### GeoSTATE OF WASHINGTON

## DEPARTMENT OF SOCIAL AND HEALTH SERVICES

## Aging and Long-Term Support Administration

## Home and Community Services Division

PO Box 45600, Olympia, WA 98504-5600

**HCS MANAGEMENT BULLETIN**

**H21-074 –** Policy & Procedure

**~~September 8, 2021~~**

**Amended September 17, 2021**

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| **TO:** | |  | | --- | | Home and Community Services (HCS) Division Regional Administrators  Area Agency on Aging (AAA) Directors  Developmental Disabilities Administration (DDA) Regional Administrators | |
| **FROM:** | Bea Rector, Director, Home and Community Services Division  Beth Krehbiel, Interim Director, Division of Field Services, Developmental Disabilities Administration  Chanh Ly, Director, Management Services Division |
| **SUBJECT:** | **Vaccination Mandate for DSHS Contracted Providers** |
| **PURPOSE:** | To provide information and guidance for staff and contract managers regarding Governor Inslee’s Proclamations 21-14 and subsequent amended Proclamation 21-14.1 related to contracted providers of DSHS, need for verification of vaccine status or valid medical or religious accommodation, and documentation where the vaccine requirement does not apply to a particular contractor. These requirements must be met by October 18th, 2021. |
| **BACKGROUND:** | On August 9, 2021, Governor Jay Inslee issued Proclamation 21-14. The Proclamation was later amended on August 20, 2021 (see [Proclamation 21-14.1](https://www.governor.wa.gov/sites/default/files/proclamations/21-14.1%20-%20COVID-19%20Vax%20Washington%20Amendment.pdf) attached). The Proclamation, as amended, requires all state employees, contractors and volunteers who work for executive cabinet agencies to be fully vaccinated against COVID-19 by October 18, 2021, although there are some exemptions in the Proclamation and instances in which a contractor may not meet the vaccination requirements. In issuing this order, Governor Inslee is acting pursuant to his emergency powers as Governor of the State of Washington as set forth in RCW 43.06.220. |
| **WHAT’S NEW, CHANGED, OR CLARIFIED:** | Effective October 18th, 2021, all DSHS contracted entities must follow t the vaccination requirements in Proclamation 21-14.1 or meet the criteria for a valid medical or religious accommodation. Proclamation 21-14.1 impacts our providers and contracted entities in several ways as clarified below.  The vaccination mandate applies to any provider, contactor, volunteer, or individual who:   * Provides any services or performs any work for DSHS while physically present at a building, facility, jobsite, project site, unit, or other defined area owned, leased, occupied by, or controlled by DSHS or another State Agency. * Is determined to be a health care provider as defined in the Proclamation. * Is not determined to be a health care provider but provides services within a Health Care Setting as defined in the Proclamation.   The Department of Health list of Healthcare Professionals requiring certification can be found [here](https://www.doh.wa.gov/LicensesPermitsandCertificates/ProfessionsNewReneworUpdate/HealthcareProfessionalCredentialingRequirements)  Proclamation 21-14.1 includes specific language on who is not considered a “Health Care Provider” and states:  “Health Care Provider” does not include, for purposes of this order:   * Individual providers, as defined in RCW 74.39A.240. * Individuals who provide only personal care services, as defined in RCW74.39A.009(24), in people’s homes. * Providers who are not actively practicing or providing services; and * Providers who provide services only at one or more of the settings that are expressly excluded from the list of Health Care Settings under this order.   This means that the mandate does NOT apply to Individual Providers, Home Care, Home Health or Hospice Agency employees who provide only personal care or respite services in the client’s home. It also means that providers that are not actively practicing or providing services do not need to comply with the proclamation.  AAA staff are also not subject to the vaccine mandate, unless required by their health practitioner licensure or because they are providing services on state-owned property.  **Employer Declaration**  On Friday, August 27th, Central Contracts and Legal Services Division sent notifications to over 8,500 DSHS contracted providers requiring the contractor/provider to complete an Employer Declaration attesting to vaccination status of themselves and their staff, or that a reasonable accommodation process was followed for anyone claiming a valid medical or religious exemption from the mandate. Some of the 8,500 contracted providers received the information in error as they are either not subject to the proclamation or the proclamation will be enforced via a separate mechanism than the Employer Declaration.  **Licensed Nursing Homes, Assisted Living Facilities, Adult Family Homes, Enhanced Services Facilities, and DDA contracted supported living settings are subject to the Proclamation but are not required to return the Employer Declaration to remain in compliance.** For instructions on long-term care setting requirements under the Governor’s vaccination proclamation, please follow [ALTSA Provider/Administrator Letters | DSHS (wa.gov)](https://www.dshs.wa.gov/altsa/residential-care-services/altsa-provider-letters?type=All&field_date_value%5Bvalue%5D%5Byear%5D=2021&subject=) to the ALTSA Provider / Administrator Letters web page and read the provider letter entitled “Governor Proclamation on Mandatory Vaccination” dated September 3, 2021. Follow instructions provided in the RCS Dear Provider Letter issued 9/3/2021 attached below. **Additionally, DDA providers with Out-of-Home Services contracts are not required to return the Employer Declaration. See GovDelivery message dated 9/10/2021 for more information.**  All other contractors that have been determined by DSHS to be subject to the proclamation and the Employer Declaration process must return the Employer Declaration by 10/18/21 to remain in compliance with the terms of their contract. **Monitoring requirements for this group of contractors will be developed and provided in a separate MB or amendment to this MB.**   * Contractors with Employees:   The employer notice requires the contractor, who is not a setting regulated by Residential Care Services listed above, to return the signed Employer Declaration form to the Contract Manager listed on the cover page of the Contract.   * Sole Proprietors:   Contractors who are Sole Proprietors, (such as nurse delegators), who do not have an employee relationship with another entity, must sign and return the Employer Declaration. They should select a checkbox in the Sole Proprietor section. If they attest to meeting the vaccination requirements, no additional verification is required at this time.   * Exemptions   There are exemptions available to this proclamation based on religious or medical reasons. Contractors that claim an exemption, or grant one to one or more employees, must have a process for continuing to perform the contract while allowing reasonable accommodations for religious or medical exemptions. **Staff should not attempt to evaluate whether a religious or medical exemption was appropriately granted or whether the reasonable accommodation put in-place by the contractor is acceptable. Providers seeking information on acceptable exemption procedures and reasonable accommodations can find** more information at:  [Governor’s Office: Vaccine Mandate FAQs](https://www.governor.wa.gov/VaccineMandateFAQ#Exemptions%20and%20Accommodations)  [DOH: Vaccination Requirement Information for health care providers, workers and settings](https://www.doh.wa.gov/Portals/1/Documents/1600/coronavirus/505-160-VaccinationRequirementFAQs.pdf)  [DOH Vaccination Requirement Information for Employers (non-healthcare settings)](https://www.doh.wa.gov/Portals/1/Documents/1600/coronavirus/120-053-FAQStepsCriticalWorkersVaccination.pdf) |
| **ACTION:** | Contract Managers (DSHS and Area Agencies on Aging):  The Contracts database (ACD) has been updated with new fields that indicate whether the contractor is subject to the mandate or not, and these fields will be automatically checked. ACD has also been updated to allow for uploading of the signed Employer Declaration. Attached is a spreadsheet with all contractors that specifies which contractors are covered by the proclamation and must return the declaration, contactors that are covered by the proclamation but that do not need to sign the declaration, and those contractors that are not currently subject to the proclamation.  Once the Employer Declaration is received, use the attached spreadsheet to see if the contractor is listed in the “declaration required tab” and upload this information to the Document Management screen in ACD using the new value specific to this document. Step by step instructions are attached below. If you receive a declaration form or questions about the Central Contracts communication from a contractor that is not listed on in the “declaration required tab” on the attached spreadsheet, please forward it to either:   * For DDA contracts: [dda.contracts@dshs.wa.gov](mailto:dda.contracts@dshs.wa.gov)      * For HCS/AAA contracts: [aging.contracts@dshs.wa.gov](mailto:aging.contracts@dshs.wa.gov)   The Employer Declaration requires the contractor to make the determination that their staff meet the vaccination mandate and sign the form. In this situation, the signed declaration is sufficient, and no other proof of vaccination is required. However, if requested by DSHS or Area Agency on Aging, the contractor and their staff must provide proof of such vaccination or accommodation and must cooperate with any investigation or inquiry DSHS or Area Agency on Aging makes into the employer’s compliance with these requirements, including by providing information and records upon request, except any information or records that the employer is prohibited by law from disclosing. Failure to follow these requirements will result in contract termination for the provider.  ACD staff are developing a report that will show which contractors have met the proclamation requirement and which have not. Because some contractor and/or contract manager contact information may be out of date, some contractors may not have received the notification from CCLS or successfully contacted the contract manager on their contract. **Further direction about what to do if a declaration is not received will be provided in a future Management Bulletin.**  Some contractors may only be subject to the proclamation because they occasionally come to DSHS offices for training or meetings. If those trainings and meetings are currently being offered virtually those contractors would need to agree not to attempt to come to DSHS locations unless they are in compliance.  **Contract Managers do NOT need to determine if the contractor is eligible for a medical or religious exemption – the contractor must make that determination.** The Employer Declaration is the legal attestation of their compliance.  All HCS/DDA/AAA staff:  Providers may be calling with questions about the mandate and whether it applies to them. If this occurs, refer the provider to their Contract Manager. If they cannot reach their contract manager or have additional questions, please refer providers to the Email boxes identified below:   * For DDA contracts: [dda.contracts@dshs.wa.gov](mailto:dda.contracts@dshs.wa.gov) * For HCS/AAA contracts: [aging.contracts@dshs.wa.gov](mailto:aging.contracts@dshs.wa.gov)   Residential Care Services has also sent a Dear Provider Letter to all residential providers informing them of the applicability of the vaccination mandate.  We understand that some providers will make the decision to not get vaccinated and end their contract with DSHS. Contract Managers who determine that a contractor will not comply with the vaccination status should work proactively with case management staff to determine an appropriate plan of action for any impacted clients. |
| **RELATED REFERENCES:** | [21-14.1 - COVID-19 Vax Washington Amendment.pdf](https://www.governor.wa.gov/sites/default/files/proclamations/21-14.1%20-%20COVID-19%20Vax%20Washington%20Amendment.pdf) |
| **ATTACHMENT(S):** | **CCLS notification Declaration form**    **List of ALTSA/DDA Directions for ACD**  **Providers/Vaccine**    **RCS Dear Provider Declaration Provider Letter Clarification Letter** |
| **CONTACT(S):** | **Out of Home Services Letter**    Jaime Bond, DDA, Chief of Program and Policy Development  [Jaime.Bond@dshs.wa.gov](mailto:Jaime.Bond@dshs.wa.gov)  360.407.1567  Alec Graham, HCS, Chief of Home and Community Programs  [Alec.Graham@dshs.wa.gov](mailto:Alec.Graham@dshs.wa.gov)  360.584.7062  (For technical assistance only)  April Hassett, MSD, Contract Manager  [April.Hassett@dshs.wa.gov](mailto:April.Hassett@dshs.wa.gov)  360.725.2387 |