

December 17, 2020

Summary

The United States has 17,110,219 confirmed COVID-19 cases and 309,334 reported related deaths. An FDA advisory committee recommended that the agency grant emergency use authorization (EUA) for Moderna's COVID-19 vaccine. FDA is expected to grant the EUA tomorrow. The federal government is reportedly trying to secure additional doses of Pfizer's COVID-19 vaccine by helping the company get priority access to the raw materials it needs to make the vaccine. According to media reports, the federal government may force Pfizer's suppliers to prioritize the Company's orders in exchange for tens of millions more doses to be delivered in the second quarter of 2021. FDA granted EUA for the Ellume COVID-19 Home Test, the first at-home coronavirus test available without a prescription. Yesterday, Congressional leaders said they are nearing agreement on a \$900 billion stimulus package.

New cases continue to rise throughout the country, up 29% for the week ending December 16 compared to two weeks prior. California is opening temporary field hospitals to help with ICU overflow. Tennessee now has the most new cases per-capita of any state in the country, as ICU beds there reached 98% capacity, with less than 170 beds available statewide. An Alaskan health care worker suffered an anaphylactic allergic reaction to the Pfizer vaccine – Alaskan officials said there will be no changes to the vaccine distribution plan. Minnesota will relax public health restrictions at midnight on December 19, allowing limited outdoor service for restaurants, bars, and breweries following a steep decline in new cases relative to the state's November highs.

New York reported 120 deaths, 6,147 hospitalizations, and 1,095 COVID-19 patients in intensive care on Wednesday, December 16, 2020. Approximately 10,914, or 5.38%, of the 202,772 tests administered in New York on December 16 were positive for COVID-19. As of Wednesday, New York officials have received 87,000 vaccine doses from Pfizer and expect another 80,000-dose shipment from Pfizer within the next few days; four thousand residents have received the vaccine. The State has created a website to instill confidence in the safety and efficacy of the vaccine, and has directed health insurers to cover the cost of approved vaccines without cost-sharing. New York State lawmakers are debating whether to raise taxes on New York residents making \$1 million or more to help offset an anticipated \$8.7 billion budget deficit during FY2021. Metropolitan Transportation Authority (MTA) avoided service cuts to its subway, bus, and commuter rail lines in its proposed FY2021 budget, but the budget is dependent on \$4.5 billion in federal aid. MTA officials are working with Department of Homeland Security and Massachusetts Institute of Technology to study virus transmission on subways.

Presidential updates

- [*President-Elect Biden, Vice President Pence Will Receive COVID-19 Vaccine Soon*](#), December 16
 - President-elect Biden said he may receive the first dose of Pfizer's two-dose COVID-19 vaccine as early as next week.
 - Biden previously indicated that he felt torn between setting an example for the public by getting vaccinated and avoiding cutting in front of health care workers and other priority groups. However, Dr. Fauci recommended that Biden be vaccinated as early as possible for security reasons.
 - Vice President Pence's office announced that he will receive the first dose publicly on Friday to "promote the safety and efficacy of the vaccine and build confidence among the American people."
 - Pence is one of several high-profile figures who have offered to receive the vaccine publicly in order to buoy public confidence. Earlier this month, former Presidents Bush, Clinton, and Obama also [offered](#) to be vaccinated publicly to reassure Americans that the vaccines are safe.
 - According to a recent study by the Kaiser Family Foundation, roughly a quarter of American [remain](#) skeptical of COVID-19 vaccines.
 - Pence will be the first high-profile member of President Trump's administration to receive the vaccine. Last week, President Trump scuttled a plan to give all senior White House staff priority access to COVID-19 vaccines due to public backlash.

World Health Organization (WHO)

- [*WHO COVID-19 Updates*](#), December 17
 - WHO published a risk assessment [tool](#) to inform mitigation measures for international travel in the context of COVID-19.
 - WHO [updated](#) their Therapeutics and COVID-19 Living Guideline with the latest evidence and recommendations on use of drug therapeutics in treating patients with COVID-19.

