

COVID-19 Daily Update

May 28, 2020

Summary

The United States has 1,709,996 confirmed COVID-19 cases and 101,002 reported related deaths. More Americans have died from COVID-19 than in the Vietnam and Korean wars combined. Department of Labor reports that another 2,123,000 workers filed initial claims for unemployment benefits last week. More than 40 million workers have filed for unemployment benefits over the last ten weeks. Officials confirmed that the White House will not release updated economic projections as part of its mid-year budget review, contrary to the practice that administrations have widely followed since annual budget updates were mandated by Congress in 1970. A White House economic adviser recently forecasted that the unemployment rate could reach 20% in June. Former FDA Commissioner Gottlieb cautioned that even once a COVID-19 vaccine is developed, the virus will probably continue to circulate, becoming a “second flu.”

In a bid to increase tourism, Cyprus announced that if a traveler tests positive for COVID-19 during their visit, the government will cover their trip expenses, including food, drink, and lodging. Cyprus set up a COVID-19 hospital with 100 beds “exclusively for travelers who test positive.” The National Women’s Soccer League will play a 25-game tournament in a pair of stadiums in Utah without fans; players from the nine teams will train and live in two area hotels and will be regularly screened for COVID-19. Amazon plans to offer full-time jobs to 125,000 of the 175,000 temporary employees hired during the pandemic. Delta Air Lines offered thousands of employees buyout or early retirement packages. A bar in Texas banned patrons from wearing face coverings, in defiance of local, state, and federal guidance. Gym owners in North Carolina, Michigan, and New Jersey filed lawsuits against state officials for not allowing gyms to re-open.

New York reported 74 deaths on Thursday, May 28. Governor Cuomo issued an executive order authorizing businesses in the State to deny entry to patrons who are not wearing face coverings. New York lawmakers repealed an old State law which barred loitering while wearing a mask. Mayor de Blasio stated that the City could re-open within the first or second week of June. Between 200,000 and 400,000 residents will be allowed to return to work in construction, manufacturing, wholesale, and retail grab-and-go. New York City is the only region in the State yet to meet all seven required benchmarks to re-open; the City does not have enough hospital beds or contact tracers. The City Council introduced legislation, backed by the restaurant industry, to require Mayor de Blasio to open streets, sidewalks, and public plazas to outdoor dining. Nassau County announced plans to close main streets to vehicles for dining and shopping, to “create a town square feeling with safe social distance.”

Presidential updates

- [*President Trump Comments on COVID-19 Death Toll*](#), May 28
 - President Trump commented on the COVID-19 death toll and tweeted, “we have just reached a very sad milestone with the coronavirus pandemic deaths reaching 100,000. To all of the families & friends of those who have passed, I want to extend my heartfelt sympathy & love for everything that these great people stood for & represent. God be with you!”

World Health Organization (WHO)

- [*COVID-19 Situation Report – 128*](#), May 27
 - WHO [published](#) ethical considerations to guide the use of digital proximity tracking technology for COVID-19 contact tracing.
 - WHO Europe [called](#) for additional COVID-19 protections for long-term care facilities. WHO noted that over 40% of reported COVID-19 deaths occur in long term care facilities. A recent [article](#) in the New England Journal of Medicine highlighted similar concerns and called for widespread long-term care reform in the United States, including increased Medicaid funding and the creation of new affordable residential options.

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

- [*CDC Issues Guidance on the Accuracy of Antibody Tests*](#), May 28
 - CDC recently updated [guidance](#) on COVID-19 antibody testing.
 - CDC warns that serologic test results “should not be used to make decisions about returning persons to the workplace.”
 - CDC notes limitations on serologic tests. Some tests may exhibit cross-reactivity with other coronaviruses, such as those that cause the common cold, resulting in false-positive test results. Some persons may not develop detectable antibodies after coronavirus infection. In others, it is possible that antibody levels could wane over time to undetectable levels.
 - CDC further notes that the positive predictive value of antibody tests is affected by the prevalence of COVID-19 in the tested population. In a high-prevalence setting, the positive predictive value increases and it is more likely that persons who test positive are truly antibody positive. When a test is used in a population where virus prevalence is low, the positive predictive value drops.
- [*COVID-19 Employer Information for Office Buildings*](#), May 27
 - CDC issued guidance to ensure building safety before resuming business operations.
 - CDC recommends inspecting the premises to ensure proper ventilation. Employers should consider using portable high-efficiency particulate air (HEPA) filtration systems to enhance air cleaning.
 - Employers should identify common areas where employees could have close contact with others and institute controls to isolate workers. Common problem areas include meeting rooms, break rooms, cafeterias, check-in areas, waiting areas, and routes of entry and exit.
 - CDC urges employers to consider conducting daily in-person or virtual health checks before employees enter the work site, and staggering employee shifts, start times, and

break times. Employers should modify workstations to maintain six feet between employees.

