Federal Health Policy Update

CY 2022 Medicare Physician Fee Schedule and Federal Legislative Update

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HART HEALTH STRATEGIES INC.

Legislative

JUDITH GORSUCH, JD

Drug Pricing Reform in *Build Back Better*

- Narrowed applicability from H.R.3 and uses domestic reference price instead of international
- Different in substance -- but logistical concerns remain the same for buy-and-bill providers
  - Part B/ASP community is exploring a legislative amendment to remove providers from the new pricing mechanism
- Inflationary rebates in Parts B and D
- Biosimilar reimbursement provision
- Establishes annual OOP cap of $2,000 for Part D beneficiaries

Future Part B Drug Payment Models?

- Three proposals since 2016 -- none moved forward
- CMS has proposed to officially withdraw MFN Model
- Administration is waiting to see where Congress lands on drug pricing reform
  - Fate of BBB will influence this
- New strategic directions white paper and listening session with the Innovation Center
  - Limited discussion of Part B drug payment reform
  - White paper included discussion of setting optimization

Sequestration

"Old" Sequester (2%)

- Medicare sequester of 2% had been in place prior to the pandemic
- CARES Act moratorium will end December 31, 2021
- Moratorium was viewed as a pandemic relief provision

"New" Sequester (4%)

- *American Rescue Plan* trigged "Pay-As-You-Go" sequester, which for Medicare means a 4% cut
- Set to take effect in the next fiscal year (2022)
- Congress must act to avert this before the end of the year

You can help stop these cuts!

Regulatory

EMILY GRAHAM, RHIA, CCS-P

Conversion Factor

- CY 2022 MPFS conversion factor (CF): **$33.5983**
- Down **3.71%**, or $1.30
- Key factors:
  - E/M changes implemented in CY 2021
  - Statutory payment update (outlined in MACRA): **0.0%**
  - Budget neutrality requirements: **-0.10%**
  - Loss of temporary payment update in the Consolidated Appropriations Act (CAA): **3.75%**
- Reminder: *CY 2021 CF down **-3.3%** from CY 2020*

AMA AMERICAN MEDICAL ASSOCIATION

History of Medicare Conversion Factors

Year	Conversion Factor	% Change	Primary Care Conversion Factor	% Change	Surgical Conversion Factor	% Change	Other Nonsurgical Conversion Factor	% Change
1992	$31.0010		N/A		N/A		N/A	
1993	N/A				$31.9620		$31.2490	
1994	N/A		$33.7180		$35.1580	10.0	$32.9050	5.3
1995	N/A		$36.3820	7.9	$39.4470	12.2	$34.6160	5.2
1996	N/A		$35.4173	-2.7	$40.7986	3.4	$34.6160	0.0
1997	N/A		$35.7671	1.0	$40.9603	0.4	$33.8454	-2.3
1998	$36.6873							
1999	$34.7315	-5.3						
2000	$36.6137	5.4						
2001	$38.2581	4.5						
2002	$36.1992	-5.4						
2003	$36.7856	1.6						
2004	$37.3374	1.5						
2005	$37.8975	1.5						
2006	$37.8975	0.0						
2007	$37.8975	0.0						
2008	$38.0870	0.5						
2009	$36.0666	-5.3						
1/1/10-5/31/10	$36.0791	0.03						
6/1/10-12/31/10	$36.8729	2.2						
2011	$33.9764	-7.9						
2012	$34.0376	0.18						
2013	$34.0230	-0.04						
2014	$35.8228	5.3						
1/1/15-6/30/15	$35.7547	-0.19						
7/1/15-12/31/15	$35.9335	0.50						
2016	$35.8043	-0.36						
2017	$35.8887	0.24						
2018	$35.9996	0.31						
2019	$36.0391	0.11						
2020	$36.0896	0.14						
2021	$34.8931	-3.3						

Initially, the Medicare Physician Payment Schedule included distinct conversion factors for various categories of services. In 1998, a single conversion factor was offset by elimination of the work adjustor and increases in the practice expense and PLI RVUs. The reduction in the 2009 conversion factor was offset by elimination of the work adjustor from the third Five-Year Review. The reduction in the 2011 conversion factor was offset by increases to the practice expense and PLI RVUs resulting from the rescaling of those RVU pools to match the revised MEI weights.

