

# EMPLOYEE BENEFIT ALERT



JANUARY 19, 2022

## Supreme Court Blocks OSHA's Emergency Temporary Standard For Employers

The Supreme Court (SCOTUS) has issued a stay that effectively blocks the Occupational Safety and Health Administration's (OSHA) Emergency Temporary Standard (ETS) which would have required employers with 100 or more employees to implement a workplace vaccine or testing requirement. At the same time, the court allowed the Centers for Medicare & Medicaid Services' (CMS) vaccination mandate for certain health care workers to move forward.

The SCOTUS decision does not preclude states from issuing their own workplace vaccination rules that would apply to employers in a particular state. The decision also does not stop employers from creating their own vaccine mandate programs. Generally, courts have ruled in favor of employers who have implemented their own employment related vaccination or testing requirements.

Finally, the SCOTUS ruling has no effect on recent guidance requiring health plans to pay for over-the-counter (OTC) COVID tests. For more information on this requirement, see our recent communication here:

<https://www.benefitcomply.com/resources/2022/01/11/guidance-released-for-health-plan-coverage-of-over-the-counter-covid-19-tests/>

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