

# No Insurance Payments: The Next COVID Shot 'Mandate'?

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## STORY AT-A-GLANCE

- › Delta Air Lines charges a \$200 monthly surcharge to employees on the company health plan who do not get a COVID-19 shot
- › The Society for Human Resource Management (SHRM) announced that public employees in Nevada, along with their adult dependents, would be charged a surcharge on their state health insurance plan if they don't get a COVID-19 shot by July 2022
- › Mercyhealth, which runs hospitals and health clinics in Wisconsin and Illinois, deducts \$60 per month from employees' wages if they choose not to get the shot
- › By making COVID-19 injections a requirement of a wellness program, companies may be able to skirt legal issues, as they're "rewarding" members who participate in the program by letting them avoid the premium surcharge hoisted on the unvaccinated
- › While health insurance companies have long charged higher premiums based on factors like smoking, the Equal Employment Opportunity Commission requires that penalties not be so large as to be coercive

Those who choose not to get a COVID-19 shot may face higher costs for health care related to COVID-19. For the first 1.5 years of the pandemic, health insurance companies routinely paid for all costs related to COVID-19, waiving deductibles and copays across the board.<sup>1</sup> Policies have since changed, with many private insurers no longer picking up the tab for hospitalizations and other costs related to COVID-19.

However, those who haven't received COVID-19 shots could end up paying the most. While health insurance companies cannot deny health insurance to someone because they don't get a COVID-19 shot, it's possible that they could face increased costs — similar to smokers, who also pay a premium for health insurance coverage.

## **Delta Airlines Paved the Way for Increased Costs**

August 25, 2021, Delta Air Lines announced that employees who are on the company health plan who do not get a COVID-19 shot will have a \$200 monthly surcharge added. In the two weeks after Delta made the announcement, 20% of Delta's unvaccinated employees got the injection, raising the company's injection rate from 74% to 78%.<sup>2</sup>

The surcharge took effect on November 1, 2021, and by October 29, Delta Air Lines CEO Ed Bastian stated that more than 90% of employees had received the shot.<sup>3</sup> In an employee memo, Bastian defended the significant premium hike for unvaccinated employees, stating, "The average hospital stay for COVID-19 has cost Delta \$50,000 per person. This surcharge will be necessary to address the financial risk the decision to not vaccinate is creating for our company."<sup>4</sup>

Other companies have since followed suit. In January 2022, the Society for Human Resource Management (SHRM) announced that public employees in Nevada, along with their adult dependents, would be assessed a surcharge on their state health insurance plan if they don't get a COVID-19 shot by July 2022.<sup>5</sup>

A September 2021 survey by SHRM found that close to 20% of corporations were considering raising health insurance premiums for employees who don't get the injection. Among organizations, 13% were considering such a move while less than 1% had actually raised premiums for unvaccinated employees at that time.<sup>6</sup>

In another example, Mercyhealth, which runs hospitals and health clinics in Wisconsin and Illinois, started deducting \$60 per month from employees' wages if they choose not to get the shot. While Alen Brcic, Mercyhealth vice president of people and culture,

called the so-called “risk pool fee” a nominal amount, it drove the health system’s vaccination rate among employees up to 91%, from its previous 70%.<sup>7</sup>

“A ‘couple of handfuls’ of people quit over the policy and roughly 9% of employees are now contributing to the risk pool. Mercyhealth did provide a very small number of medical exemptions, but no religious exemptions,” NPR reported.<sup>8</sup>

## **Wellness Program Loophole Allows Increased Costs for Some**

A number of federal statutes — including the Patient Protection and Affordable Care Act (ACA) and the Health Insurance Portability and Accountability Act of 1996 (HIPAA) — prohibit group health plans and insurers from discriminating against individuals based on health factors.

