



---

**INTERNATIONAL UNION, UNITED AUTOMOBILE, AEROSPACE & AGRICULTURAL IMPLEMENT WORKERS OF AMERICA – UAW**

---

RAY CURRY, *PRESIDENT*

FRANK STUGLIN, *SECRETARY-TREASURER*

VICE-PRESIDENTS: CHUCK BROWNING • TERRY DITTES • CINDY ESTRADA

January 14, 2022

TO: All Local Unions

RE: **Supreme Court Decisions on OSHA Emergency Temporary Standard on COVID-19 Vaccination in the Workplace and Centers for Medicare and Medicaid Services Rule on COVID-19 Vaccination for Certain Healthcare Entities**

Greetings:

This communication updates on the status of the Occupational Safety and Health Administration's (OSHA) Emergency Temporary Standard (ETS) on COVID-19 vaccination and testing for employers with 100 or more employees, as well as the Center for Medicare and Medicaid Services' (CMS) Rule on COVID-19 vaccination for certain healthcare entities. On January 13, 2022, the United States Supreme Court reinstated a stay on the OSHA ETS, while lifting a stay on the CMS Rule. This means that as of January 13, 2022, **the OSHA ETS is no longer in effect**. A majority of justices concluded that while OSHA has authority to regulate occupational safety and health, COVID-19 is a broader public health issue that is not limited to the workplace, and therefore a broad public health regulation like the ETS overstepped OSHA's authority. The majority signaled that in the future, OSHA may be able to issue more targeted rules related to occupation-specific COVID-19 risks, such as, for example, "crowded or cramped environments." While litigation over the ETS technically may continue in lower courts, the ETS is enjoined and extremely unlikely to ever be permitted by the courts in its current form. **As a result of the Supreme Court's decision, employers are not required to comply with the ETS, and any decision by an employer that would have been covered by the ETS to require vaccination or testing is subject to bargaining over both the decision and its effects.** Please refer to my earlier communication on this issue for more information about bargaining topics.

The CMS Rule was previously stayed by lower courts, but the U.S. Supreme Court has lifted the stay on that Rule, meaning **the CMS Rule is once again in effect**. Entities covered by the CMS rule include hospitals and other in-patient healthcare facilities, as well as certain community health and outpatient facilities that receive Medicare or Medicaid funding. A fuller description of the CMS Rule, including a list of the specific workplaces to which it applies, is contained in my letter to you dated November 5, 2021. Please refer to that document, and my other earlier communication on COVID-19 vaccination policies, for more information about bargaining topics.

If you need help with effects bargaining or other issues related to vaccine mandates, or with other workplace safety issues related to COVID-19, please contact your Servicing Representative or Regional Director to obtain appropriate assistance from the Legal and/or Health and Safety Departments.

In solidarity,

A handwritten signature in black ink that reads "Ray Curry". The signature is written in a cursive, flowing style.

Ray Curry  
President

RC:bw

opeiu494

cc: International Executive Board  
Assistant Regional Directors  
Top Administrative Assistants  
Tim Bressler  
Todd Brien  
Steve Zimmerla