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## Introduction COVID Update



### Andrew D. Bobrek

Member  
abobrek@bsk.com  
Syracuse, NY



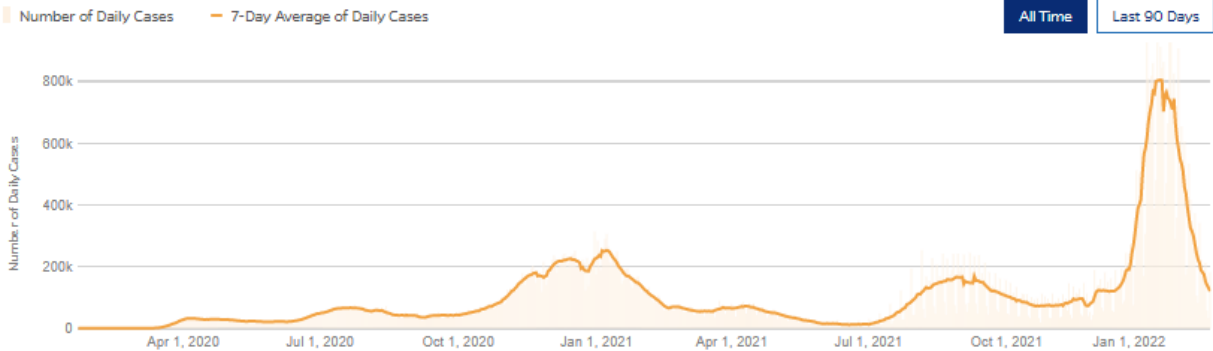
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# COVID Infection Trends

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## Number of Daily Cases

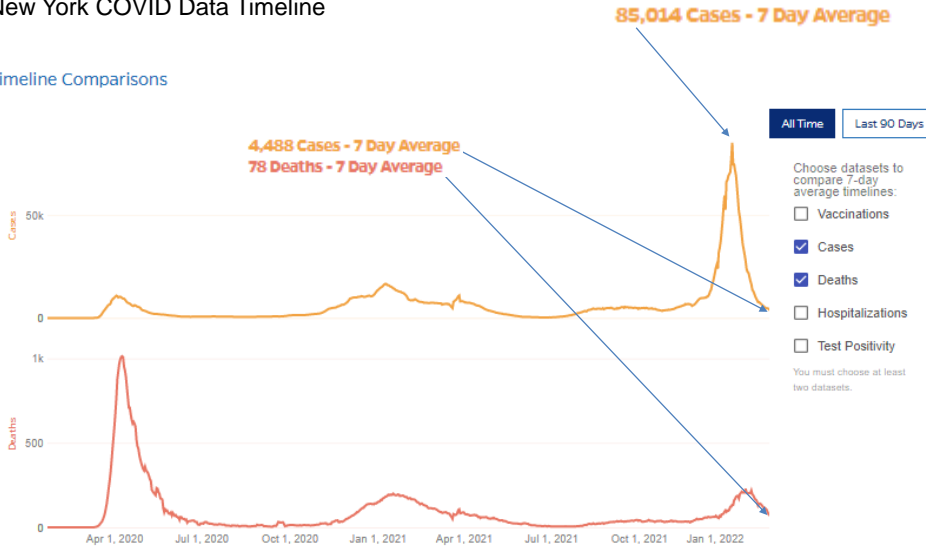


**Data Sources:** Cases and deaths data from JHU CSSE; testing and vaccine data from JHU CCI; and hospitalization data from the U.S. Department of Health and Human Services.

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## New York COVID Data Timeline

### Timeline Comparisons



Data Sources: Cases and deaths data from JHU CSSE; testing and vaccine data from JHU CCI; and hospitalization data from the U.S. Department of Health and Human Services.



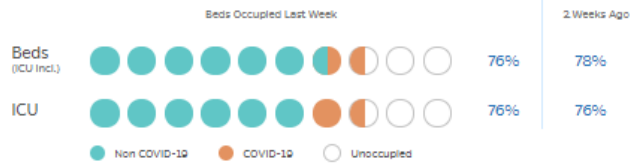
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## New York Hospital Occupancy (Johns Hopkins University of Medicine CRC)



### HOSPITALIZATION

This tool contains the most updated information on hospital inpatient bed and ICU bed occupancy rates for last week and the week prior.



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# Masking

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Statewide Indoor Business Mask or Vaccine Requirement to be Lifted Starting February 10, Remains Optional for Businesses, Local Governments, Counties

Masks Will Still Be Required In Hospitals, Nursing Homes, Shelters, Transportation and Other Related Entities

Requirements Related To Masks in Schools Continue and Will Be Reevaluated in Early March, After Mid-Winter Break, Based on Public Health Data

Health Care, Business and Labor Leaders Praise Governor Hochul's Scientific, Evidence-Based COVID-19 Response

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# COVID-19 National Emergency Period: Impact on Benefit Plans



## John C. Godsoe

Member  
jgodsoe@bsk.com  
Buffalo, NY



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## 2020 Guidance

- COVID-19 Outbreak
  - March 13, 2020 National Emergency declaration
- Joint Notice (May 4, 2020)
  - Required plans to disregard period from March 1, 2020 until 60 days following end of National Emergency (“Outbreak Period”) when determining certain periods and dates
  - Impacted
    - Special enrollment timeframes
    - COBRA timeframes
    - Claims procedure timeframes
    - External review process timeframes



