



## **FAQ: The COVID-19 Vaccines**

*Last Updated February 25, 2021*

**This FAQ provides the latest information and insight on the COVID-19 vaccines to inform employer efforts to take an active role in the distribution process. We will continue to update this FAQ on a periodic basis.**

### **Which vaccines are currently available?**

Currently there are two vaccines with emergency use authorizations (EUA) from the Food and Drug Administration (FDA). The first, from Pfizer, was endorsed by the FDA advisory panel on December 10 and received an EUA from the FDA on December 11. It showed 94% efficacy in trials. The first immunizations took place in the US the week of December 14.

The second, from Moderna, showed 94.5% efficacy in trials. Moderna received the FDA advisory panel endorsement on December 15 and the EUA on December 18. The first shots of the Moderna vaccine were administered the week of December 21.

Both vaccines require two doses three to four weeks apart.

### **How are the vaccines being distributed?**

Vaccine distribution depends on the state/municipality. The Centers for Disease Control and Prevention (CDC) has outlined objectives for distribution (vaccine safety and effectiveness, decreasing instances of death and serious disease, reducing the burden the disease is having on society – economic, educational, etc. – and maximizing equity). From these objectives (and the CDC priority groups guidelines noted below), states/municipalities have developed their own distribution plans.

Since the December authorizations, most vaccinations are taking place at hospitals or public health clinics (so they would likely be primarily covered by medical benefits). But with the urgency of the initiative, the vaccine will also likely be available to the public at pharmacies like CVS, Walgreens, and others, as well as in-store pharmacies.

The Department of Health and Human Services' (HHS) strategy for distributing COVID-19 vaccines includes:

- Engaging with state, local and tribal health departments, territories, Tribes, and federal entities to allocate and distribute vaccines
- Direct distribution of the vaccine to commercial partners (CVS and Walgreens)
- Safe vaccine administration through additional partnerships to support proper storage and handling
- An IT vaccine tracking system for overall vaccine management

Federal officials initially expected a sufficient supply to immunize about 100 million people in the US by the end of February. Meeting this target relies heavily on execution. Additional supplies of the vaccine – from Pfizer and Moderna, and potentially other players who have vaccines at various stages of development – should be available in the spring and summer for those who are not in the priority groups.

### Who gets the vaccine first?

The CDC's Advisory Committee on Immunization Practices (ACIP), a federal advisory committee comprised of medical and public health experts who develop recommendations on the use of vaccines in the US civilian population, recommended four groups for COVID-19 vaccination in the early phases:

- Healthcare personnel
- Workers in essential and critical industries
- People at high risk for severe COVID-19 disease due to underlying medical conditions
- People 65 years and older

From this recommendation, the CDC identified the following vaccine priority groups for states/municipalities:

- Phase 1a: health care personnel, long-term care facility residents
- Phase 1b: frontline essential workers, people 75 and older
- Phase 1c: people ages 65 – 74, people ages 16 – 64 with high-risk conditions, other essential workers
- Phase 2: people 16 and older not in phase 1

States are free to follow, or not follow, the CDC's recommendations on vaccine prioritization, and the current phase varies by state. Some states have entered phase 1b, while others remain in phase 1a.

For more detail on the CDC's priority groups, please see [Evidence Table for COVID-19 Vaccines Allocation in Phases 1b and 1c of the Vaccination Program](#).

### Is there support available for essential workers who want to be vaccinated?

If there is interest in vaccination support for essential workers as defined by the ACIP/CDC (or, if different, your state's jurisdiction), pharmacies (including CVS via [this form](#)) are helping organizations with their essential worker vaccination strategies. We have been told by some pharmacy chains that they will offer on-site vaccination clinics for certain size essential employers. This option may be particularly useful if a large number of essential workers are concentrated in an area that does not provide convenient access to pharmacies or other providers providing vaccinations. For example, CVS requires, among other things, that an essential employer has 1,000 eligible essential workers at a single location.

### How do I figure out the distribution plan for my state?

Even with the CDC guidance, each state determines who gets the vaccines when. It is important that employers refer to information from their state's public health department for specific distribution details, timelines and

updates.

