

GOVERNMENTAL APPROVALS

- FDA has [granted](#) emergency use authorization (EUA) for the first mRNA [vaccine](#) (Pfizer/BioNTech) for ages 16+, and CDC has [confirmed](#) it for distribution
 - ✓ Second mRNA vaccine (Moderna) was [issued](#) an EUA on December 18, 2020
- Per [CARES Act](#) and [confirmed](#) via Oct 28 interim final rule, non-grandfathered health plans have 15 business days from CDC approval to pay for COVID-19 vaccine administration without cost sharing
 - ✓ This includes COVID-19 vaccines obtained out-of-network while we remain in public health emergency status, which has been extended several times by HHS, is currently [extended](#) through mid-January, and is likely to be extended again
 - ✓ After the PHE, out-of-network can impose costs-sharing if in-network access to the vaccine is adequate
 - ✓ CMS has prepared a [toolkit](#) to help plans comply
- [Phase 1a](#) is for health care workers and residents of long-term care facilities
- EEOC [guidance](#) to employers: can mandate vaccine, with some accommodations

HOW SOON ARE VACCINES AVAILABLE?

- Two vaccines have been granted emergency use authorization (EUA) for ages 16+ and are already being given in Phase 1a to health care workers and long-term care facility residents
 - ✓ The Pfizer/BioNTech, an mRNA vaccine requiring super-cold storage, was approved 12/11/20
 - ✓ The Moderna vaccine, which only requires normal freezers, was approved 12/18/20
 - ✓ The UK and Canada were first to approve and begin distributing Pfizer's vaccine
- While it appears the EUA will allow broader distribution beyond Phase 1a in the coming months, it may be important to note an EUA is not the same as full approval, so we will have to see what criteria and timeframe regulators want to see before they'll grant each vaccine full approval for broad prevention
 - ✓ Typically preventive medicine given to healthy, asymptomatic people requires a higher level of proven efficacy and lower level of adverse effects than medicine used to treat conditions

FEDERAL DISTRIBUTION PROPOSAL

Phase 1c
Adults with high -risk medical conditions
Adults 65+

Phase 1b
Essential workers
(examples: Education Sector, Food & Agriculture, Utilities,
Police, Firefighters, Corrections Officers, Transportation)

States will determine
exactly which industries
and individuals to include

Phase 1a
Health care personnel
LTCF residents

Time

FEDERAL PHASE 1a DISTRIBUTION

Health care Personnel^{1,2}
(HCP)
(~21million)

Long-Term Care Facility (LTCF)
Residents³
(~3M)

Examples

- Hospitals
- Long-term care facilities
- Outpatient clinics
- Home health care
- Pharmacies
- Emergency medical services
- Public health

- Skilled nursing facilities (~1.3 M beds)
- Assisted living facilities (~0.8 M beds)
- Other residential care (~0.9 M beds)

1. <https://www.cdc.gov/infectioncontrol/guidelines/healthcare>

2. <https://www.cisa.gov/publication/guidance-essential-critical-infrastructure-workforce>

3. <https://www.cdc.gov/longtermcare/index.html>

COLORADO DISTRIBUTION

PHASE 1

Winter



1A

Highest-risk health care workers and individuals:

- People who have direct contact with COVID-19 patients for 15 minutes or more over a 24-hour period.
- Long-term care facility staff and residents.

1B

Moderate-risk health care workers and responders:

- Health care workers with less direct contact with COVID-19 patients.
- Workers in home health/hospice and dental settings.
- EMS, firefighters, police, correctional workers, dispatchers, funeral services, other first responders, and COVID-19 response personnel.

PHASE 2

Spring



2

Higher-risk individuals and essential workers:

- People age 65 or older.
- People of any age with obesity, diabetes, chronic lung disease, significant heart disease, chronic kidney disease, cancer, or are immunocompromised.
- People who interact directly with the public at work, such as grocery store workers and school staff.
- People who work in high density settings like farms and meat-packing plants.
- Workers serving people that live in high-density settings.
- Other health care workers not covered in Phase 1.
- Adults who received a placebo during a COVID-19 vaccine clinical trial.

PHASE 3

Summer



3

The general public:

- Anyone age 18-64 without high risk conditions.

***Timeline subject to change based on supply chain. Prioritization subject to change based on data, science, availability.**

Note: CDPHE recognizes the Tribal sovereignty of the Ute Mountain Ute and Southern Ute Indian Tribes, and that the Tribes have the authority to determine how vaccine supply will be prioritized for their populations, even if their prioritization scheme is different than what CDPHE recommends. Federal entities such as the Bureau of Prisons, Department of Defense, Department of State, Veteran's Hospital Association, and Indian Health Services will be vaccinated by the federal government. Children and pregnant people are not included in this preliminary phased approach; they may be prioritized for vaccine contemporaneously when/if safety and efficacy data are available with the appropriate ACIP recommendation.

