



Oct. 6, 2021

The following are questions received from Office of Developmental Disabilities Services' (ODDS) providers and Case Management Entities regarding [Administrative Rule 333-019-1010](#), or COVID-19 Vaccination Requirement for Healthcare Providers and Healthcare Staff in Healthcare Settings. This FAQ covers only the Oregon Health Authority (OHA) Administrative Rule.

Category: Who Does This Apply To?

Question: Who does the healthcare provider/healthcare staff vaccination rule apply to in context of intellectual and developmental disabilities (I/DD) services?

Answer: The rule applies to direct support professionals (DSPs), managers and any staff who work in 24-hour group homes and I/DD adult foster care homes and have direct or indirect contact with individuals who are residents of these homes. This may include Case Management Entities who provide regular in-person monitoring of individuals in a 24-hour or I/DD adult foster care home, as outlined in the [Oregon Health Authority FAQ](#).

Question: Does this rule apply to healthcare providers and healthcare staff who work or volunteer in Limited Licensed homes?

Answer: Yes, staff working or volunteering in Limited License and Provisional Licensed homes are included.

Question: Do residents (the individuals in services) have to be vaccinated?

Answer: The rule applies to employees/workers and volunteers of provider agencies or foster homes, not to residents or people supported in services. Residents are encouraged to be vaccinated but this rule does not apply to people receiving services.

Question: Does the rule apply to visitors of the group home or I/DD adult foster home?

Answer: The rule applies to employees/workers and volunteers of provider agencies or foster homes, not to visitors. However, visitors must continue to follow other ODDS rules, including wearing masks indoors and any other

protocols in place. All individuals who are eligible to receive a COVID-19 vaccine are encouraged for the health and safety of everyone to be vaccinated.

Question: Does this apply to individuals who live in a family foster home (family members, for example), but do not provide care as employees?

Answer: The rule applies to employees/workers and volunteers of foster homes, not to family members residing in the home. All individuals who are eligible to receive a COVID-19 vaccine are encouraged for the health and safety of everyone to be vaccinated.

Question: Do Personal Support Workers (PSWs) have to be vaccinated?

Answer: Administrative Rule 333-019-1010 does not require PSWs to be vaccinated if they only provide services in an individual's home that is not licensed, certified or registered with the state. The PSW's employer may require the vaccine as part of their provider requirements separate from this rule.

Question: Based on the definitions of "healthcare workers" and "healthcare settings" in 333-019-1010, is it correct that DSPs employed by Community Living Support (CLS) Agencies will not be required to be vaccinated under this rule, and may still provide negative COVID test results weekly? If this is the case, who is responsible for providing the tests, and will agencies be required to submit weekly reports regarding these test results?

Answer: COVID-19 tests are no longer an option instead of getting vaccinated. Administrative Rule 333-019-1010 does not require in-home agency employees to be vaccinated if they only provide services in an individual's home that is not licensed, certified or registered with the state. However, if a DSP goes into a 24-hour Group Home or I/DD Adult Foster Care home for any reason, including for a meeting, or to pick someone up for transportation, etc., they are required to be vaccinated per this rule.

Question: If this rule does not require DSPs with in-home agencies to be vaccinated based on the definitions, can agencies still choose to require all employees to be vaccinated?

Answer: Yes, agencies can require their employees to be vaccinated.

Question: A clarifying question about supported living and vocational/employment services. Does this mandate include supported living and vocational services?

Answer: For staff who only provide services in an employment setting, Administrative Rule 333-019-1010 does not require these workers to be vaccinated. However, if employment staff go into a 24-Hour Group Home or Adult Foster Care home as part of their regular job duties, such as meetings or to assist someone for transportation, etc., then they must be vaccinated per this rule.

Question: I run an in-home agency. My understanding is we are not included in this, only residential 24-hour type settings?

Answer: Administrative Rule 333-019-1010 does not require in-home agency employees to be vaccinated if they only provide services in an individual's home that is not licensed, certified or registered with the state.

Question: I am a child foster provider with a child living in my home. Does this rule apply?

Answer: No, child foster care providers are excluded from the healthcare provider/healthcare staff vaccination rule.

Question: Does this requirement include front desk/clerical administrative staff that interact in person with people with I/DD?

Answer: Only if the clerical or administrative staff perform work duties in an adult foster or group home or other healthcare setting. Otherwise, vaccination is not required.

Question: The OHA administrative rule does not apply to Brokerage staff, but the Executive Order 21-29 does. Do you share this understanding?

Answer: Administrative Rule 333-019-1010 applies to staff when as part of their regular job duties, Brokerage staff go into a 24-hour residential or Adult Foster Home to provide crisis care coordination for someone leaving in home services to go 24-hour or Adult Foster Care settings, or someone in a 24-hour or Adult Foster Care setting moves to in home services.

