

WEBINAR SERIES

Updates on COBRA, CDC Mask Guidelines, FSA Changes, and More.

May 26, 2021



Guest Speakers & Panelist



WEBINAR HOST

Melissa Yannalfo

Client Success Specialist
PrestigePEO



Andy Lubash

Speaker

Founder & CEO
PrestigePEO



Kathleen Sullivan

Speaker

Associate Director of Benefits
PrestigePEO



Carol Sawyer

Panelist

Controller
PrestigePEO

PrestigePEO Webinar

Today's Presenters



Andy Lubash



Melissa Yannalfo



Kathleen Sullivan

Andy Lubash, Founder & CEO - Presenter

As a founding partner and principal at PrestigePEO, Andrew is fundamental in promoting the PrestigePEO brand, negotiating employee benefit plan renewals, providing guidance on Workers' Compensation and EPLI renewals, and managing the PrestigePEO 401(k) plan.

Melissa Yannalfo, Client Success Specialist - Presenter

Melissa Yannalfo is the Client Success Specialist at PrestigePEO. Melissa has an extensive background in account management with a focus on Human Resources and has a dedicated focus on the client experience through a holistic approach to the PEO Service Model. Melissa has been with Prestige for 3 years.

Kathleen Sullivan, Associate Director of Benefits - Host

Kathleen Sullivan is the Associate Director of Employee Benefits at PrestigePEO. Kathleen has spent over 25 years in the employee benefits arena and has been with PrestigePEO for the past six years. She currently oversees a strong team of dedicated specialists who work to support, educate, and advocate for PrestigePEO clients and their employees.

Carol Sawyer, Controller - Panelist

Carol Sawyer, Controller at PrestigePEO, is our resident tax expert. She understands the implications of all tax-related legislation on employers (including the FFCRA, CARES Act, PPPFA, and CAA) and works to communicate them with each of our clients. She spends much of her time addressing concerns around tax credits and helping our clients maximize the benefits available to them through federal relief programs. Carol also oversees the accounting department here at PrestigePEO.

Today's Agenda

- COBRA Subsidy
- Flex Spending Update
- CDC Mask Mandate
- Vaccination Requirements in the workplace

Webinar Forum

All participants are muted.

Please type questions in the side navigation panel and we will try to address most questions during today's session.

Today's presentation will be posted online at prestigepeo.com/blogs/

Flexible Spending – 2021 Update

Flexible Spending 2021 Update

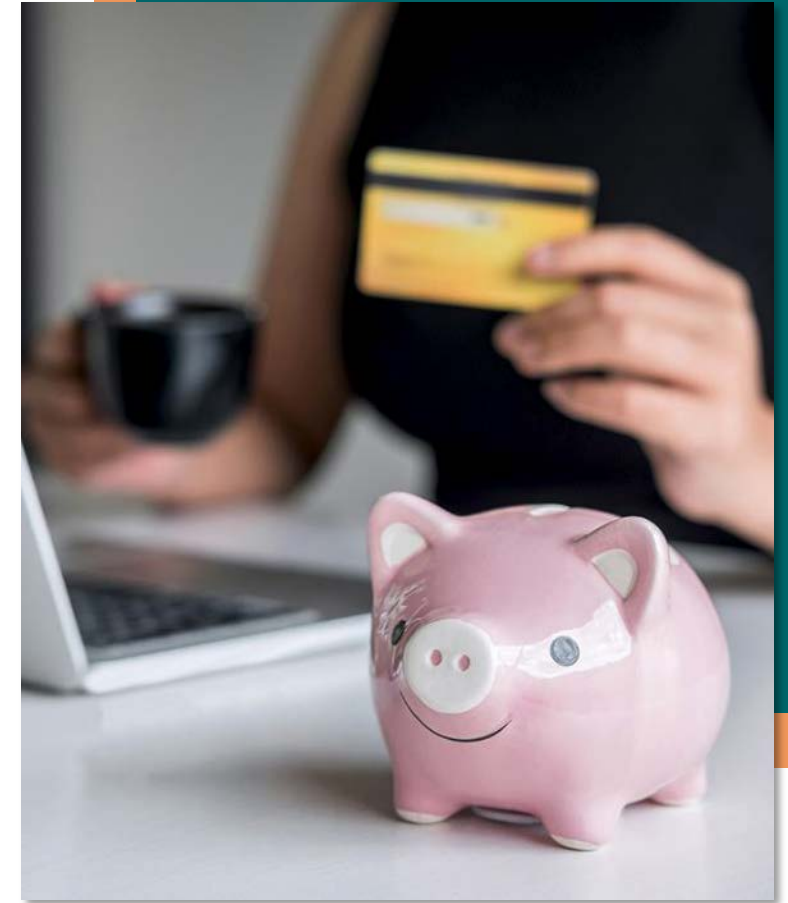
Prestige has two types of enrollment plans: One for qualified medical expenses as defined by the IRS and one for dependent care