WebMD has compiled information and links to state-specific information; you can access it [on the WebMD site](#).

### **How are pharmacies supporting the distribution of the vaccine?**

Pharmacies like CVS, Walgreen's and others, as well as in-store pharmacies, are required to administer COVID-19 vaccines:

- In full compliance with all federal, state and local requirements
- In full compliance with other guidance, including patient prioritization requirements and recommendations

Individual states or jurisdictions will determine the activation and scope of phases 1b and 1c in the coming weeks.

### **How do the vaccines work?**

Both the Pfizer and Moderna vaccines use messenger RNA (mRNA). Instead of injecting a weakened germ, mRNA vaccines teach cells how to make a protein that triggers an immune response. This response produces antibodies that protect against infection. The Pfizer and Moderna offerings are the first authorized vaccines to use mRNA.

The success of the COVID-19 vaccines will pave the way for other mRNA vaccines, which can be produced faster and at a lower cost relative to traditional vaccines.

### **Where can we find information about vaccine safety?**

Despite the review and authorization of two highly effective vaccines, there are lingering public concerns regarding the safety of the vaccines. The FDA has taken several steps to assure the public of its commitment to scientific rigor, integrity and transparency in their review of vaccine candidates.

- In June, the FDA issued clear guidance to drug manufacturers regarding its expectations for a clinical trial structure and related scientific data, which is required for the FDA evaluation processes.
- A Data and Safety Monitoring Board, comprised of fully independent research experts, reviewed emerging data from trials as they progressed and had the authority to pause or halt trials in the event of serious adverse events.
- Before the FDA began its review of the vaccines, the agency convened its Vaccines and Related Biological Products Advisory Committee to review aggregated trial data.

In an effort to promote and demonstrate vaccine safety, leading experts continue to issue public statements to help allay concerns and encourage vaccinations.

### **What actions can employers take now to be ready when the vaccine is available more broadly?**

For employers, this is the time to plan. Actions to consider include:

- Establishing a structure for developing a vaccination strategy (a committee or a task force)
- Surveying employees with broad questions (that will not elicit responses related to individual medical conditions) to get a sense of their perspectives (safety concerns, likelihood of getting vaccinated)

- Considering how to help procure or obtain vaccinations for your employees (assume full participation)
- Connecting with your insurance carrier to get a clear understanding of their plans, resources and ideas related to the vaccines
- Staying current with communications from your local health department
- Reaching out to wellness providers and vaccination providers to understand their approach and how it aligns with your organization's strategy

Communication is also critical. Keep your employees up to date with activities, plans and expectations. Amplify messages regarding vaccine safety now so concerns aren't an issue when the vaccine becomes available. Express your support of the vaccines as an important step in overcoming COVID-19, while reiterating the need to focus on safety to reduce infections and hospitalizations.

Finally, if your employees are working remotely, continue to support them with work-from-home and well-being resources. If they're in the office, remain diligent in executing workplace protocols (distancing, masks, cleaning). Encourage all employees – regardless of where they are working – to get a flu shot.

### **What are the expected administration costs for the vaccine?**

As the vaccine is distributed to priority groups, information is emerging regarding employer administration costs. The following is a summary of details for employers to consider as they plan for 2021.

- Members will have \$0 cost-share (copayment, coinsurance or deductible), including when two doses are required (as is the case for the Pfizer and Moderna vaccines).
- The federal government will cover the cost for the vaccine itself – as part of the Coronavirus Aid, Relief, and Economic Security (CARES) Act – purchasing initial supplies of the vaccine and allocating them to the states for prioritized distribution.
- The CARES Act classifies COVID-19 vaccines as “preventive services,” and they will be managed like other preventative vaccines, with administration through physicians' offices and pharmacies.
- Health plans and self-insured plans will be required to pay for the administration of the COVID-19 vaccine.
  - Administration cost for two dose vaccine: first dose \$16.94/second dose \$28.39
  - Administration cost for a single dose vaccine: \$28.39
- Clients can cover vaccine administration costs through their medical benefit and/or their PBM pharmacy benefit. Given the HHS announcement regarding the federal government partnership with pharmacy

chains and community pharmacies to access and administer the vaccines, we encourage PBM clients to cover the administration fee under their PBM pharmacy benefit.