Question: For case management staff who do not serve/interact with anyone in a congregate residential setting, are they still required to be vaccinated by October 18?

Answer: Administrative Rule 333-019-1010 applies to staff when as part of their regular job duties, go in person into a 24-hour residential or Adult Foster Care home. Staff that do not go into these settings are not covered by this rule.

Question: We provide in person services for a small number of folks doing employment path in community settings. My understanding is that is new vaccine mandate does not apply to our staff. Is this correct?

Answer: If, as part of your regular job duties, you go into these settings, you are included under the OHA administrative rule.

Question: I have an 18-year-old that is currently residing in a home licensed by Child Welfare (with a variance), but the provider receives service payment from ODDS. Does this provider, and all sub-care providers, need to follow the vaccination mandate, or are they exempt because it is a Child Welfare home?

Answer: The home should follow the guidance for the agency through which is it licensed.

Category: Proof of Vaccination

Question: Do providers send proof of vaccination to any specific place, or just keep it on file?

Answer: For Oregon Administrative Rule 333-019-1010, vaccination must be documented as outlined in the [rule](#) and the [OHA FAQ](#), and kept in the individual's human resources file. It must be maintained for two years and provided upon request.

Question: Does a provider have to validate proof of vaccination?

Answer: A provider is not required to take additional steps to verify that the documentation of vaccination status is authentic. A provider should consult with their legal counsel if they want to take steps to verify documentation.

Question: Does this mandate include boosters?

Answer: No. This mandate is specific to the definition of "fully vaccinated" indicating two doses of Pfizer or Moderna or a single dose of Johnson and Johnson.

Category: Exceptions

Question: Is there a religious exemption?

Answer: Yes, for a religious exception, an individual must fill out and sign the [COVID-19 Religious Exception Request Form, or a similar form that](#)

[contains all of the information required in the Oregon Health Authority form.](#)

The exception request must be on the basis of a sincerely-held religious belief and must include a statement describing the way in which the vaccination requirement conflicts with the religious observance, practice, or belief of the individual.

Question: Are there medical exceptions for people who have been told by their doctor that they cannot get the vaccine at this time?

Answer: Yes, for a medical exception, an individual and their healthcare provider must fill out and sign the [COVID-19 Medical Exception Request Form, or a similar form that contains all of the information required in the Oregon Health Authority form](#). The medical provider must certify that the individual has a physical or mental impairment that limits the individual's ability to receive a COVID-19 vaccination based on a specified medical diagnosis and specify whether the impairment is temporary in nature or permanent.

Question: What about people who have antibodies or had COVID-19 in the past?

Answer: People who have had COVID-19 in the past can still get the virus again and pass it to someone else. Employees who have had COVID-19 or believe they may have antibodies must still comply with the Administrative Rule.

Questions: Are there any exceptions for lactating women?

Answer: There are not specific exceptions for lactating women. The CDC recommends the COVID-19 vaccine for all people 12 and older including people who are lactating. However, a medical or religious exception may be requested.

Question: If I decide to grant a religious exception for the COVID-19 vaccine to an employee, what constitutes as "reasonable steps" to ensure that unvaccinated healthcare providers...are protected from contracting and spreading COVID-19? Routine testing, n95 masks, etc.?

Answer: The Oregon Health Authority has the following answer to this question:

Among possible safety measures, as part of granting an exception to the vaccine requirement, an unvaccinated employee, contractor or volunteer entering the workplace might be required to wear an N95 face mask, be physically distanced from others while at the workplace, work a modified

shift when there are fewer individuals at the workplace, get periodic tests for COVID-19, be given the opportunity to telework, or finally, accept a reassignment. Safety measures that an employer imposes will depend on the employee's position duties and work environment among factors. If feasible, employers may consider granting certain accommodations on a temporary basis and reviewing again after a specified period. For more information about accommodations see Questions K.2 and K.6 at: <https://www.eeoc.gov/wysk/what-you-should-know-about-covid-19-and-adarehabilitation-act-and-other-eeo-laws#D>.

Question: I have 3 DSP staff that have had Covid recently and are trying to get the vaccine. They have been told they cannot get the vaccine until 90 days recovered from Covid. What does that mean for their eligibility to work until they are allowed to get the vaccine? Please let me know as soon as you can .

Answer: The CDC recommends that people with COVID-19 who have symptoms should wait to be vaccinated until they have recovered from their illness, which generally is much shorter than 90 days. Those without symptoms may be able to get vaccinated sooner. However, if an individual is being told by a Medical Professional they cannot get the vaccine for a medical reason, they can request a medical exception. The medical exception form needs to state whether the medical condition is temporary or permanent. If the medical exception is temporary, the employee would have until the temporary period is over to be fully vaccinated.

Category: Enforcement

Question: What are the repercussions for non-compliance?

