Engage PEO Client Alert:

President Biden's COVID-19 Action Plan – New Vaccine and Testing Mandates

Under President Biden's recently announced plan, the Department of Labor's Occupational Safety and Health Administration (OSHA) is developing an **Emergency Temporary Standard (ETS) for employers with 100 or more employees requiring their employees to be vaccinated *or* produce a negative test result on at least a weekly basis before coming to work.** Employees who qualify under the EEOC's medical exemption or sincerely held religious belief exemption from getting the vaccine, will remain subject to weekly testing. The ETS will not apply to remote workers who are physically isolated from co-workers.

It is likely that OSHA will issue the ETS very quickly considering the Administration's aggressive approach. **It is important for employers to remember that even those employers who routinely do not deal with OSHA will be subject to these requirements including financial institutions, insurance companies, and other low-risk or mostly clerical industries.** After OSHA issues the ETS, enforcement guidance will soon follow, including how fines may be assessed for non-compliance.

It is also likely the ETS will require applicable employers to provide paid time off or require use of existing paid time off for the time it takes for workers to get vaccinated or to recover if they are absent because of the effects of the vaccination. More explanation on this is expected in the ETS when it is published.

There are 22 states with separate state-based OSHA plans, these states will be required to implement their own version of the requirement within 30 days of the issuance of the Federal OSHA ETS standard.

Engage will proactively follow these developments to get further clarification including what kind of tests are sufficient, how to collect proof of vaccination, and how to maintain records of such proof. Employers need to start planning on how to determine the employees' vaccination status, how it will track weekly test results and how to handle accommodation requests. Until the ETS is published much can change, and we anticipate that there will be a multitude of legal challenges after it is published.

- For more information regarding President Biden's COVID-19 Action Plan, please reference the following link: https://www.whitehouse.gov/covidplan/

Your HR and Risk partners at Engage are here to help with compliance and will continue to monitor the developments and keep you informed. If you have any questions, please contact your Engage Human Resources Consultant.