- Administration fees for Medicare plans will be covered by Medicare Fee For Service.

### **Can employers require employees to get the vaccine?**

On December 16, the US Equal Employment Opportunities Commission (EEOC), which enforces workplace anti-

discrimination laws, issued guidance on whether employers can mandate that employees be vaccinated. The guidance indicates that vaccines can be required, provided that accommodations are made for employees with qualifying disabilities or sincerely held religious beliefs that contradict receiving the vaccine.

Of course, in addition to a host of legal considerations, some of which are addressed in the EEOC guidance, there are a number of practical considerations associated with mandating that employees get vaccinated. Employers should evaluate their own workforce, operations and industry as part of determining how to address vaccinations for its employees.

Furthermore, while the guidelines around mandatory vaccinations are largely federal at this point, several states are considering their own guidance and/or legislation around the ability to make the vaccine mandatory. In the end, much will depend on the voluntary response and progress toward herd immunity. In other words, if the number of volunteers falls short and infection rates remain above certain levels, states may take legislative action to implement requirements.

**If an employee refuses to get the vaccine for certain reasons (religious beliefs or they are immunocompromised) and therefore can't return to the office, can an employer terminate them if the employer doesn't want to accommodate them working from home 100% of the time?**

Employers should enter into an interactive dialogue with the employee to determine what accommodation may be available and appropriate based on the situation. Working from home, if possible, would likely be an accommodation that would need to be considered, since it's likely a minimal burden on the employer (assuming the job can be done from home) and since it's likely something the employee could support. Overall, employers should not avoid the accommodation discussion, as that is what's required under the ADA (and what the EEOC, which enforces the ADA, has stated is required when it comes to vaccination mandates from employers).

**Can an employer terminate an employee who refuses to get vaccinated if the refusal is not the result of religious beliefs, health concerns or another protected category? What if an employee simply prefers to work from home 100% of the time?**

A plain refusal is not likely enough to trigger the need for an accommodation under the ADA. However, the employer may want to be more cautious and at least attempt to enter into a dialogue with the employee to explain the reasons for the vaccine mandate and whether there may be another job/position that the employee could transition to (in lieu of termination). Again, respecting the employee's position and giving them the benefit of the doubt is always the best approach when considering employment termination.

**Would an employer be liable in any way if the employee's health were adversely affected as a result of being vaccinated under a company mandate?**

It depends on the situation. While there is a higher liability risk if the employer mandates the vaccine, individual facts and circumstances will determine the actual liability.

**If an employer mandates vaccinations for employees and an employee has a serious negative reaction, does that make the employer liable from a workers' compensation standpoint?**

Again, liability will depend on the situation. Liability risk increases if the employer is mandating the vaccine, but the actual liability and the workers' comp implications ultimately depend on specific circumstances.

**Does federal law supersede state law?**

States have the right to enact their own legislation. It can be as protective or more protective for employees than

federal law, but it cannot be less protective.

### **If an employer offers a financial incentive for employees to get vaccinated, is the employer required to pay this incentive to those who won't get vaccinated due to a documented reasonable accommodation (medical or belief-based)?**

There isn't a lot of guidance on how the vaccine and vaccine programs interact with the federal wellness program rules (and those federal rules are a bit up in the air themselves). However, we think that most likely the answer is yes, since not giving them the financial incentive could be viewed as discriminating based on a health status or disability. The employer could have some other reasonable alternative standard (like asking them to wear PPE, submitting to periodic testing or something similar).

### **It's easy for an employee to validate a disability with documentation from a medical provider. But how can employers validate something like a religious belief?**

Employers generally can rely on an employee's attestations, unless they have some reason to doubt them. So the more employee-friendly approach is to just take the employee at their word. Having the employee sign an attestation is also an option. Going further gets complicated, since it is a different type of situation than a disability and there doesn't appear to be direct guidance on documentation for a stated religious belief.