Answer: OHA may issue civil penalties to employers of healthcare providers or healthcare staff, contractors or responsible parties who violate any provision of the rule, of \$500 per day, per violation.

Question: Will ODDS licensing be asking for documentation on this?

Answer: ODDS will ask for documentation during the regular licensing review process for group homes and CDDPs will be asked to review the documentation as part of licensing procedures for Adult Foster Homes.

Question: Will the Oregon Health Authority enforce this rule, or another entity?

Answer: ODDS will ask for documentation during the regular licensing review process for group homes and Community Developmental Disabilities Programs (CDDPs) will be asked to review the documentation as part of licensing procedures for Adult Foster Homes. The Oregon Health Authority (OHA) is responsible for enforcing the rule.

Question: If all developmental disabilities clients are fully vaccinated does this still apply to all staffing at each residential group home?

Answer: Yes, the rule applies to staff who work in group homes, regardless of the vaccination status of the individuals living in the home.

Question: My interpretation is that October 18 is when I have to have had my first COVID-19 shot. Will the state be tracking my status to ensure I receive the second shot?

Answer: October 18 is the date in which an employee/staff must be fully vaccinated under OHA's rule or have documentation of a medical or religious exception. Fully vaccinated means 14 days have passed since receiving the last vaccination shot. This is a chart which provides information on when vaccination is needed:

<https://www.oregon.gov/dhs/SENIORS-DISABILITIES/DD/ODDS%20Resource%20Library/Vaccine-Mandate-Dates.pdf>

Question: Who will be approving or denying exception requests?

Answer: The employer or responsible party is responsible for reviewing and approving. More information is in the [OHA FAQ](#).

Question: What if I am the license holder or Executive Director of an agency – who reviews and approves my exceptions?

Answer: The entity that is the employer, contractor or responsible party, as those terms are defined in the rule, OAR 333-019-1010, is the entity that must review and make decisions on exceptions. You should consult your legal counsel about who the appropriate party is. Records must be retained for two years. The exception documents may be reviewed by ODDS as part of your agency's regular licensing process.

Question: Will providers need to let CDDP staff know when they have achieved compliance or are not in compliance?

Answer: Providers should document compliance in their own records as described in the [OHA FAQ](#).

Question: Will the CDDP be responsible for gathering information and/or keeping documentation of compliance on file?

Answer: The CDDP will review documentation as part of their regular licensing reviews of Adult Foster homes.

Question: If there is a refusal to get the vaccination, are weekly Covid tests something that will be allowed.

Answer: No, testing instead of vaccination is not an option under OHA's current Administrative Rule.

Question: Are providers supposed to use the OHA vaccination exemption request forms for religions or medical reasons? Or are there additional forms the state will be producing?

Answer: Individuals can use OHA's form, or a similar form that contains all of the information required in the OHA form. An employer may have a form they want employees to use. The employer is responsible for approval/denial and maintaining the records.

Question: Who should adult foster care providers send exceptions for their staff or themselves to?

Answer: Foster care providers should review requests internally and maintain records of the requests and approvals/denials.

Question: Are nurses that provide in-home services (direct nursing services in in-home settings) included in the OHA Administrative Rule?

Answer: The rule does not apply to healthcare providers that only provide care in private residences and none of those residences are licensed, registered or certified as a home or facility described in the definition of healthcare setting that is in OHA's rule. For example, a nurse providing care at an apartment complex is not subject to this rule. However, a nurse who provides care at a licensed adult foster home or another healthcare setting, even part-time, is required to comply with the rule. All individuals who are eligible to receive a COVID-19 vaccine are encouraged for the health and safety of everyone to be vaccinated.

Question: If we hire a new employee who is not yet vaccinated but is willing to get vaccinated, or if we have a current employee who will not be

through the entire series on or after October 18, but has started working, can we apply the same accommodations that we are requiring of employees with an approved exception?

Answer: After October 18, 2021, an employer cannot allow an employee who is not fully vaccinated or who does not have a documented medical or religious exception to work in-person in the healthcare setting at any time. The employer could put the employee on leave or assign them remote work until they are fully vaccinated.

Question: Do we have to get proof of vaccination from a CME or school or employee before allowing them into our group home?

Answer: CMEs and schools are required by the same rule as ODDS to have an exception or be fully vaccinated by October 18, 2021. ODDS staff will have a letter explaining that they are subject to this requirement and have had HR verify that they meet the rule requirements to be in a group home. You may request that CMEs or school districts provide an affirmation letter, similar to what ODDS staff will have.

Question: Do I have to have proof of vaccination for plumbers or others that are doing infrequent work on my home?

Answer: If it is not a contractor doing health care services, or direct care in your home, it is not required that you verify vaccine. However, you may choose to check vaccination status.

Question: Can providers share vaccination information about employees with ODDS? Is it a HIPPA or protected health violation?

Answer: Yes, as it is required by rule to verify vaccination status.