U.S. Centers for Disease Control and Prevention (CDC)

- [*CDC Interpretation of Forecasts of New Deaths and Hospitalizations*](#), December 17
 - CDC [consolidated](#) data from 37 models projecting the COVID-19 death rate. Predicted rates of increase differ among the forecasts, depending on assumptions about the prevalence and rigor of social distancing behaviors.
 - CDC's national ensemble forecast indicates an uncertain trend in new COVID-19 deaths over the next four weeks. CDC predicts that the number of cumulative COVID-19 deaths will be between 357,000 to 391,000 by January 9.
 - CDC [consolidated](#) data from eleven models projecting the number of daily COVID-19 hospitalizations. The forecasts estimate 6,8000 to 28,000 new COVID-19 hospitalizations per day by January 11.

New York State

- [*New York State COVID-19 Updates*](#), December 17
 - New York reported 120 deaths, 6,147 hospitalizations, and 1,095 COVID-19 patients in intensive care on Wednesday, December 16, 2020.

- Approximately 10,914, or 5.38% of the 202,772 tests administered in New York on December 16 were positive for COVID-19.
- As of Wednesday, New York officials said that they had received 87,000 vaccine doses from Pfizer and had administered 4,000 shots. The State expects to receive an additional shipment of the vaccine totaling 80,000 doses within the next several days that will be administered to nursing home residents and staff.
- [Governor Cuomo Updates New Yorkers on the State's Vaccination Administration Plan](#), December 16
 - Governor Cuomo updated New Yorkers on the State's Vaccination Administration Plan for Phase 2 of the state's plan, which will begin in early 2021.
 - Each Regional Vaccination Hub Coordinator will develop a plan for vaccine administration in accordance with state guidelines and submit it to the New York State Department of Health for approval.
 - The Vaccinate New York website has been established to educate New Yorkers on the safety, necessity, and efficacy of the vaccine.
 - The New York State Department of Financial Services issued a circular letter to New York-regulated health insurers directing them to immediately cover, without cost-sharing, approved COVID-19 vaccines and their administration.
- [New York State Lawmakers Weigh Tax Increase on Wealthy](#), December 16
 - New York State lawmakers are debating whether to raise taxes on high-income residents—those who make \$1 million or more each year—to offset an \$8.7 billion budget deficit for FY2021 caused by the pandemic.
 - New York Assembly Speaker Carl Heastie has proposed passing the tax increase before the end of the month so it can take effect at the beginning of 2021; others have proposed making the tax retroactive.
 - The labor-backed Fiscal Policy Institute estimated in May that enacting higher tax brackets at \$5 million, \$10 million, and \$100 million could raise \$2 billion in tax revenue. The chief executive of the business group Partnership for New York City believes that increased taxes will incentivize wealthier residents to permanently move out of the City.
 - The top 1% of New York City residents [paid](#) \$4.9 billion in taxes—or 42.5% of the City's total income tax—in 2018. According to a Siena College Research Institute poll conducted this past August, 44% of New York City residents earning more than \$100,000 per year have considered leaving the City.
 - The Assembly's efforts come days after Deutsche Bank Americas Chief Executive Office Christina Riley [said](#) that the bank may move as many as half of its Manhattan staff to smaller hubs throughout the U.S. over the next five years.

New York City

- [New York City COVID-19 Updates](#), December 17
 - Metropolitan Transportation Authority (MTA) [avoided](#) deep cuts to subway, bus, and commuter-rail service after its board approved a 2021 budget. MTA Chairman Patrick Foye warned that the cuts and thousands of layoffs could still be implemented if the federal government does not provide \$4.5 billion in aid soon. The MTA is required by

law to balance its budget. MTA relied on a \$4 billion federal bailout and borrowed \$3 billion from a short-term lending program created by the Federal Reserve to balance its budget this year.

- MTA officials have teamed up with Department of Homeland Security and Massachusetts Institute of Technology to study how coronavirus spreads on mass transit and whether they can reduce the spread of the virus.
- Marriott International, Inc. [plans](#) to lay off 850 workers at its Times Square hotel on March 12, signaling the effect of the pandemic on the hospitality industry. The layoffs are scheduled to occur nearly one year after the hotel furloughed more than 1,200 employees. The Times Square location is suffering from declining demand due to a lack of business travel and Broadway theater closures that will extend until at least June. During the first week of December, New York City's hotel occupancy rate was 24.7%.