A 56% inflation-adjusted decrease since 1998!

Clinical Labor Pricing

- Practice expense accounts for **direct** (*i.e., clinical labor, supplies, equipment*) and **indirect** (e.g., *rent, administrative staff*) costs.
- CMS finalized its proposal to **clinical labor pricing**, infusing current data on clinical labor wages into the PFS - an exercise that hasn't occurred in 20 years!
  - Updated prices will be phased-in over a 4-year period to ease the transition
- In contrast to expectations, and as a result of budget-neutrality, **payments for some services face steep reductions – despite the increased costs to deliver them**.

Specialty	(mm)	
Portable X-Ray Supplier	$95	0%
Family Practice	$6,020	2%
Endocrinology	$508	2%
General Practice	$412	1%
Hand Surgery	$246	1%
Nurse Practitioner	$5,100	1%
Pediatrics	$67	1%
Geriatrics	$192	1%
Orthopedic Surgery	$3,812	1%
Internal Medicine	$10,730	1%
Psychiatry	$1,112	1%
Pulmonary Disease	$1,654	1%
Physician Assistant	$2,901	1%
Neurology	$1,522	1%
Neurosurgery	$811	1%
Plastic Surgery	$382	0%
Optometry	$1,359	0%
Thoracic Surgery	$352	0%
Nurse Anes / Anes Asst	$1,321	0%
Gastroenterology	$1,757	0%
Obstetrics/Gynecology	$636	0%
General Surgery	$2,057	0%
Cardiac Surgery	$266	0%
Physical/Occupational Therapy	$4,973	0%
Ophthalmology	$5,343	0%
Nephrology	$2,225	0%
Clinical Social Worker	$857	0%
Anesthesiology	$2,020	0%
Multispecialty Clinic/Other Phys	$153	0%
Podiatry	$2,133	0%
Clinical Psychologist	$832	0%
Emergency Medicine	$3,077	0%
Total	$97,008	0%
Chiropractic	$765	0%
Physical Medicine	$1,164	0%
Critical Care	$378	0%
Rheumatology	$548	0%
Colon and Rectal Surgery	$168	0%
Cardiology	$6,874	-1%
Infectious Disease	$656	-1%