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## 2021 Guidance

- Disaster Relief Notice 2021-01 (February 26, 2021)
  - Statutory relief is limited to period of 1 year
  - Clarified future relief is subject to following rule:
    - Disregarded periods end earlier of (1) 1 year from the date first eligible for relief; or (2) 60 days after announced end of the National Emergency (i.e., the end of the “Outbreak Period”)
  - Resulted in creation of individualized disregarded periods

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## Additional 2021 Guidance

- Notice 2021-58
  - Addressed COBRA rules under Emergency Relief Notices and ARPA
    - Clarified that disregarded periods to elect COBRA and make initial and subsequent COBRA premium payments generally run concurrently
      - Application of rule generally results in no more than a 1 year disregarded period for both COBRA elections and initial COBRA payment
    - Clarified impact of Emergency Relief Notices on COBRA subsidy under ARPA

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## Plan Sponsor Considerations

- Evaluate impact of National Emergency period on benefit plans
  - Common issues:
    - COBRA elections and premium payments
    - Special enrollment periods
    - Claim deadlines
- Coordinate with insurers and third-party administrators
- Look out for future guidance regarding National Emergency from the Departments

## New Pending Federal Law Restricting Mandatory Arbitration & NDAs



### Travis R. Talerico

Associate  
ttalerico@bsk.com  
Rochester, NY

## Ending Forced Arbitration of Sexual Assault and Sexual Harassment Act of 2021 (#MeToo Bill)

- H.R. 4445 passed by Senate of February 10, 2022.
- Will amend the Federal Arbitration Act (FAA) to prohibit enforcement of mandatory arbitration of workplace sexual harassment and sexual assault claims.
- Will apply to all new claims of workplace sexual harassment and assault once the Bill is signed into law by President Biden.
- Does not prohibit arbitration of these types of claims, the individual bringing the claim may elect to proceed with arbitration, but they cannot be compelled to.



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## Update on Paid COVID Leave



### Jessica C. Moller

Member  
jmoller@bsk.com  
Garden City, NY



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## Old FAQs

### **Am I eligible for COVID-19 quarantine leave for a second or subsequent quarantine?**

An employee who subsequently tests positive for COVID-19 following a period of mandatory quarantine or isolation or who continues to test positive for COVID-19 after the end of a period of quarantine or isolation shall be deemed to be subject to a mandatory order of isolation from the Department of Health and shall be entitled to NY's COVID-19 quarantine leave. The employee must submit documentation from a licensed medical provider or testing facility attesting that the employee has tested positive for COVID-19. If the positive test was administered by the employer, then the employee does not need to submit documentation to that employer to receive COVID-19 paid sick leave benefits.

### **Am I eligible for COVID-19 quarantine leave if my employer mandates I remain out of work due to exposure or potential exposure to COVID-19 but I am not under an order of quarantine or isolation?**

If an employer mandates that an employee who is not otherwise subject to a mandatory or precautionary order of quarantine or isolation remain out of work due to exposure or potential exposure to COVID-19, regardless of whether the exposure was in the workplace, the employer must continue to pay the employee at the employee's regular rate of pay until the employer permits the employee to return to work or the employee becomes subject to a mandatory or precautionary order of quarantine or isolation, at which time the employee shall receive COVID-19 quarantine leave as required by [NY's COVID-19 legislation](#), in accordance with the Department of Labor guidance, for the period of time the employee is subject to such mandatory or precautionary order of quarantine or isolation.

### **I'm under a second or subsequent order of quarantine or isolation but I have not tested positive for COVID-19. Am I eligible for COVID-19 quarantine leave?**

Employees are only eligible for a subsequent period of COVID-19 quarantine leave if they have received a positive COVID-19 test.

### **How many times am I able to qualify for COVID-19 quarantine leave?**

Employees may qualify for COVID-19 quarantine leave for up to three orders of quarantine or isolation. The second and third orders of quarantine or isolation must be based on a positive COVID-19 test.



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## New FAQ's

### **Am I eligible for COVID-19 quarantine leave if my employer mandates I remain out of work due to exposure or potential exposure to COVID-19 but I am not under an order of quarantine or isolation?**

If an employer mandates that an employee who is not otherwise subject to a mandatory or precautionary order of quarantine or isolation remain out of work due to exposure or potential exposure to COVID-19, regardless of whether the exposure was in the workplace, the employer must continue to pay the employee at the employee's regular rate of pay until the employer permits the employee to return to work or the employee becomes subject to a mandatory or precautionary order of quarantine or isolation, at which time the employee shall receive COVID-19 quarantine leave as required by [NY's COVID-19 legislation](#), in accordance with the Department of Labor guidance, for the period of time the employee is subject to such mandatory or precautionary order of quarantine or isolation.

### **Is there a limit to the number of times that an employee is eligible for COVID-19 sick leave?**

In no event shall an employee qualify for sick leave under New York's COVID-19 sick leave law for more than three orders of quarantine or isolation. The second and third orders must be based on a positive COVID-19 test and the employee must submit documentation from a licensed medical provider or testing facility attesting that the employee has tested positive for COVID-19. The employee does not need to submit documentation of a positive result if the employee's employer gave the employee the test for COVID-19 that showed the positive result.

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