direct care services, were required to complete the full required regimen of COVID-19 vaccine doses, or document that they qualify for an exemption by October 31, 2021.

Additional COVID-19 Vaccine Dose/Booster

Pursuant to [COVID-19 Public Health Emergency Order No. 2022-01](#) issued by the Commissioner of Public Health on January 6, 2022, programs, facilities, and personnel subject to COVID-19 vaccination requirements, including home care services, must ensure that all eligible staff who are required to receive the primary COVID-19 vaccination series have received a COVID-19 additional dose or booster vaccination no later than February 28, 2022.

MassHealth
HCBS Waiver Provider Bulletin 17
February 2022
Page 2 of 4

Eligible staff are those who completed their primary COVID-19 vaccination series at least:

- five months prior if they received Pfizer or Moderna, or
- at least two months prior for Johnson & Johnson, or
- such other time period as recommended by the CDC.

A home and community-based services waiver provider agency must ensure that personnel who become eligible to receive a COVID-19 additional dose or booster vaccination on or after February 28, 2022, receive the additional dose or booster vaccination as soon as possible after becoming eligible and no later than three weeks after the date they become eligible.

All new personnel must have received their primary COVID-19 vaccination series by the date they are hired, contracted, or otherwise affiliated with the Agency. New personnel who are eligible by such date must receive the COVID-19 additional dose or booster vaccination as soon as possible and no later than three weeks after such date. New personnel who are not eligible by such date must receive the COVID-19 booster vaccination as soon as possible after becoming eligible and no later than three weeks after they become eligible.

Effective October 31, 2021, a state agency shall not enroll a non-agency home and community-based services waiver provider as defined above if they are not fully vaccinated unless they qualify for an exemption from the requirements. Effective February 28, 2022, all eligible non-agency home and community-based services waiver providers must have received a COVID-19 additional dose or booster vaccination. All non-agency providers personnel who become eligible to receive a COVID-19 additional dose or booster vaccination on or after February 28, 2022 must receive the additional dose or booster vaccination as soon as possible after becoming eligible and no later than three weeks after the date they become eligible.

Exemptions

Home and Community-based Services Waiver Provider Agencies

In accordance with 105 CMR 159.000, a home and community-based services waiver provider agency is required to provide an exemption from the vaccine requirement under the following circumstances:

- If the vaccine is medically contraindicated, meaning that administration of a COVID-19 vaccine to that individual would likely be detrimental to the individual's health, and the individual can provide documentation demonstrating their need for this exemption, and the individual is able to perform their essential job functions with a reasonable accommodation that is not an undue burden on the agency;
- or
- If the individual objects to vaccination on the basis of a sincerely held religious belief and the individual can provide documentation demonstrating their sincerely held religious belief, and the individual is able to perform their essential job functions with a reasonable accommodation that is not an undue burden on the agency.

Any individual who qualifies for an exemption based on medical contraindication or a sincerely held religious belief is also exempt from the requirement to receive a COVID-19 additional dose or booster vaccination.

Non-Agency (Self-Employed) Home and Community-based Services Waiver Providers

In accordance with 105 CMR 159.000, non-agency (self-employed) home and community-based services waiver providers are exempt from the vaccine requirement under the following circumstances:

- If the vaccine is medically contraindicated, meaning that administration of a COVID-19 vaccine to that individual would likely be detrimental to the individual's health, and the individual can provide documentation demonstrating their need for this exemption;

or

- If the individual objects to vaccination on the basis of a sincerely held religious belief, and the individual can provide documentation demonstrating their sincerely held religious belief.

Any non-agency (self-employed) provider who qualifies for an exemption based on medical contraindication or a sincerely held religious belief is exempt from the requirement to receive a COVID-19 additional dose or booster vaccination.

Implementation

The implementation of this requirement includes reporting, oversight, and enforcement as described below.

Agency Providers

- Every HCAW will be required to submit proof of receiving both the primary series of COVID-19 vaccination as well as a COVID-19 additional dose or booster vaccination no later than February 28, 2022. An HCAW who is not eligible until on or after February 28, 2022, must submit proof of having received the additional dose or booster vaccination as soon as possible after becoming eligible and no later than three weeks after the date they become eligible.
- Appropriate documentation of a medical exemption must be issued by a licensed independent practitioner who has a practitioner/patient relationship with the individual and the documentation must support the finding that the COVID-19 vaccine is medically contraindicated, which means that the vaccine would likely be detrimental to the person's health.
- Agencies are required to collect and maintain proof of vaccination or exemption for all HCAWs the agency employs directly or by contract.
- The agency's COVID-19 HCAW vaccination documentation will be subject to audit by the relevant state agency with which the Agency contracts and/or has a provider agreement.
- Agencies found noncompliant through an audit will be subject to a financial penalty.
- Additionally, agencies may be required to submit regular reporting to MassHealth to ensure compliance with the COVID-19 vaccine requirement and MassHealth reserves the right to implement updated reporting requirements in the future.

**MassHealth
HCBS Waiver Provider Bulletin 17
February 2022
Page 4 of 4**

Non-Agency (Self-Employed) Home and Community-based Services Waiver Providers

- Every non-agency (self-employed) home and community-based services waiver provider will be required to complete a MassHealth Home and Community-based Services Waiver Non-Agency (Self-Employed) Provider COVID-19 Vaccine Booster Attestation Form and share this form with the waiver participant(s) they support by February 28, 2022, or if not eligible until on or after February 28, 2022, the employee must submit the Attestation form as soon as possible after becoming eligible and no later than three weeks after the date they become eligible.
- The waiver participant or their representative has the right to ask a non-agency provider for proof of vaccination or exemption.
- If a non-agency provider is not vaccinated, the waiver participant and/or representative may determine whether to have the non-agency provider who is not vaccinated continue to provide their services or to select a new provider for their services.
- The non-agency provider's COVID-19 vaccination documentation will be subject to audit by MassHealth.
- Non-agency providers that do not submit a COVID-19 Vaccine Booster Attestation Form will be subject to financial penalty.

MassHealth Website

This bulletin is available on the [MassHealth Provider Bulletins](#) web page.

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Questions

If you have any questions about the information in this bulletin, please contact the Disability and Community Services HCBS Provider Network Administration Unit.

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The University of Massachusetts Medical School Disability and Community Services HCBS Provider Network Administration Unit is open 9 a.m. to 5 p.m. ET, Monday through Friday, excluding holidays.

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