

Bodman PLC

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Court Places Hold on Federal Contractor Vaccine Mandate

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On December 7, 2021, a federal court in Georgia issued a nationwide preliminary injunction against the enforcement of Executive Order 14042 and its vaccine mandate for federal contractors and subcontractors.

The Court found there was a substantial likelihood that the petitioners would prevail on their claim that President Biden exceeded his authority under the Federal Property and Administrative Services Act (“Act”). The Court held that the President has authority to issue executive orders over large administrative and management issues that promote “economy” and “efficiency” in government-wide procurement and contracting policy. By contrast, the Court explained Executive Order 14042 operates as a regulation of public health. Thus, if authority under the Act is to be expanded for such purpose, it is up to Congress, not the President. We expect that this court order will be appealed.

Executive Order 14042 is now the third federal attempt to impose vaccine requirements that has been preliminarily halted by a court. The other two are the Occupational Safety and Health Administration’s (“OSHA”) Emergency Temporary Standard and the Centers for Medicare and Medicaid Services’ (“CMS”) Interim Final Rule.

For the time being, federal contractors may cease their efforts to implement vaccine policies required by Executive Order 14042. Employers, however, remain free to implement COVID-19 vaccine or other safety policies in their workplaces.

Bodman’s Workplace Law Group is monitoring updates on the enforcement of the federal vaccine regulations. Employers can contact any member of Bodman’s Workplace Law Group for help creating and implementing written vaccine or other safety policies. Bodman may not be able to respond to your questions or receive information from you without first clearing potential conflicts with other clients. Thank you for your patience and understanding.

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