While short-term health plans, which aren’t subject to ACA regulations, can deny coverage to someone because they didn’t get a COVID-19 vaccine, private health insurers cannot. Further, insurers that are part of the individual marketplace cannot charge penalties to those who are not vaccinated.<sup>9</sup>

However, wellness programs provide a work-around. By making COVID-19 injections a requirement of the company’s wellness program,<sup>10</sup> Delta, for instance, may be able to skirt legal issues,<sup>11</sup> as they’re “rewarding” members who participate in the wellness program by letting them avoid the premium surcharge hoisted on the unvaccinated.

JPMorgan Chase and Harmons have also used wellness program guidelines as a tool to raise health care premiums for workers who don’t get a COVID-19 shot. “According to federal law, companies are allowed to charge employees different amounts for health care as long as they do it through a program designed to promote healthy behaviors and prevent disease,” NPR reported.<sup>12</sup>

A wellness program can include virtually anything, from reaching a set number of steps daily to quitting smoking or staying within a certain BMI range. Sabrina Corlette, founder and co-director of the Center on Health Insurance Reforms at Georgetown University,

told NPR, "Your wellness program could simply be: I'm going to encourage all of my employees to get vaccinated, full stop.

Most employers are doing this to try to have a healthier and more productive workforce ... and to spend less on overall health care costs."<sup>13</sup>

There are a few caveats. For instance, ACA regulations state that surcharges in employer wellness programs for things such as COVID-19 vaccination status are allowed, as long as they don't discriminate against people with disabilities.<sup>14</sup> NPR broke down wellness program waivers this way:<sup>15</sup>

*"Under federal law, the wellness program must be 'reasonably designed,' meaning there's a reasonable chance the program will improve the health of or prevent disease in the participants. To ensure that wellness programs do not violate discrimination laws, companies must provide waivers for individuals who have medical reasons for not meeting the stated targets or alternative ways for them to satisfy the requirements.*

*As part of its policy, the Utah grocer Harmons says its insurance premium surcharge of up to \$200 per month applies to 'unvaccinated associates who don't qualify for an exemption or who chose not to complete a vaccine education series.'"*

Rewards and penalties of wellness programs may not exceed 30% of the cost of employees' health care plans, "calculated as the amount paid by the employee and the employer combined," except in cases that involve tobacco use — then the penalty may reach 50% of costs.<sup>16</sup>

## **Fines for Vaccination Status a Slippery Slope**

Governments around the globe have also rolled out fines for refusal of COVID-19 shots. Greece announced it would fine anyone aged 60 years and over who doesn't get the injection, at a rate of approximately \$114 a month.<sup>17</sup> The Canadian province of Quebec also announced plans to fine the unvaccinated a "significant" amount.<sup>18</sup>

“There comes a point where these incentives [are getting] higher and higher and higher until people just can’t afford to not get the vaccine,” Julie Downs, Ph.D., a social psychologist and associate professor at Carnegie Mellon University in Pittsburgh, told AAMC. “It does work, but it comes at a cost ... [and it’s] very hard in this political environment.”<sup>19</sup>

Dr. Mark Fendrick, director of the University of Michigan’s Center for Value-Based Insurance Design, described penalties for not getting vaccinated “legally murky,”<sup>20</sup> while others have described it as coercion. While health insurance companies have long charged higher premiums based on factors like smoking, the Equal Employment Opportunity Commission requires that penalties not be so large as to be coercive.<sup>21</sup>

One of the principles of the Nuremberg Code is that humans must give voluntary consent when participating in medical experiments, and that consent must be given, among other things, “without the intervention of any element of force, fraud, deceit, duress, over-reaching, or other ulterior form of constraint or coercion.”<sup>22</sup>

Give the emergency use authorization, not approval, the mass jab administration constituted a research trial. While the Pfizer-BioNTech COVID-19 jab received FDA approval August 23, 2021, the injection’s approval represents the fastest approval in history,<sup>23</sup> granted less than four months after Pfizer filed for licensing May 7, 2021.<sup>24</sup> So for all intents and purposes, it’s still in the research phase.

