

President Biden's Call For Action On The Covid-19 Pandemic

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Yesterday, President Biden announced his COVID-19 Action Plan (the "Plan"), containing broad and far-reaching provisions to combat the pandemic. The Plan includes vaccination and testing requirements for businesses with over 100 employees and provides numerous resources and benefits for small businesses and individuals.

While the Plan outlines a myriad of mandates and initiatives, many questions remain about the precise nature of certain obligations, when they will take effect, and who will have financial responsibility for them. Consequently, we will continue to provide updates as further details become available.

Private Employers: Vaccinations, Testing and Paid Time Off

Employers with 100 or more employees must ensure their workforce is fully vaccinated or require unvaccinated workers to produce a negative COVID-19 test result on at least a weekly basis. President Biden has tasked the Department of Labor's Occupational Health and Safety Administration ("OSHA") with developing a formal rule to require this. Because the formal rulemaking process can take months to years, OSHA will issue an Emergency Temporary Standard ("ETS") in the meantime; an ETS takes effect immediately and helps expedite the formal rulemaking process. It is unclear whether employers will be responsible for making COVID-19 tests available and/or paying for them. The Plan does address discounted testing, discussed below.

The Plan also tasks OSHA with developing a formal rule requiring employers with more than 100 employees to provide paid time off for vaccinations and recovering from vaccination-related illness. OSHA will issue an ETS containing this requirement as well. The Plan does not state whether the federal government will reimburse employers for providing this time off through tax credits (as was the case under the Families First Coronavirus Protection Act).

Federal Workers/Federal Contractors: Vaccination Mandate

President Biden has signed Executive Orders requiring all federal executive branch employees and all employees of entities that do business with the federal government to be fully vaccinated.

Health Care Workers at Medicare/Medicaid Participating Hospitals/Health Care Settings

The Plan provides for the Centers for Medicare & Medicaid Services to require COVID-19 vaccinations for workers in most health care settings that receive Medicare and Medicaid reimbursements.

COVID-19 Testing: Increased Availability, Reduced Costs

- **Expansion of Easy-to-Use Testing Production:** The Plan seeks to ensure a broad, sustained, and industrial capacity for COVID-19 test manufacturing through the federal government's use of the Defense Production Act and its procurement of nearly \$2 billion in rapid point-of-care and over-the-counter home test kits.
- **Increased Affordability of At-Home Tests:** Top retailers that sell at-home, rapid COVID-19 tests – Walmart, Amazon, and Kroger – will offer to sell them at cost for the next three months, beginning September 10, 2021. The Plan also requires Medicaid make at-home tests free for beneficiaries.
- **Expansion of Free, Pharmacy Testing:** The Administration will expand the number of retail pharmacy sites where anyone can get tested for free through the HHS free testing program.

Financial Relief for Small Businesses

- **COVID-19 Economic Injury Disaster Loan Program:** This program (which is already in existence) offers low-interest, fixed-rate, long-term loans from the Small Business Administration ("SBA"). Currently, \$150 billion in loanable funds are still available in this program. The Plan provides for the SBA to increase the maximum amount that can be borrowed from \$500,000 to \$2,000,000. The funding can be used to hire and retain employees, purchase inventory and equipment and pay off higher-interest debt. The SBA is to ensure that small businesses do not have to begin repayment for two years. The Plan also calls for the SBA to make it easier for small businesses with multiple locations in hard-hit sectors (such as restaurants, hotels, and gyms) to access these loans (although the Plan provides no details on how this will be accomplished). To further assist small businesses, the SBA will soon offer a 30-day exclusive window of access during which time only small businesses seeking loans of \$500,000 or less will receive awards.
- **Streamlining Paycheck Protection Program Loan Forgiveness Process:** The Plan will simplify the forgiveness process for Paycheck Protection Program loans by having the SBA send a pre-completed application form to the borrower who can then review, sign, and submit to the SBA; the SBA will then work with the lender to complete the forgiveness process.

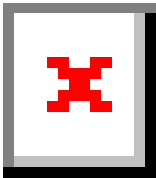
Other Topics of Interest

- **Schools:** The Plan calls for governors to require vaccinations for teachers and school staff. The Plan also calls on schools to set up regular testing of teachers, staff, and students in accordance with CDC guidance. Current CDC guidance recommends that screening testing be offered to students who have not been fully vaccinated when community transmission is at moderate, substantial, or high levels; and screening testing should be offered to all teachers and staff who have not been fully vaccinated at any level of community transmission.

- **Easy Access to Vaccinations/Booster Shots:** When booster shots are approved by the FDA, individuals may visit [vaccines.gov](https://www.vaccines.gov) to locate vaccination sites, to determine what vaccines are offered at each site, and, for many sites, to see what appointments are available.
- **Large Entertainment Venues:** The Plan requests large entertainment venues such as sports arenas, large concert halls, and other places where large numbers gather to require patrons to be vaccinated or show a negative COVID-19 test for entry.

President Biden's Action Plan can be found at <https://www.whitehouse.gov/covidplan>.

Questions? Please contact:



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