

Biden COVID Vaccine Mandates Suffer Two More Legal Setbacks

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A federal judge in Louisiana on Tuesday issued a preliminary injunction halting President Biden's national vaccine mandate for healthcare workers nationwide, and separately, a U.S. district judge in Kentucky issued a preliminary injunction blocking Biden's mandate for federal contractors in three states.

by [Megan Redshaw](#), [The Defender](#)

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The Biden administration's [COVID vaccine mandates](#) took two new legal hits Tuesday – one affecting healthcare workers nationwide, the other affecting federal contractors in three states.

The new rulings, combined with previous rulings temporarily suspending mandates for U.S. workers, affect hundreds of millions of Americans who faced mandate deadlines set to begin next week.

In the latest ruling, a federal judge in Louisiana on Tuesday [issued a preliminary injunction](#) halting President Biden's national vaccine mandate for healthcare workers.

The [injunction expanded](#) a separate order issued Monday by a federal judge in Missouri. Monday's order [applied only to 10](#)

[states](#) which were part of a [lawsuit](#) challenging [Biden's requirement](#) that nearly all full-time employees, part-time employees, volunteers and contractors at a wide range of healthcare facilities receiving Medicaid or Medicaid funding get their first dose of a COVID vaccine by Dec. 6, and be fully vaccinated by Jan. 4, 2022.

Yep! Huge win. <https://t.co/XjTvZ1qD7H>

– Robert F. Kennedy Jr (@RobertKennedyJr) [November 30, 2021](#)

In Tuesday's ruling, which stemmed from a [14-state lawsuit challenging the mandate for healthcare workers](#), U.S. District Judge Terry Doughty said the Centers for Medicare & Medicaid Services (CMS) [may not enforce](#) its vaccine mandate for healthcare workers until the court can resolve legal challenges.

“There is no question that mandating a vaccine to 10.3 million healthcare workers is something that should be done by Congress, not a government agency,” [Doughty wrote](#) in the decision. “It is not clear that even an act of Congress mandating a vaccine would be constitutional.”

Doughty said the mandate would allow the executive branch to usurp the power of the legislative branch to make laws – putting two of the three powers conferred by the U.S. Constitution in the same hands.

“If human nature and history teach anything, it is that civil liberties face grave risks when governments proclaim indefinite states of emergency,” Doughty wrote.

Louisiana Attorney General Jeff Landry said the federal mandate would blow holes in state budgets and exacerbate shortages in healthcare facilities, as the Biden administration tied compliance with the vaccine mandate to federal funding.

A U.S. District Court judge in Montana on Tuesday also [enjoined and restrained](#) the U.S. Department of Health and Human Services and CMS, their directors, employees, administrators and secretaries from imposing the mandate on Montana healthcare providers, suppliers, owners and employees.

“In the past weeks, I’ve heard from healthcare workers across our state whose jobs were being threatened if they did not comply with President Biden’s overreaching federal mandate,” Montana Attorney General Austin Knudsen [said in a statement](#). “With the CMS mandate now blocked in Montana until the case is decided, medical facilities have no reason to threaten their employees if they don’t get the vaccine.”

In response to [recent legal decisions](#), CMS said in a statement:

“While we cannot comment on the litigation, CMS has remained committed to protecting the health and safety of beneficiaries and healthcare workers. The vaccine requirement for healthcare workers addresses the risk of unvaccinated healthcare staff to patient safety and provides stability and uniformity across the nation’s health care system.”

The injunction issued on Tuesday is a first step in the lawsuits against the vaccine mandate for healthcare workers. The cases must still be argued before a judge, and lower-court rulings will likely be appealed.

Federal judge blocks vaccine mandate for federal workers in Kentucky, Ohio and Tennessee

Separately, a U.S. district judge in Kentucky on Tuesday [issued a preliminary injunction](#) blocking the Biden administration from enforcing a COVID vaccine mandate for federal contractors and subcontractors in three states – the first of at least 13 legal challenges nationwide against the mandate.

The ruling applies in Kentucky, Ohio and Tennessee, which [joined in a lawsuit](#) against the Biden administration arguing the mandate for companies that do business with the U.S. government violated the U.S. Constitution, [Bloomberg reported](#).

According to U.S. District Court Judge Gregory Van Tatenhove of the Eastern District of Kentucky, Biden, in all likelihood, can't use congressionally delegated authority to manage the federal procurement of goods and services to impose vaccines.

Kentucky, Ohio and Tennessee have about \$9 billion, \$10 billion and \$12 billion, respectively, in government contracts. Contractors who refuse to comply risk being blacklisted by the government, Van Tatenhove said, citing Biden's remarks from Sept. 7: "If you want to work with the federal government, vaccinate your workforce."

Van Tatenhove said the federal government's mandate amounts to an overreach of contracts, and the statute could be used to enact virtually any measure at the president's whim under the guise of economy and efficiency.

"Although Congress used its power to delegate procurement authority to the president to promote economy and efficiency of federal contracting, this power has its limits," Tatenhove wrote.

The [COVID vaccine mandate](#) for federal contractors providing services to the federal government, and the CMS mandate for healthcare workers, are part of a list of actions implemented by the Biden administration to increase vaccination rates.

In a major blow to the Biden administration, the Occupational Safety and Health Administration (OSHA) on Nov. 16 [suspended](#) implementation and enforcement of its Emergency Temporary Standard (ETS) on mandatory COVID vaccination and testing in the workplace.

Under the ETS, employers with more than 100 employees [were given until Jan. 4](#) to comply with [the mandate](#). However, a Nov. 12 ruling by the 5th Circuit Court of Appeals [barred](#) OSHA from enforcing the ETS “pending adequate judicial review” of a motion for a permanent injunction.

In its Nov. 12 [22-page ruling](#), the court called the Biden administration’s mandate “fatally flawed” and said OSHA should “take no steps to implement or enforce the mandate until further court order.”

The Biden administration has acted quickly to seek reversals of the orders blocking its vaccine rules, [CNN reported](#). The challenges to the OSHA mandate have been consolidated and assigned to the 6th Circuit, which has yet to rule on the Justice Department’s request that it revive the policy.

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