



January 26, 2022

Secretary Xavier Becerra  
U.S. Department of Health & Human Services  
200 Independence Avenue, S.W.  
Washington, DC 20201

Administrator Chiquita Brooks-LaSure  
U.S. Centers for Medicare and Medicaid Services  
7500 Security Boulevard  
Baltimore, MD 21244

Dear Secretary Becerra and Administrator Brooks-LaSure:

In light of the Supreme Court's decision to lift the preliminary injunctions that previously suspended the vaccine mandate for workers at certain federally funded healthcare facilities, we write today regarding the agency's plans for determining whether an entity is in compliance with this rule. As healthcare entities across Montana face worker shortages in the midst of another COVID-19 surge, we urge the Department to exercise its enforcement discretion and issue waivers to health facilities where Montanans' access to care, especially in rural communities, is jeopardized.

Like many states across the nation, Montana is already facing labor shortages, especially in the healthcare industry, which severely threaten patient access to lifesaving medical care. Given the Supreme Court's decision, we are deeply concerned that the vaccine mandate will penalize healthcare entities that simply cannot comply with the mandate due to ongoing workforce challenges. Some Montana facilities cannot afford to lose another healthcare professional, especially when alternative measures can be implemented, such as masking and testing, to protect the safety and health of employees, patients, and visitors from COVID-19.

On January 14, 2022, the Centers for Medicare & Medicaid Services (CMS) issued updated guidance giving regulated entities a timeframe to come into compliance with the healthcare staff vaccination rule. As the Department turns to implementation and enforcement of the rule, we respectfully request that you consider the unique healthcare access challenges faced by rural states like Montana and exercise discretion, including issuing waivers for healthcare facilities that demonstrate a dire workforce impact from the mandate, when deciding whether to pursue enforcement actions against a facility.

As you know, the Department has historically considered access to care issues and exercised discretion prior to taking enforcement action against facilities for non-compliance with regulatory requirements, and we respectfully request that you recognize this precedent given the pervasive health professional shortages in Montana.

Thank you for your attention to this important matter. We look forward to your response.

Sincerely,

Steve Daines  
United States Senator

Greg Gianforte  
Governor of Montana

Matthew M. Rosendale, Sr.  
Member of Congress