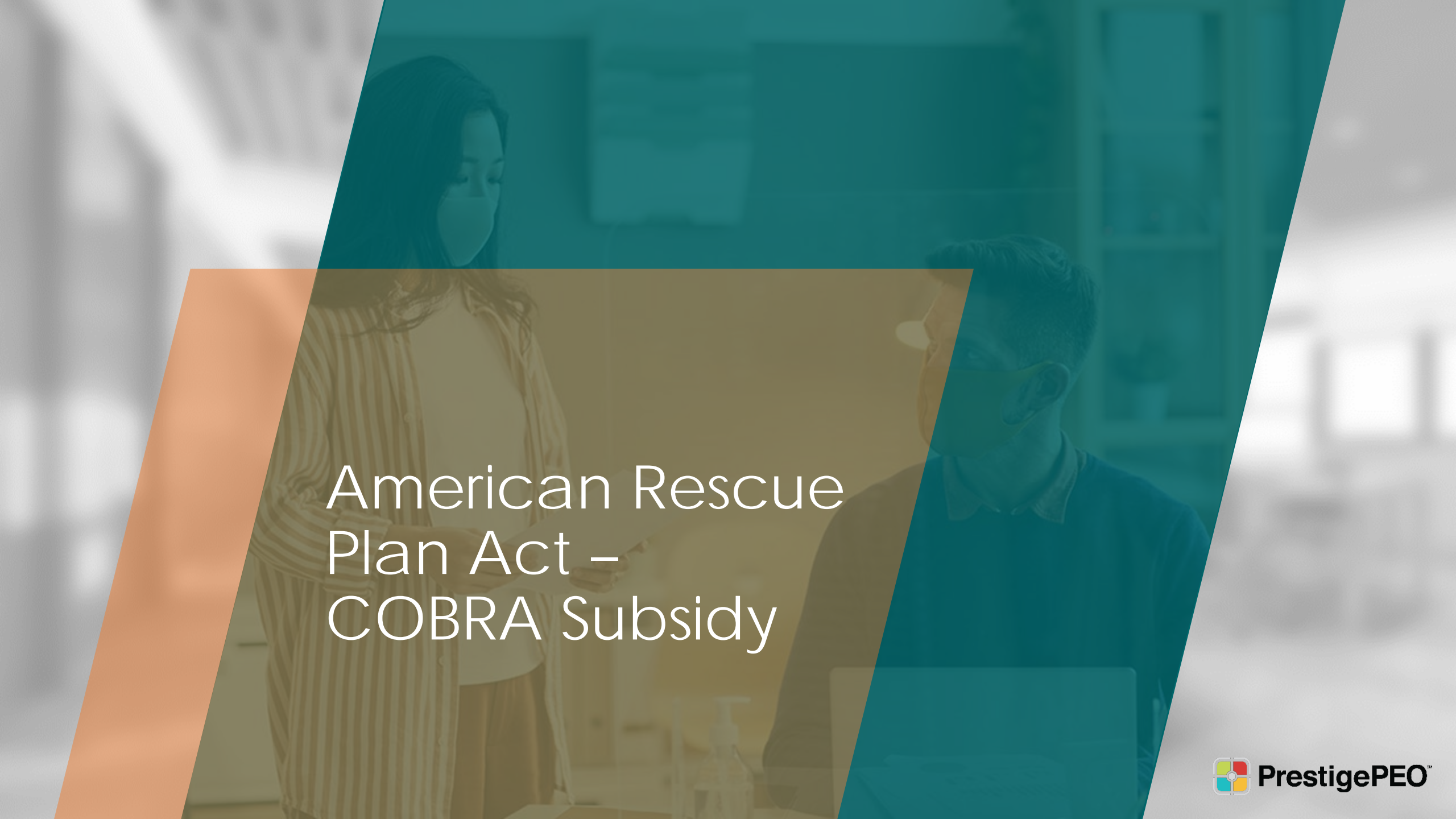
- **Flex Spending Account (medical)**

- The IRS 2021 maximum annual contribution is \$2750
- Up to \$1,000 in unused funds can be carried over from 2021 to 2022
- At the end of 2020 the maximum carryover of unused funds was changed from \$550 to \$1000

