



**Commonwealth of Massachusetts**  
**Executive Office of Health and Human Services**  
**Office of Medicaid**  
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**MassHealth**  
**HCBS Waiver Provider Bulletin 18**  
**March 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: Deadline for Vaccine Requirement for Home Care Workers Extended to March 21, 2022**

### **Introduction**

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 requires 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, or 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](#).

On January 6, 2022, the Commissioner of Public Health issued an Order requiring certain programs, facilities, and personnel subject to COVID-19 vaccination requirements as itemized and appearing in applicable regulation to ensure that all eligible personnel received a COVID-19 additional dose or booster vaccination by February 28, 2022. The Order can be found at <https://www.mass.gov/doc/order-of-the-commissioner-of-public-health-covid-19-public-health-emergency-order-no-2022-01/download>

The purpose of this bulletin is to inform you that the deadline for compliance with this requirement is being extended to March 21, 2022, for HCAW, including those providing ABI/MFP Waiver services. 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 March 21, 2022.

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 March 21, 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 March 21, 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.

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**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 March 21, 2022. An HCAW who is not eligible until on or after March 21, 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.

**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 March 21, 2022, or if not eligible until on or after March 21, 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**

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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.