- For employees who commute to work using public transportation or ride sharing, employers may consider offering incentives to use forms of transportation that minimize close contact with others, such as reimbursements for parking or single-occupancy rides.
- [Guidance for Households Living in Close Quarters](#), May 27
 - CDC issued guidance for people living together in close quarters, such as those sharing a small apartment, or living with large or extended families.
 - CDC highlighted that if a household includes a vulnerable individual, someone over the age of 65 or with a serious underlying medical condition, then all family members should act as if they, themselves, are at higher risk. Family members should limit errands, leave the home only when absolutely necessary, and avoid riding in a car with members of different households.

New York State

- [Governor Cuomo Holds Press Conference on COVID-19](#), May 28
 - New York reported 74 deaths on Thursday, May 28.
 - Governor Cuomo issued an executive order authorizing businesses in the State to deny entry to patrons who are not wearing face coverings. New Jersey Governor Murphy issued a similar order on April 8. Mayor de Blasio announced a mask requirement for stores in New York City on April 30.
- [New York State Lawmakers Pass Coronavirus Relief Bills](#), May 27
 - New York lawmakers expanded price-gouging protections to include any products or services that are vital or necessary to the health, safety, and welfare of the general public – including medical supplies. The law grants the State Attorney General the power to pursue companies that attempt to take advantage of the pandemic.
 - Lawmakers also repealed an existing State law which barred loitering while wearing a mask; the law dates back to 1845 and was used to quell a rebellion by farmers who wore disguises during attacks on police. The law was used more recently to charge Occupy Wall Street protesters who wore masks during a protest.
 - Lawmakers say the change is necessary after Governor Cuomo issued an executive order requiring all New Yorkers to wear a face covering in public when social distancing isn't possible. Several lawmakers expressed fear that the loitering law would be disproportionately enforced in minority communities.

New York City

- [Mayor de Blasio Holds Media Availability on COVID-19](#), May 28
 - New York City reported that 6% of residents tested positive for COVID-19 on Tuesday, May 25, the lowest daily rate since the beginning of the outbreak. Mayor de Blasio expressed that this is “a great sign for the future of this city.”
 - Mayor de Blasio stated that the City could re-open within the first or second week of June. Between 200,000 and 400,000 residents would be allowed to return to work in construction, manufacturing, wholesale, and retail grab-and-go.

- New York City is the only region in the State yet to meet all seven required benchmarks to re-open; the City does not currently have enough hospital beds or contact tracers.
- De Blasio warned that, without a federal stimulus package, virtually all City agencies will face “massive cuts.”
- [City Council Introduced Legislation to Promote Outdoor Dining](#), May 28
 - The City Council introduced legislation, backed by the restaurant industry, to require Mayor de Blasio to open streets, sidewalks, and public plazas to outdoor dining.
 - The Executive Director of the New York City Hospitality Alliance, stated that “our hope is there may be areas where entire streets could be shut down for restaurant service.”
 - 24 councilmembers recently sent a [public letter](#) to the Mayor urging him to create more space for outdoor dining, citing similar efforts in Tampa and Cincinnati.
 - De Blasio noted on Thursday, May 28, that restaurants and bars are not included in the State’s first phase of re-opening, but expressed optimism “that the outdoors can be a big part of the solution.”
 - Nassau County Executive Curran [announced](#) plans to close main streets to vehicles across the County this summer for dining and shopping, “creating a town square feeling with safe social distance.”
- [City Announces Take Care Initiative to Help New Yorkers Safely Separate](#), May 27
 - New York City created the Take Care Initiative to provide free hotel rooms for COVID-19 positive New Yorkers who are unable to safely self-isolate in their own homes.
 - The City’s contact tracers will check-in via daily calls, text messages, and conduct in-person visits as necessary. Any health care provider can refer a patient to a room.
 - The City plans to open an additional 16 community testing sites through a partnership with AdvantageCare Physicians on June 1.