KANSAS DISTRIBUTION

Population Group	Very Limited Availability (Winter)	Limited Availability (Late Winter)	Increased Availability (Spring)	Generally Available (Summer)
Health Care Personnel				
Long Term Care Facility Staff				
Long Term Care Residents				
EMS/Frontline Public Health Workers				
First Responders				
Includes some public facing workers in essential and critical infrastructure				
Teachers, school staff, child-care workers				
Individuals at high risk for adverse health consequences				
All other adults				
Children				

TEXAS DISTRIBUTION

- [Phase 1a](#): Health care workers and residents of long-term care facilities
- Other phases [TBD](#) by Expert Vaccine Allocation Panel, but it [appears](#) initial focus after phase 1a may be “vulnerable and frontline populations” and “considering those who live in remote, rural areas”

HOW MUCH WILL VACCINES COST?

- Federal government is purchasing all vaccines initially and distribute them to state and local public health departments to distribute in accordance with state orders
- Vaccine administration costs are separate from the vaccine itself
 - Fees will be paid in full by non-grandfathered health plans
 - During the public health emergency (PHE), which has been extended through at least mid-January, even vaccines obtained out-of-network are paid in full
 - After the PHE is over, cost-sharing may be applied out-of-network as long as in-network access to vaccines is adequate
 - Fees can be paid in full by grandfathered health plans (with approval of their insurer/stop loss) but can impose cost-sharing
 - Uninsured individuals can have their fees paid by the HRSA Provider Relief Fund

WILL VACCINES AFFECT SOCIAL DISTANCING AND OTHER GUIDELINES?

- CDC is recommending continued caution
- Masking, social distancing, and other guidelines are expected to continue until enough people are vaccinated and the resulting immune response and duration of each vaccine is better understood

CAN WE REQUIRE EMPLOYEES TO BE VACCINATED?

- The EEOC has advised that employers can require vaccinations, with caveats
 - First, access to the vaccine will be limited for many weeks, and states will be responsible for identifying who's next in line under Phases 1b and 1c...so a mandate is not practical until there is adequate access for your employees
 - Second, some employees may be represented, so mandatory policies may have to be coordinated through union representation/collective bargaining agreement
 - Third, some employees may be unable to receive a vaccine due to disability or unwilling due to religious objection, so accommodations may be necessary
 - This is an interactive process with the employee and may not result in a workable solution if it creates undue hardship on the employer
- The EEOC's general stance is they prefer employers "encourage" rather than "require" employees to get vaccines, but there is a legal pathway forward when a mandatory policy seems like the only reasonable pathway to protect the workforce, customers, and suppliers

HOW DO WE IMPLEMENT MANDATORY VACCINATIONS?

- First, gauge availability/access
- Then develop your policy in partnership with legal counsel, addressing issues like:
 - Timeframes and instructions on how/where to secure vaccines
 - Documentation requirements and submission protocols
 - How to request exemptions and additional safety protocols for those unable to be vaccinated
 - Safety protocols during transition to full workforce vaccination
 - Whether employees will be compensated for time spent getting vaccinated
- Clearly communicate your policy and deadlines, including the continued use of enhanced safety measures post-vaccination
- Safeguard confidential medical information

WHAT HAPPENS IF AN EMPLOYEE REFUSES OR IS UNABLE TO GET THE VACCINE?

- Have clear, consistent policies and communication
- Engage in interactive accommodation discussions
- Consider long-term safety precautions that could apply to that employee, such as social distancing, mask use, and other personal protective equipment (PPE) like masks, provided those don't result in undue hardship
- Consider remote work possibilities or reassignment of duties for less exposure to other employees, customers, and suppliers, provided those don't result in undue hardship

CAN WE PURCHASE VACCINES?

- Currently, only the federal government can purchase vaccines and only state and local public health departments can distribute them to entities as determined by the State
- As vaccines become more widely available over time, there may come a time when employers can become more involved in direct purchasing, but logistics of cold-storage requirements and proper two-dose administration will need to be considered

IF WE MANDATE VACCINES, ARE WE REQUIRED TO PAY FOR ALL EMPLOYEES TO RECEIVE THE VACCINE?

- The Fair Labor Standards Act (FLSA) requires employers to reimburse employees for expenses incurred on the employer's behalf
- State wage and hour laws may create additional obligations, so employment counsel may be needed to address this issue for the states you operate in

HOW WILL OUR GROUP HEALTH PLAN COVER THESE VACCINES?

- CARES Act treats these vaccines as preventive care which:
 - ✓ HSA plans may cover before the deductible is met, and
 - ✓ Non-grandfathered plans must cover in-network without cost-sharing (or out-of-network without cost-sharing if in-network access isn't adequate)
- CARES Act stipulates non-grandfathered plans must offer special coverage beyond normal preventive care requirements as follows:
 - ✓ Must be a covered preventive service without cost-sharing within 15 days (rather than the normal plan year on/after the one-year anniversary of a published recommendation)
 - ✓ Must also be covered out-of-network without cost-sharing during the public health emergency, which is currently extended through mid-January and seems likely to be extended again
- Grandfathered plans can choose how to cover but should secure insurer/stop loss approval to apply no cost-sharing