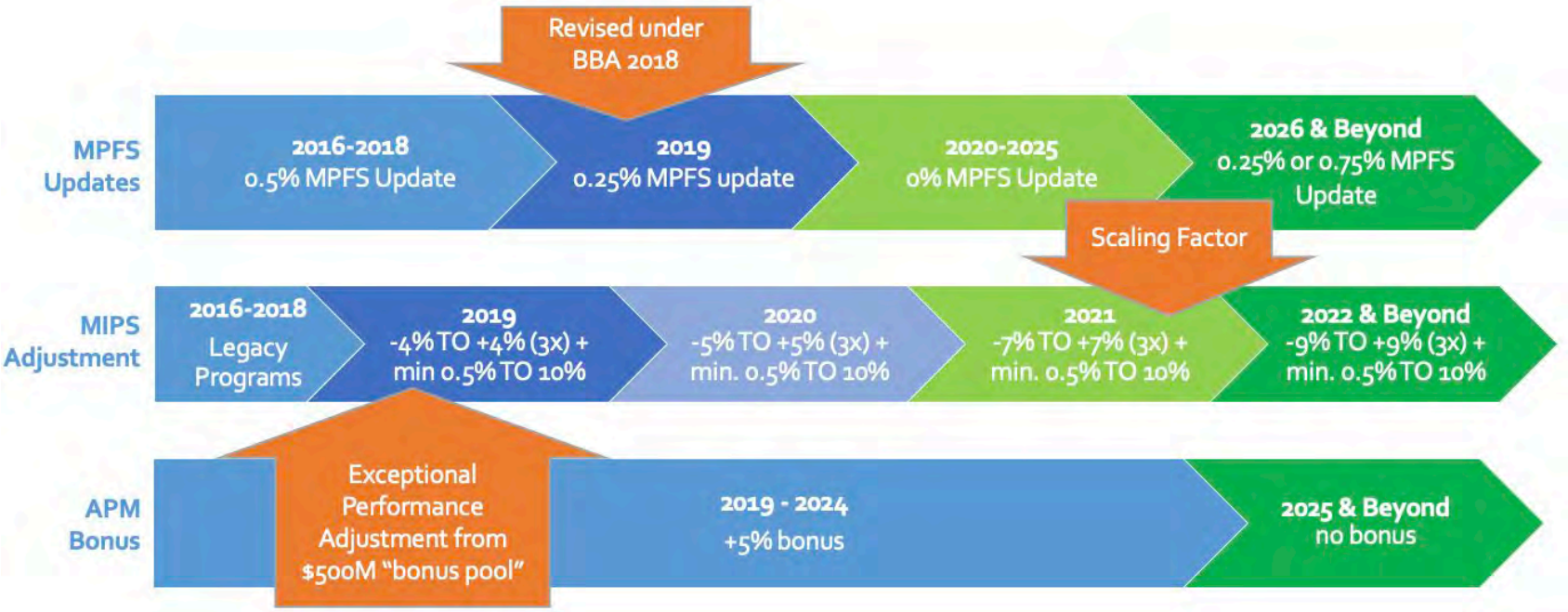
Telehealth & Virtual Care

- Telehealth flexibilities have been critical to providing care to beneficiaries, particularly those with chronic conditions, during the pandemic
- CMS extended some of these flexibilities beyond the pandemic – *temporarily* and *permanently* – using their existing or new authorities
- Temporary
  - Retain certain services on the Medicare telehealth list until the end of 2023
- Permanent
  - Remove geographic restrictions and allow the home to serve as originating site for mental health services
  - Allow "audio-only" for mental health services
  - Adopt "virtual check-in" HCPCS code G2252

MACRA Adjustments

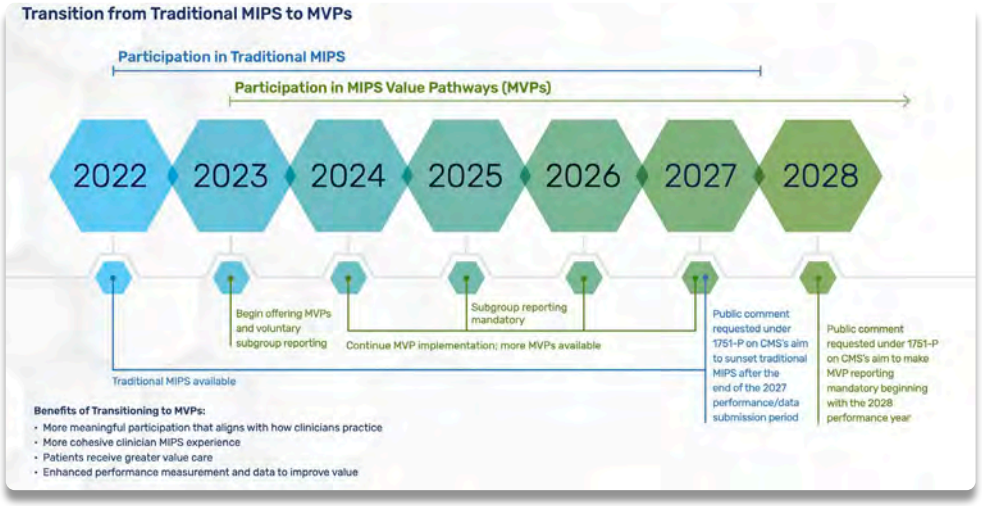
2022: High penalty, low incentive

- Penalty at highest rate – 9%
- Max base adjustment – 0.01%
- Max exceptional bonus – 1.86%



