



Insurers Wait on Court Cases as Layoffs of Unvaccinated Workers Rise

By Aaron Smith January 10, 2022

The specter of layoffs is becoming real this year for workers who haven't been inoculated against Covid-19.

Blue Cross Blue Shield fired hundreds of employees this week who wouldn't get their jobs, and **Citigroup** has said that employees who aren't vaccinated by Jan. 14 will be placed on unpaid leave, [Bloomberg reported](#).

How U.S. life insurers plan to respond to various mandates is still murky. We contacted a handful of major carriers and didn't find any that fired someone for refusing to get vaccinated. But **TIAA** has said it expects fully vaccinated workers to return to the office between Jan. 11 and March 1, and after that the insurer "will begin to exit from the company" those who haven't gotten their shots, or exemptions.

There can be some confusion over the mandates themselves. One rule that came down through the **Department of Labor** requires companies with at least 100 employees to require either vaccines or frequent testing. Also, a separate mandate, announced by **President Biden** in November 2021, applies to health-care workers at facilities participating in Medicare and Medicaid. It has no testing opt-out.

Those policies have been subject to legal challenges, and the Supreme Court began hearing oral arguments about whether the executive branch overstepped its authority today.

The Fate of Federal Contractors

Biden also ordered that workers at all federal contractors and subcontractors be vaccinated, with an initial deadline of Dec. 8, which was then pushed back to Jan. 4.

On Jan. 5, Blue Cross Blue Shield of Michigan terminated 250 workers who refused to get vaccinated. There were signs that this was coming in October 2021, when **Northwell Health**, New York's largest health-care provider, fired 1,400 workers for refusing to get their Covid shots.

At that time, Blue Cross Blue Shield of Michigan said it would adhere to a strict vaccination mandate for federal contractors, to get vaccinated against Covid-19 or provide a religious or medical exemption, according to *Health Payer Specialist*, a sister

publication. Workers had until Jan. 4 to comply.

“As a prime contractor of the Federal Employee Program, we serve more than 117,000 federal workers, and these workplace safety protocols apply to our organizations,” said Blue Cross Blue Shield of Michigan spokeswoman **Helen Stojic** in October 2021.

MetLife is also a federal contractor. The insurer has a contract to provide life insurance for the U.S. Office of Personnel Management, which runs the Federal Employees’ Group Life Insurance Program for federal and postal workers and retirees.

MetLife confirmed to *Life Annuity Specialist* that it hasn’t fired anyone because of federal vaccine mandates.

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The executive order called the Federal-Contractor Vaccine Mandate has been stayed by a federal district judge in Georgia as the 11th Circuit Court hears arguments.

“There is a real chance that the Supreme Court will strike down Biden’s executive order,” said **David Gabor**, a lawyer specializing in employment law with the **Wagner Law Group** in New York. “Even if it’s stricken down, employers have the right to mandate vaccinations and testing. In most states, an employer can require its employees to be vaccinated.”

He said that under Title VII of the Civil Rights Act of 1964, companies with at least 15 employees can require workers to get vaccinated, unless they have a religious exemption. He said this might explain why some were getting rid of workers before vaccine mandates went into effect.

“When you’re talking about Blue Cross Blue Shield terminating 250 employees, they had a right to do that regardless of the executive order,” said Gabor. “In the case of Blue Cross Blue Shield, they can hide behind the executive order, so the employees don’t get mad at them.”

He said that the stay in the 11th Circuit on President Biden’s executive order will “buy employers more time to decide what they’re going to do.”

Carriers Wait and See

Several life insurers told *Life Annuity Specialist* that they haven’t fired any employees because of federal vaccine mandates.

“AIG has a requirement that employees be vaccinated, if they choose to work from an AIG office,” said company spokeswoman **Dana Ripley**. “However, we are not currently requiring all employees to work from the office.”

Spokespersons for **Nationwide** and **Jackson Financial** said they haven’t laid off any employees because of federal vaccine mandates and said that they aren’t federal contractors. Spokespersons for **Prudential Financial** and **John Hancock** declined to comment.

“Quite honestly, I think we’re still in this wait-and-see pattern until the Supreme Court starts to clarify what the various mandates mean for employees and employers,” said **Karl Anderson**, a consultant in the insurance industry.

The first coronavirus vaccines became available more than a year ago. More than 833,000 people in the United States have died from Covid so far, according to data from **Johns Hopkins University**.

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