



Boulder Area Human Resource Association

BAHRA Legal Minute October 2021

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A vaccine federal compliance update

- » **December 8, 2021:** Employees of federal contractors/ subcontractors must be fully vaccinated
- » **November, 22, 2021:** Federal employees must be fully vaccinated
- » **Any week now:** OSHA expected to publish Emergency Temporary Standard implementing vaccine mandate for private employers with 100+ employees
 - » Many unanswered qq: How do you count the 100? Are remote workers excluded? Who pays for tests or time to get vaccinated? Exceptions for disabilities and religion? How will employers track vaccines and tests?
 - » Already challenged in court, no idea if, or when, ETS could go into effect

Considering vaccine surcharges? You bet

- » October 2021: DOL and HHS issued FAQ clarifying that employers:
 - » Can incentivize employees by offering discounts on monthly insurance premiums for vaccinated employees
 - » Can impose insurance “surcharges” for unvaccinated employees (for reasons other than due to a medical condition)
- » Must comply with HIPAA wellness guidelines, including allowing a reasonable alternative standard to qualify for the discount on health insurance premiums (e.g., medically inadvisable to be vaccinated due to an existing medical condition); and incentive award (or penalty) cannot be more than 30% of the total cost of employee-only coverage; employer must pay for vaccine shots

Note to HR: Remind employees that e-mails/texts last forever . . . and can have employment consequences



Questions?

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