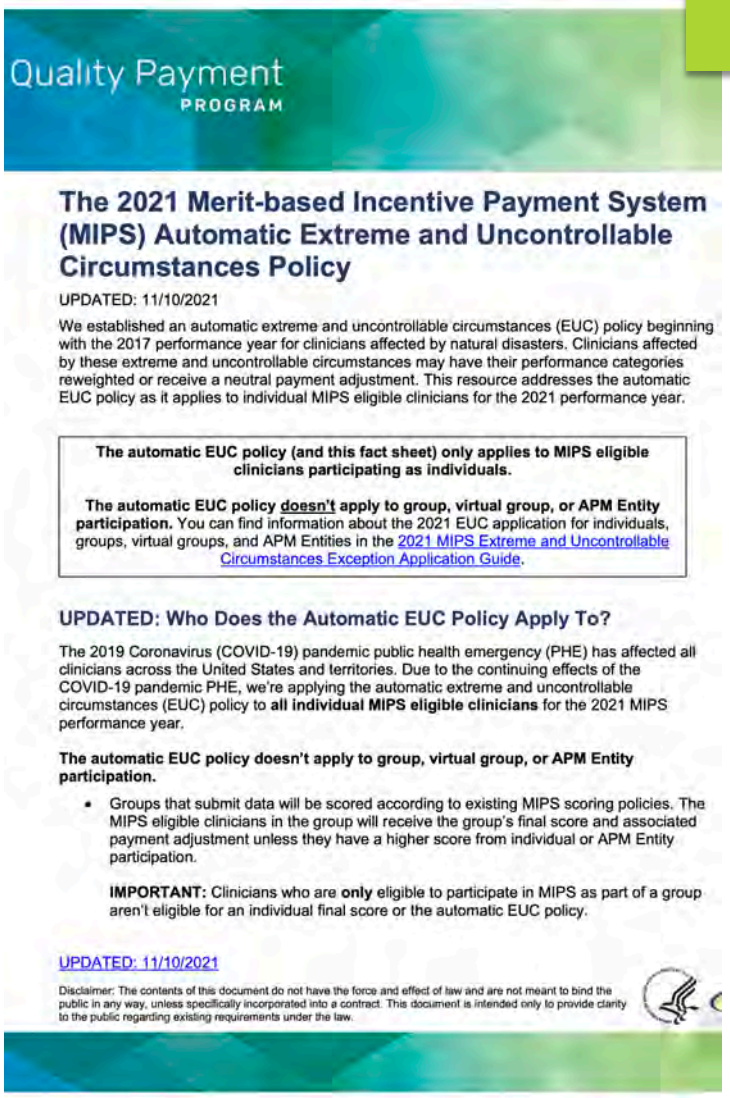
Rheumatology MIPS Value Pathway (MVP)

- CMS will phase out traditional MIPS and replace with MVPs
- MVPs aim to streamline reporting, a laudable goal, but MVPs do not fix underlying issues
- Rheumatology MVP slated for implementation in 2023
- Key concerns:
  - On cost, fails to address the "B vs. D" issue
    - Punishes providers that use more "B" drugs
  - Inability to use key Improvement Activities, although CMS agreed to NORM and CSRO requests
    - Financial Navigation and Drug Cost Transparency
  - No "glidepath" toward an APM; one does not exist in rheumatology



2021 MIPS EUC Policy

- CMS recently announced that it would automatically apply the MIPS extreme and uncontrollable circumstances (EUC) policy for the 2021 performance year.
- The EUC policy will apply to eligible clinicians who are allowed to participate in MIPS as individuals.



Quality Payment
PROGRAM

The 2021 Merit-based Incentive Payment System (MIPS) Automatic Extreme and Uncontrollable Circumstances Policy

UPDATED: 11/10/2021

We established an automatic extreme and uncontrollable circumstances (EUC) policy beginning with the 2017 performance year for clinicians affected by natural disasters. Clinicians affected by these extreme and uncontrollable circumstances may have their performance categories reweighted or receive a neutral payment adjustment. This resource addresses the automatic EUC policy as it applies to individual MIPS eligible clinicians for the 2021 performance year.

The automatic EUC policy (and this fact sheet) only applies to MIPS eligible clinicians participating as individuals.

The automatic EUC policy doesn't apply to group, virtual group, or APM Entity participation. You can find information about the 2021 EUC application for individuals, groups, virtual groups, and APM Entities in the 2021 MIPS Extreme and Uncontrollable Circumstances Exception Application Guide.

UPDATED: Who Does the Automatic EUC Policy Apply To?

The 2019 Coronavirus (COVID-19) pandemic public health emergency (PHE) has affected all clinicians across the United States and territories. Due to the continuing effects of the COVID-19 pandemic PHE, we're applying the automatic extreme and uncontrollable circumstances (EUC) policy to **all individual MIPS eligible clinicians** for the 2021 MIPS performance year.