### **Who within an organization typically reviews and grants exceptions?**

An employer's HR/benefits team, in consultation with in-house or outside counsel when circumstances are less clear, typically takes the lead in reviewing and granting exceptions. Some HR professionals may have enough experience to make these decisions on their own, while others may need to include others in the process. Whoever is involved, the employer must ensure it's complying with the ADA/EEOC rules on disability or religious accommodations.

### **Can employers ask whether an employee has received the vaccine? What if an employee doesn't want to disclose their vaccination status?**

Employers have the right to ask employees for proof of vaccination. If the employee declines, and this creates a conflict with company policy regarding vaccinations, the employer can take corrective action.

### **Do employers mandating the vaccine have to pay employees for the time it takes them to get vaccinated?**

There's some case law suggesting that employers must pay an employee for the time away from work. If an employer mandates the vaccine, the more cautious approach is to pay employees for their time as they get vaccinated. Adding financial incentives to a vaccine mandate (like paying each employee \$200 if they get vaccinated) is not required.

### **What are some good resources to keep track of state mandates and/or protections?**

The state situation is moving quickly at this point. Legislation can be proposed and enacted at any time so keeping up can be a challenge. State health department websites can be good resources but be sure to check back often to access the most current information.

### **Are there recommended resources that employers can share with employees regarding the safety of the vaccine?**

The COVID-19 vaccines are being held to the same safety standards as all vaccines. The CDC and the FDA monitor all US vaccines for safety and continuously provide data and insight to government health agencies, public health partners and the public. The current vaccine safety system has the capacity to effectively monitor the safety of COVID-19 vaccines, both under an FDA Emergency Use Authorization (EUA) and after FDA approval. The CDC, along with the FDA and other federal partners, are using established safety systems to conduct heightened safety monitoring of COVID-19 vaccines. Additional safety measures include using CDC text messaging and web surveys to follow up after individuals receive the vaccine.

Employers can consider directing employees to the [Johns Hopkins](#) and [CDC](#) websites for more information.

### **Where are essential businesses in the priority list for receiving vaccines?**

Essential businesses are in phase 1 priority groups. Each group within phase 1 is based on the risk of exposure and illness. [This chart](#) outlines the CDC's allocations for essential workers and serves as guidance for states and local jurisdictions. Each state is responsible for establishing its own distribution guidelines.

### **The vaccines were developed so quickly. How safe are they and are there any known side effects?**

The rapid timeline to availability of the COVID-19 vaccines was not the result of any development or safety testing shortcuts. Scientists have been working on coronavirus vaccines for decades, after SARS-1 emerged and in response to MERS (Middle East Respiratory Syndrome). Neither of these viruses turned out to spread as quickly as SARS-CoV-2, the virus that causes COVID-19, and so the vaccines being developed were never brought to market.

The funding provided by the federal government allowed vaccine developers to pursue all the usual vaccine development studies and safety testing at the same time instead of one phase at a time. The funding also allowed pharmaceutical companies to manufacture doses before their vaccine was approved. This support accelerated the process without having to take shortcuts in development or effectiveness and safety testing.

While there are only a few months of experience with these vaccines, there have been no significant safety events noted with either the Pfizer or Moderna vaccines, the first two to receive an EUA from the FDA. [Millions of doses](#) of the vaccine have been administered. Most side effects of vaccines appear in the weeks immediately following vaccination. Delayed effects occurring months after vaccination are uncommon.

### **What are some highlights from the development process that support safety?**

Safety has been a top priority for federal agencies and vaccine manufacturers throughout the development and authorization process. Here are some highlights from the development, review and authorization of the COVID-19 vaccines:

- Careful testing. All vaccines go through clinical trials to test safety and effectiveness. For the COVID-19 vaccines, the FDA set up rigorous standards for vaccine developers to meet.
- Authorization for emergency use. Vaccines that meet FDA safety and effectiveness standards can be made available in the U.S. by approval or by EUA.
- Continuous monitoring for problems and side effects. Once a vaccine is authorized for use, monitoring continues, with systems in place to track problems or side effects that were not detected during the clinical trials. For the COVID-19 vaccine, the FDA and CDC are expanding their vaccine monitoring. If there are problems with the vaccine, they are most likely to emerge early in the testing process when they can be identified and addressed.