- **Dependent Care Account**

- The IRS 2021 maximum annual contribution is \$10,500
- This is an increase of \$5,500 from last year when the maximum contribution was \$5,000

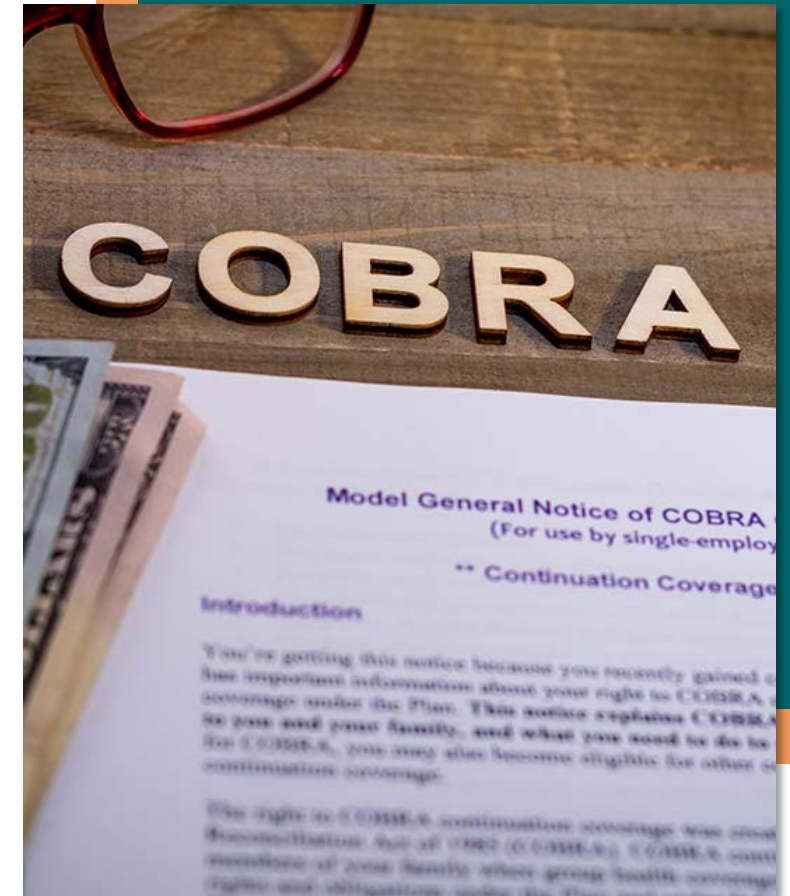




American Rescue Plan Act – COBRA Subsidy

American Rescue Plan Act - COBRA Subsidy Overview

- The American Rescue Plan Act (ARPA), was signed into Law March 11, 2021.
- One provision of the Act was to provide a tax -free subsidy that will pay 100% of the COBRA continuation premium for individuals who are eligible for COBRA as a result of an involuntary termination of employment or reduction in hours.
- This will also apply to state continuation of coverage programs also known as mini-COBRA.
- ARPA subsidies can cover the full cost of COBRA premiums from April 1, 2021 through September 30, 2021 for assistance eligible individuals and their qualifying family members.



American Rescue Plan Act – COBRA Subsidy Who Is Eligible to Apply

- **Who is eligible?**

- People offered Cobra due to involuntary termination of employment or reduction in hours that are still within their original COBRA coverage period of 18 months.
 - Assistance Eligible Individuals who elected COBRA
 - Assistance Eligible Individuals who become eligible for COBRA between April 1, 2021 and September 1, 2021
 - Assistance Eligible Individuals who declined or discontinued COBRA and are still within their original COBRA coverage period.
 - For example: an employee that was eligible for COBRA April 1st of 2020 but did not elect COBRA at that time could now enroll and be given the subsidy as long as the original COBRA offering was due to an involuntary termination of employment or reduction in hours.

- **Who is not eligible?**

- This subsidy does not apply to individuals who voluntarily leave their job or qualify for COBRA due to other COBRA events such as divorce, death, or loss of dependency status.
- It is also not available to Individuals or their family members that are eligible for other group coverage or Medicare.
- If an individual elected coverage with the premium assistance and then becomes eligible for other group health plan coverage they must notify the plan in writing.
- Failure to do so can result in a penalty of \$250 or greater if the failure was fraudulent.

American Rescue Plan Act – COBRA Subsidy How to Apply



- Notices have been sent to all assistance eligible individuals that are still within the 18 month COBRA period whether they elected COBRA, declined it or terminated it previously.
- Assistance eligible individuals will have 60 days from the date they get their offer letter to enroll.
- If insureds fail to complete and sign the subsidy election form and the attestation form they may be ineligible for premium assistance.
- Copies of these forms for eligible employees can be requested through your dedicated benefit specialist.