The automatic EUC policy doesn't apply to group, virtual group, or APM Entity participation.

- Groups that submit data will be scored according to existing MIPS scoring policies. The MIPS eligible clinicians in the group will receive the group's final score and associated payment adjustment unless they have a higher score from individual or APM Entity participation.

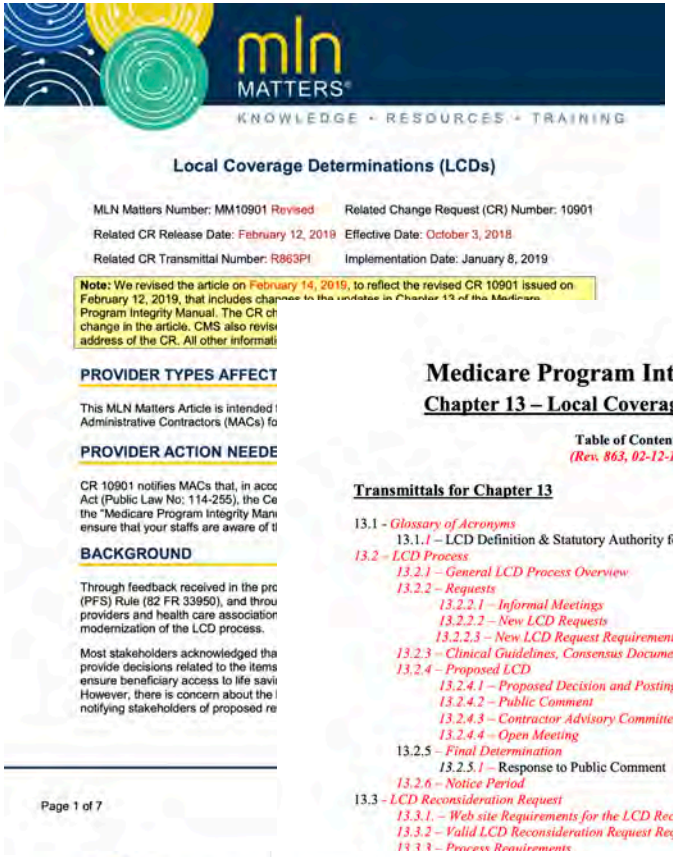
  IMPORTANT: Clinicians who are **only** eligible to participate in MIPS as part of a group aren't eligible for an individual final score or the automatic EUC policy.

UPDATED: 11/10/2021

Disclaimer: The contents of this document do not have the force and effect of law and are not meant to bind the public in any way, unless specifically incorporated into a contract. This document is intended only to provide clarity to the public regarding existing requirements under the law.

MAC Issues

- Medicare Administrative Contractor (MAC) policies creating challenges for rheumatology practices
  - LCA: Complex drug administration
  - SAD List
  - Clinician engagement



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Local Coverage Determinations (LCDs)

MLN Matters Number: MM10901 Revised — Related Change Request (CR) Number: 10901
Related CR Release Date: February 12, 2019 — Effective Date: October 3, 2018
Related CR Transmittal Number: R863PI — Implementation Date: January 8, 2019

Note: We revised the article on February 14, 2019, to reflect the revised CR 10901 issued on February 12, 2019, that includes changes to the updates in Chapter 13 of the Medicare Program Integrity Manual. The CR ch change in the article. CMS also revis address of the CR. All other informati

PROVIDER TYPES AFFECT

This MLN Matters Article is intended Administrative Contractors (MACs) fo

PROVIDER ACTION NEEDE

CR 10901 notifies MACs that, in acco Act (Public Law No: 114-255), the Ce the "Medicare Program Integrity Manu ensure that your staffs are aware of t

BACKGROUND

Through feedback received in the pro (PFS) Rule (82 FR 33950), and throu providers and health care association modernization of the LCD process.