### **If you get vaccinated is there a chance you can still get COVID-19? Would symptoms be less severe if you did contact COVID-19 after getting vaccinated?**

It typically takes a few weeks for the body to build immunity (protection against the virus that causes COVID-19) after vaccination. That means it's possible a person could be infected with the virus that causes COVID-19 just before or just after vaccination and still get sick. This is because the vaccine has not had enough time to provide protection. For additional details, visit the [CDC website](#).

### **Will people have to get this yearly like the flu vaccine?**

We don't yet know how long immunity to COVID-19 will last after being vaccinated. Some vaccines produce a lifetime of immunity but others – like the annual flu shot – require regular immunizations to provide continued protection. Clinical trials continue even after vaccines are authorized to keep studying their long-term safety and effectiveness.

### **Can employers request proof that employees have been vaccinated?**

Yes. Employers can ask employees for proof of vaccination. This is not a disability-related inquiry. Employers should not ask follow-up questions regarding the reason an employee has not been vaccinated. This could elicit information about a disability, subject to the Americans with Disabilities Act (ADA). Equal Employment Opportunity Commission (EEOC) guidance also made it clear that requesting proof of vaccination does not implicate the Genetic Information Nondiscrimination Act (GINA) because it does not involve the use of genetic information to make employment decisions, or the acquisition or disclosure of genetic information.

### **How should employers address employee concerns about working with un-vaccinated coworkers?**

Employers have a duty to implement policies and practices that ensure workplace safety for employees. As part of this duty, EEOC guidance says if an employee raises a disability-related objection to mandatory vaccination, employers should first determine whether an unvaccinated employee poses a direct threat by **considering four factors**:

1. The duration of the risk;
2. The nature and severity of the potential harm;
3. The likelihood that the potential harm will occur; and
4. The imminence of the potential harm.

An employer that concludes that an unvaccinated employee poses a direct threat of exposure to co-workers is required to then determine whether a reasonable accommodation can mitigate the direct threat.

Examples of accommodations include mask wearing, routine testing, social distancing, optional leave under the Families First Coronavirus Response Act (FFCRA) (though it is no longer required for employers), leave under the Family and Medical Leave Act (FMLA) or paid time off under the employer's policies.

If there is no reasonable accommodation, an employer should seek counsel prior to removing the employee from the workplace. EEOC recommends against terminating employment

Related Resources:

[The Centers for Disease Control and Prevention](#)

[The US Department of Health and Human Services](#)

[WebMD: State-by-State Guide to COVID Vaccine Information \(January 11, 2021\)](#)

[Evidence Table for COVID-19 Vaccines Allocation in Phases 1b and 1c of the Vaccination Program](#)

[The US Equal Employment Opportunity Commission: "What You Should Know About COVID-19 and the ADA, the Rehabilitation Act, and Other EEO Laws" \(December 16, 2020\)](#)

[Stat: "FDA advisory panel endorses Pfizer/BioNTech Covid-19 vaccine" \(December 10, 2020\)](#)

[The Wall Street Journal: "As Covid-19 Vaccines Roll Out, States to Determine Who Gets Shots First" \(December 9, 2020\)](#)

[The Wall Street Journal: "U.S. Expects to Immunize 100 Million High-Risk People by End of February, Officials Say" \(December 2, 2020\)](#)

[Optum Rx: "Latest information on COVID-19 vaccines" \(December 3, 2020\)](#)

[Forbes: "How Employers Should Prepare For The Covid-19 Vaccine" \(November 19, 2020\)](#)

[Johns Hopkins Medicine](#)

[Evidence Table for COVID-19 Vaccines Allocation in Phases 1b and 1c of the Vaccination Program](#)

[Bloomberg COVID-19 Vaccine Tracker](#)

*This information has been provided as an informational resource for PPI clients and business partners. It is intended to provide general guidance, and is not intended to address specific risk scenarios. Regarding insurance coverage questions, each specific policy must be reviewed in its entirety to determine the extent, if any, of coverage available for the impact of the Coronavirus.*