American Rescue Plan Act – COBRA Subsidy How the Credit is Applied

- Under ARPA the subsidized COBRA premiums will be reimbursed by the federal government through a refundable tax credit.
- The IRS guidance takes the position that a PEO can be treated as the premium payee for PEO sponsored plans if the following three requirements are met.
 - The PEO maintains the group health plan
 - The PEO is considered the sponsor of the group health plan and is subject to the applicable Department of Labor COBRA guidance including providing the COBRA election notices to assistance eligible individuals
 - The PEO would normally have received the COBRA premium payments directly from the eligible insureds were it not for the COBRA premium assistance.
- In situations where Prestige client employer partners sponsor their own plan for the benefits of its own employees the client employer is considered the premium payee and can receive the premium assistance tax credit regardless of the fact that it uses the PEO to report and pay its federal employment taxes.
- Prestige will file the 941 with the credit allocated to the client's FEIN on Schedule R.

The background of the slide is a blurred office scene. In the foreground, a man wearing a face mask is seated at a desk, working on a laptop. Behind him, a woman in a light-colored blazer and face mask stands near another desk. In the background, another woman wearing a face mask is visible, holding a tablet. To the right, a man in a light blue shirt and face mask stands, gesturing with his hands as if in a presentation. The office has modern furniture, including desks, chairs, and potted plants. The image is overlaid with a large teal triangle on the right and a smaller orange triangle on the left.

CDC Mask Mandate

CDC Mask Mandate Overview

- On 5/14/21 the CDC announced that fully vaccinated people no longer need to wear a mask or physically distance from others outside of a healthcare setting.
- Some states have opted to follow the CDC guidance (NY as of 5/19), while others have not (yet) (ex: NJ but an announcement is expected shortly).
- Remember the CDC guidance is just guidance and does not overrule federal law, individual workplace guidance, local business restrictions, or state, local or municipal regulations.



CDC Mask Mandate - Vaccination Definition and Mandate

- What does fully vaccinated mean?
 - This translates to the 2 weeks following a person's second dose in a 2-dose vaccination series (Pfizer, Moderna) or a person's single-dose for a 1-dose vaccination (Johnson & Johnson/Janssen).
- Risks do remain and employers need to take considerations into account before deciding whether or not to drop their mask mandates.
- Things to consider before changing current policies should include:
 - Local laws and regulations that may still require enforcement despite vaccination status
 - State OSHA equivalents may have different standards for consideration

CDC Mask Mandate

Things to Consider

If you want to pursue the elimination of mask mandates and social distancing rules in the work place consider these points:

- Assess state and local government regulations to see if they maintain any mandates that must be followed
- While OSHA announced on 5/17 that employers should follow the CDC's guidance on measures appropriate to protect fully vaccinated employees it also indicated that further updated guidance will be coming
- Understand your state-specific OSHA requirements, if any. They may entail stricter standards than the CDC.
- If an employer mandates the vaccine for its' employees, it may also bear the risk of a lawsuit. Requiring the vaccine is okay, as long as the employer also offers accommodations as necessary and doesn't violate any new state laws that ban mandatory vaccinations but lawsuits still arise. Speaking with an attorney about the risks involved is recommended.



CDC Mask Mandate

Things to Consider - Continued

- Tracking vaccine status raises privacy and additional concerns. Certification may be necessary in which case you should do the following:
 - You may request to see vaccine documentation but no other medical information
 - Treat the documentation, if retained, as a confidential medical record
 - Avoid retaining copies of vaccine cards altogether, as this triggers safety recordkeeping obligations. Instead, create a confidential log noting employee name, type of vaccine received and date of last dose.
 - Do not ask follow-up questions such as an employee's reason for not being vaccinated
 - Do not ask questions regarding how the employee feels after receiving the vaccination
- Offer religious and medical accommodations as employees may be entitled. Take them into account when instituting a company-wide policy concerning relaxation of COVID-19 rules.
- Protect masked employees from mistreatment by supervisors or co-workers. Retaliation, discrimination and harassment must be avoided and prohibition of this treatment should be included in written policies.
- Reach out to your HRBP to review any policy changes
- Review the Prestige website which is constantly updated as new guidance is released

CDC Mask Mandate - Visitors in the Workplace



- An unanswered question remains concerning how can a business determine whether its guest are fully vaccinated and cleared for not wearing a mask.
- Do not ask guests for information about, or proof of, vaccination status. This can lead to discrimination and privacy concerns.

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