Daniel Polsky, Ph.D., economist with the Johns Hopkins Bloomberg School of Public Health and Carey Business School, further noted that penalties based on vaccination status should not dictate health care coverage, which also should not impose fines that suggest a person is at fault for getting sick. He told AAMC:<sup>25</sup>

*“[For example,] we have this obesity crisis and some people would say, ‘Maybe we shouldn’t pay for care, it’s the person’s fault for being obese or for being an addict. If someone got sick from COVID – we should withhold paying for care.’... That is a slippery slope and not somewhere we should go.”*

## Natural Immunity Is Ignored

If you've had COVID-19, the research is strong that you're well protected against reinfection. New data from the U.S. Centers for Disease Control and Prevention even show that prior COVID-19 infection, i.e., natural immunity, is more protective than COVID-19 injections.<sup>26</sup>

Despite this, the U.S. Supreme Court (SCOTUS) recently upheld a vaccine mandate at the Centers for Medicare & Medicaid Service (CMS), which is part of the U.S. Department of Health and Human Services. The mandate affects 10.4 million health care workers employed at 76,000 medical facilities,<sup>27</sup> making no exceptions for those who have natural immunity to COVID-19 due to prior infection.

"You can think about a mandate as the strongest form of incentive," Dr. Kevin Volpp, director of the Center for Health Incentives and Behavioral Economics at the University of Pennsylvania, told AAMC. "What we've seen so far in employer settings where there is a mandate related to keeping your job is that very few employees have not complied."<sup>28</sup>

Yet, when researchers reviewed studies published in PubMed, they found that the risk of reinfection with SARS-CoV-2 decreased by 80.5% to 100% among people who had previously had COVID-19.<sup>29</sup> Additional research cited in their review found:<sup>30</sup>

- Among 9,119 people who had previously had COVID-19, only 0.7% became reinfected.
- At Cleveland Clinic in Cleveland, Ohio, the incidence rate of COVID-19 among those who had not previously been infected was 4.3 per 100 people; the COVID-19 incidence rate among those who had previously been infected was zero per 100 people.
- The frequency of hospitalization due to a repeated COVID-19 infection was five per 14,840 people, or .03%, according to an Austrian study; the frequency of death due to a repeated infection was one per 14,840 people, or .01%.

In short, if you've had COVID-19, you're largely protected from reinfection, and a COVID-19 shot is not only unnecessary but, according to some experts, especially dangerous.<sup>31</sup> Penalizing people who refuse a COVID-19 shot they don't want or need becomes particularly atrocious in such cases. Unvaccinated individuals must have the freedom to remain so, if that's what they choose, and not be forced into this medical decision by financial threats and coercion.

## Sources and References

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- <sup>1, 20</sup> [Bridge Michigan October 26, 2021](#)
- <sup>2</sup> [CNBC September 9, 2021](#)
- <sup>3</sup> [Detroit Free Press October 29, 2021](#)
- <sup>4</sup> [CNBC August 25, 2021](#)
- <sup>5, 9, 14</sup> [Bloomberg Law February 2, 2022](#)
- <sup>6, 7, 8, 12, 13, 15, 16</sup> [NPR November 22, 2021](#)
- <sup>10</sup> [STAT News September 1, 2021](#)
- <sup>11</sup> [The National Law Review September 10, 2021](#)
- <sup>17</sup> [Bloomberg January 16, 2022](#)
- <sup>18</sup> [CNN January 11, 2022](#)
- <sup>19, 25, 28</sup> [AAMC October 26, 2021](#)
- <sup>21</sup> [Axios August 25, 2021](#)
- <sup>22</sup> [U.S. Holocaust Memorial Museum, Nuremberg Code](#)
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- <sup>24</sup> [Pfizer May 7, 2021](#)
- <sup>26</sup> [U.S. CDC MMWR January 19, 2022](#)
- <sup>27</sup> [The Epoch Times January 14, 2022](#)
- <sup>29, 30, 31</sup> [The Lancet Infectious Diseases January 1, 2022](#)