Most stakeholders acknowledged tha provide decisions related to the items ensure beneficiary access to life savi However, there is concern about the notifying stakeholders of proposed re

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Medicare Program Integrity Manual
Chapter 13 – Local Coverage Determinations

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(Rev. 863, 02-12-19)

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Billing and Coding: Complex Drug Administration Coding

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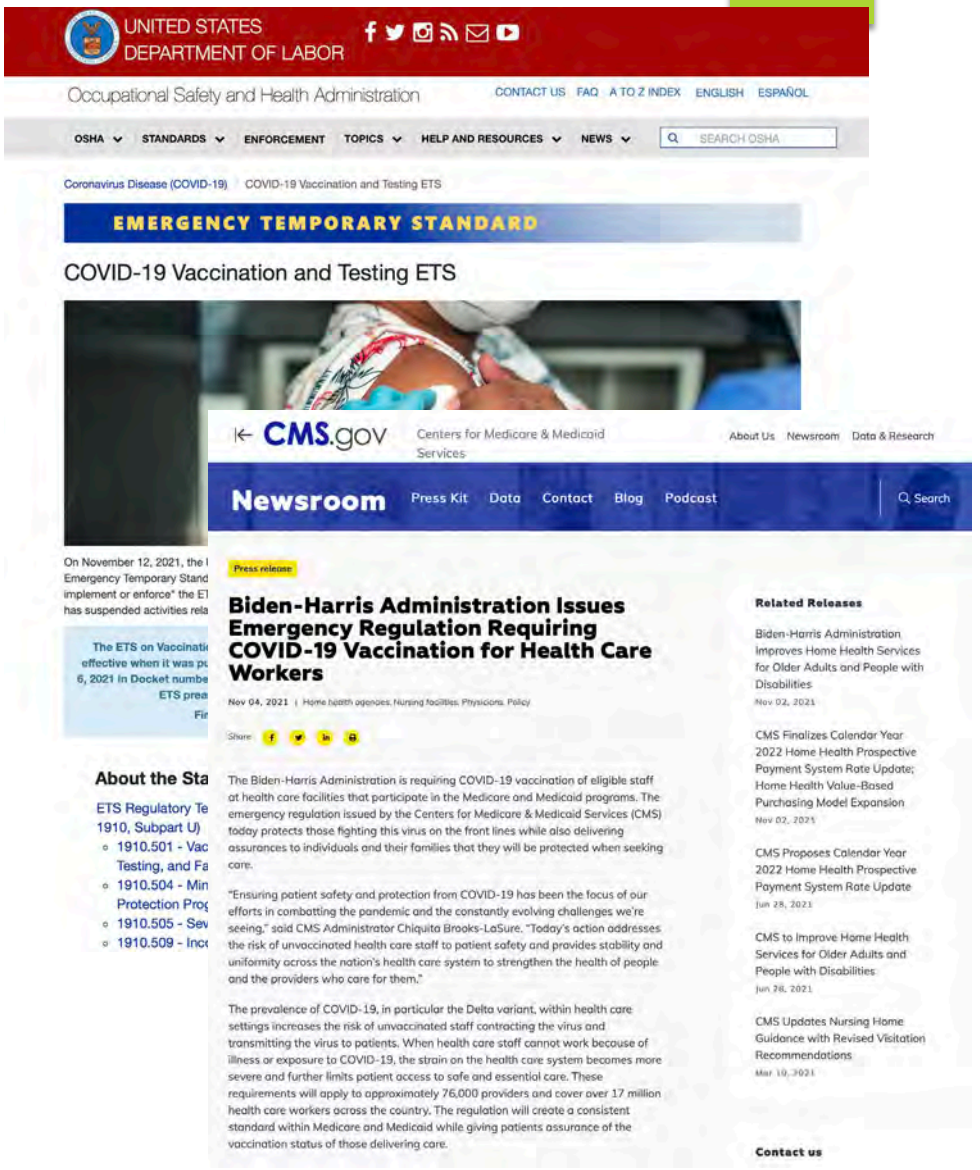
Vaccine Mandates

- CMS: Vaccine mandate applies to health care workers in certain Medicare-certified facilities
  - Physician-offices exempted
  - Federal court halted mandate in 10 states (AK, AR, IA, KS, MO, NE, NH, ND, SD, WY)
- OSHA: Vaccine and testing mandate applies to employers with 100+ employees
  - "Motion to Stay" order by the US District Court, Fifth Circuit



Questions?