Other Related Updates

- [Department of Labor Unemployment Insurance Weekly Claims Report](#), May 28
 - Department of Labor (DOL) reports that another 2,123,000 workers filed initial claims for unemployment benefits last week. More than 40 million workers have filed for unemployment benefits over the last ten weeks. Initial applications for unemployment insurance have steadily declined for nine weeks, from a record 6.9 million claims in late March.
 - The White House is [required](#) by law to issue an annual budget and a “mid-session review.” The mid-session review must provide information on any substantial changes in estimated budget receipts or expenditures.
 - President Trump plans to issue a mid-session review this summer, but officials [confirmed](#) that the Administration will not include updated projections on economic trends, such as unemployment, inflation, and economic growth. Including updated economic projections in the mid-session review is optional, but it is a practice that administrations have widely followed since the review was mandated by Congress in 1970.

- The Administration last published official projections in February, forecasting a 3.1% economic growth rate from the fourth quarter of 2019 to the fourth quarter of 2021, and a 3.5% unemployment rate for the year.
 - Several other federal agencies and departments plan to issue their mid-year projections, including the Congressional Budget Office. Federal Reserve is scheduled to release its first summary of economic projections in June.
 - The Congressional Budget Office [announced](#) in April that it expects the economy will contract by 5.6% this year and end with unemployment above 11%. A White House economic adviser recently forecasted that the unemployment rate could reach 20% in June.
- [FDA COVID-19 Update: Daily Roundup](#), May 27
 - FDA issued [guidance](#) for FDA-regulated establishments to voluntarily notify FDA of temporary closures or service reductions that might affect the continuity of operations during the pandemic.
 - FDA created a SARS-CoV-2 [reference panel](#) to ensure test quality, validate new assays, calibrate tests, and monitor assay performance. The panel is available to commercial and laboratory developers interacting with FDA through the pre-emergency use authorization (pre-EUA) process. The pre-EUA process allows FDA to begin reviewing information and other documentation needed for a EUA.
 - FDA issued a [letter](#) to health care providers highlighting the need to properly decontaminate N95 respirators for reuse.
 - FDA issued a [EUA](#) for the use of the CLEWICU System of CLEW Medical Ltd. as a diagnostic aid for respiratory failure or hemodynamic instability in intensive care units.
 - FDA and Federal Trade Commission (FTC) issued [warning letters](#) to four companies for promoting and participating in the sale of fraudulent COVID-19 products.
- [Hospitalization and Mortality Among Patients with COVID-19](#), May 27
 - A New England Journal of Medicine study suggests that black adults are at particularly high risk for severe COVID-19.
 - Researchers studied 3,481 COVID-19 positive individuals in Louisiana. 76.9% of the patients who were hospitalized with COVID-19 and 70.6% of those who died were black, whereas blacks comprised only 31% of the community's population.
 - Among the patients who received critical care or mechanical ventilation, approximately 80% were black. Black patients had a higher prevalence of obesity, diabetes, hypertension, and chronic kidney disease than white patients. Black race, increasing age, public insurance (Medicare or Medicaid), residence in a low-income area, and obesity were associated with increased odds of hospital admission.
- [Remdesivir for 5 or 10 Days in Patients with Severe COVID-19](#), May 27
 - An open-label phase three study, published in the New England Journal of Medicine, found that a 5-day course of remdesivir may be as beneficial as a 10-day course for patients with severe COVID-19.
 - Nearly 400 patients with severe COVID-19 pneumonia were randomized to receive intravenous remdesivir for 5 or 10 days. At 14 days, 65% of patients in the 5-day group and 54% in the 10-day group had a clinical improvement of at least 2 points on a 7-

point scale. After adjustment for baseline differences in disease severity, there was no significant difference in clinical improvement between the groups.

- A shorter course of treatment without a loss of efficacy could reduce hospital stays and could extend the limited supply of remdesivir available during the pandemic. The authors cautioned that “with no placebo control ... the magnitude of benefit cannot be determined.”

Other recent events covered in detail elsewhere:

- [Treasury Issues Loan Forgiveness Guidance Regarding Paycheck Protection Program](#), May 27
- [European Data Protection Board \(EDBP\) Sheds Light on Use of Health Data to Aid Research Efforts](#), May 27
- [Administrative Responses to a Global Pandemic: Emergency Rulemaking and Other Mechanisms Agencies Are Employing to Respond to COVID-19](#), May 26
- [European Regulatory Update for Asset Managers](#), May 26

Send questions to:

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