Other Related Updates

- [*Federal Government in Talks to Purchase Additional Pfizer Vaccines*](#), December 16
 - Earlier this year, the federal government pre-ordered 100 million doses of Pfizer's two-dose COVID-19 vaccine, enough to vaccinate 50 million people.
 - Last week, Pfizer said it will not be able to provide the United States with a substantial number of additional doses until late June or early July 2021 because other governments have bought up nearly all of its near-term supply, sparking fears of a "vaccine cliff" in the second quarter of 2021.
 - However, in recent days, Pfizer indicated that it could manufacture more doses if it had expanded access to the raw materials it needs to create the vaccine.
 - Now, the federal government is offering to use its power to order suppliers to prioritize Pfizer's purchase orders in exchange for additional doses.
 - If the federal government and Pfizer are able to reach a deal, the United States could receive tens of millions of additional doses of Pfizer's vaccine between April and June.
 - This week, pharmacists also [reported](#) that some vials of Pfizer's vaccine, which are supposed to contain five doses, actually contain six or seven doses.
 - Pharmacists and others administering the vaccines were initially confused about whether they should use the extra doses. However, FDA advised that, "given the public health emergency, it is acceptable to use every full dose obtainable."
 - Experts said that these extra doses could expand supply of Pfizer's COVID-19 vaccine by 40 percent, helping the United States avert a "vaccine cliff" in the Spring.
- [*HHS Secretary Azar Says the Public Will Get COVID Vaccine 'By the End of February Into March*](#), December 15
 - Department of Health and Human Services Secretary Alex Azar said that there will be enough supply of the vaccine to begin inoculations for the general public by the end of February into March.
 - Secretary Azar said that vaccines could reach the general public sooner if the AstraZeneca and Johnson & Johnson vaccines receive approval beforehand.
 - Dr. Fauci, on the other hand, has predicted that vaccines could be administered to the general public by April.

- [Department of Labor Unemployment Insurance Weekly Claims Report](#), December 17
 - Department of Labor (DOL) [reports](#) that another 885,000 workers filed initial claims for unemployment benefits last week, up from 862,000 the week prior.
 - The number of new claims had been trending downward since March, when nearly seven million people filed for unemployment insurance in a single week. However, the number of new cases is rising again, as COVID-19 cases surge across the country.
 - 455,037 new claims were filed for Pandemic Unemployment Assistance, the federal program intended to help freelancers, gig workers, the self-employed, and others not normally eligible for state jobless benefits.

- [NIH Begins Study of Coronavirus and Related Inflammatory Syndrome in Children](#), December 16
 - National Institutes of Health (NIH) [launched](#) an observational study to evaluate the short- and long-term health outcomes of SARS-CoV-2 infection in children, including multisystem inflammatory syndrome in children (MIS-C), and to characterize the immunologic pathways associated with different disease presentations and outcomes.
 - The study, named Pediatric Research Immune Network on SARS-CoV-2 and MIS-C (PRISM), will enroll at least 250 children and adults younger than 20 from diverse racial and ethnic backgrounds at approximately 20 sites nationwide.
 - National Institute of Allergy and Infectious Diseases (NIAID), part of NIH, is sponsoring and funding the study.
 - SARS-CoV-2 infection usually causes either no illness or mild illness in children, but some become seriously ill at the time of infection, and some who initially have no symptoms later develop MIS-C.
 - MIS-C is a life-threatening condition marked by severe inflammation of one or more parts of the body, including the heart, lungs, kidneys, brain, skin, eyes, and gastrointestinal organs.
 - The syndrome typically begins several weeks after SARS-CoV-2 exposure and disproportionately affects black and Hispanic children.

- [Vaccine Misinformation on the Rise](#), December 16
 - Online [misinformation](#) about COVID-19 is on the rise in December, as “peddlers of online falsehoods,” are shifting messaging from election misinformation to vaccine misinformation.
 - Coronavirus misinformation has risen steadily since the election, from 17,900 mentions on November 8 across cable television, social media, print, and online news outlets to 46,100 mentions on December 3, according to analysis by Zignal.
 - The shift follows a decline in election misinformation, which peaked on November 4 with 375,000 mentions, but fell to 60,000 mentions by December 3.
 - NewsGuard, a start-up that fights false news stories, said that of 145 websites in its Election Misinformation [Tracking](#) Center, 60% of them have also published misinformation about the pandemic, including far-right sites such as Breitbart, Newsmax, and One America News Network.
 - Misinformation includes ideas such as fears that the government will surveil those who get the vaccine and limit activities for the unvaccinated, that Bill Gates created the virus

and stands to profit from the vaccine, and that vaccinations will implant microchips which allow nefarious parties to track those who get the shot.

- Public health experts fear the effect of such misinformation, as Dr. Shira Doron, an epidemiologist at Tufts Medical Center, said the consequences of people not taking COVID-19 vaccines due to misinformation would be “catastrophic.”
- [*Rich Countries are Buying Up Disproportionate Vaccine Supply*](#), December 15
 - High-income countries are fueling an “extraordinary gap” in vaccine access around the world, laying claim to more than half the doses that could come to market by the end of 2021.
 - While many poor nations may be able to vaccinate at most 20% of their populations in 2021, Canada has pre-ordered enough doses to vaccinate six times its population; the United States and the U.K.: four times their respective populations; the European Union taken as a whole: twice its population.
 - The disproportionate orders are in part the result of ordering before the outcome of the vaccine trials are clear. Wealthy nations hedged their bets by placing pre-orders on many vaccines, hoping to order the vaccines that would eventually come to market.
 - Additionally, the United States in particular provided billions of dollars to back research, development, and manufacturing for several of the most promising vaccines in exchange for priority access; other wealthy countries reached similar deals.
 - Nonetheless, the outlook for the developing world is dire. Because of manufacturing limits, it could take until 2024 for many low-income countries to fully immunize their populations.
 - Various actors, including WHO, non-profits supported by Bill Gates, AstraZeneca, China, and Mexican billionaire Carlos Slim have worked to provide free or at-cost vaccines to low-income countries throughout the world.
 - However, the largest effort, WHO’s COVAX, has struggled to raise money to meet even its relatively modest goal of securing one billion doses for low income countries, enough for less than 20% of each poor country’s population.
- [*FDA COVID-19 Updates*](#), December 17
 - Food and Drug Administration’s (FDA) Vaccines and Related Biological Products Advisory Committee is [meeting](#) today to discuss recommending Moderna’s COVID-19 vaccine. The committee is expected to recommend, and FDA is [expected](#) to grant an emergency use authorization on December 18.
 - FDA published briefing [materials](#) prior to the meeting that show Moderna’s vaccine had 96% efficacy against COVID-19 in participants aged 18-64, 86% efficacy among those aged 65 and up, and 100% efficacy against severe disease for all age groups.
 - Most adverse reactions were mild, but FDA [noted](#) three vaccine recipients and one placebo recipient developed Bell’s palsy, and said “causality assessment is confounded by predisposing factors in these participants. However . . . a potential contribution of the vaccine to the manifestations of these events of facial palsy cannot be ruled out.” FDA plans to recommend ongoing monitoring for Bell’s palsy when widespread vaccination begins.
 - FDA [granted](#) an emergency use authorization (EUA) for Ellume USA’s at-home COVID-19 antigen test, the first EUA awarded for an at-home COVID test that can be

purchased over the counter. The test was developed with support from [NIH](#)'s Rapid Acceleration of Diagnostics ([RADx](#)) Initiative.

Other recent events covered in detail elsewhere:

- [Fourth Time's the Charm? Amended HHS Declaration Expands Application of PREP Act Immunity and Preemption for COVID-19 Response](#), December 16
- [Navigating Inability-To-Pay Claims With DOJ Amid COVID-19](#), November 20
- [SBA Proposes Detailed New Questionnaire to Evaluate Post-Hoc the Good Faith of PPP Applicants' Prior Certifications of Loan "Necessity"](#), November 11

Send questions to:

- COVID-19-Implications@ropesgray.com
- COVID-19RecoveryPolicies@ropesgray.com