

Congress of the United States

Washington, DC 20510

January 9, 2022

President Joseph R. Biden
1600 Pennsylvania Avenue
Washington, DC 20006

Dear President Biden:

We write to you today to express our continued concerns regarding access to COVID-19 antigen tests amid the skyrocketing cases of COVID-19 and the rapid spread of the Omicron variant across the United States. We applaud the actions announced by your Administration on December 21, 2021 to combat the dramatic increase in COVID-19 cases, including by deploying additional medical personnel, setting up additional federal testing sites, and purchasing 500 million antigen—or “rapid”— tests. But as the Omicron variant spreads and we enter an ominous and unprecedented next phase of this pandemic, it is critical that we ensure these efforts meet the severity of the moment. We strongly encourage you to take additional, immediate steps to eliminate existing barriers to COVID-19 rapid tests and ensure robust access to free over-the-counter rapid tests throughout the country for the duration of the pandemic.

As you know, the Centers for Disease Control and Prevention (CDC) found that the Omicron variant accounted for 95 percent of new COVID-19 cases for the week of December 26, 2021-January 1, 2022.¹ This staggering figure grew from only 8 percent three weeks prior. In addition to the unforeseen pace of transmissibility, fully vaccinated individuals are seemingly far more vulnerable to break-through cases compared to previous variants, such as Delta.^{2,3} Early data demonstrates that a booster dose of the two available mRNA vaccines likely provides increased protection against the Omicron variant, but according to the CDC, only 32 percent of Americans over the age of 18 have received a COVID-19 vaccine booster dose.⁴

Ensuring widespread access to free COVID-19 rapid testing is among the most effective public health tools that the federal government has at its disposal, but the current supply shortage is preventing effective utilization of this commonsense mitigation strategy. In recent updates to CDC guidance regarding the isolation period for symptomatic individuals with COVID-19, the CDC recommends that the “best approach” is to conduct a rapid test toward the end of the 5-day

¹ <https://covid.cdc.gov/covid-data-tracker/#variant-proportions>

² <https://www.washingtonpost.com/health/2021/12/19/fauci-warns-omicron-variant-will-cause-record-high-coronavirus-hospitalizations-deaths-us/>

³ file:///C:/Users/KKelly3/Downloads/20211217-Global-technical-brief-and-priority-action-on-Omicron_LATEST-2.pdf

⁴ <https://covid.cdc.gov/covid-data-tracker/#vaccinations>

isolation period “[i]f an individual has access to a test and wants to test”.⁵ The language used in the public health guidance from the administration itself is indicative of the significant barriers individuals face when trying to access or purchase COVID-19 rapid tests. We applaud your most recent commitment to utilizing the Defense Production Act to increase COVID-19 testing manufacturing, as well as the executive actions taken throughout this year to expand access to over-the-counter COVID-19 rapid tests. While we are pleased to see that the administration has committed to purchasing 500 million antigen tests that will be distributed throughout the country for free, we believe that the threat of the Omicron variant demands the most comprehensive public health response possible from the federal government. We strongly urge you to consider and implement the following policies to build on your administration’s efforts to increase access to COVID-19 rapid tests.

Increase Manufacturing and Distribution of Rapid Tests: Regular, consistent testing for COVID-19 will continue to be among the most effective tools we have in combatting COVID-19 and the Omicron variant. We believe that the recent announcement from the administration to facilitate production and distribution of 500 million free rapid tests is a critical step in increasing access to testing, but the introduction of Omicron variant in the United States calls for a large-scale transformation of the country’s COVID-19 testing manufacturing and distribution systems. Nearly two years into the pandemic Americans continue to struggle to find antigen tests in stock at local retailers, despite several executive actions by the administration throughout 2021 aimed at increasing access to COVID-19 rapid tests.^{6,7,8}

Many public health experts believe that regular access to rapid testing as a screening tool is critical to combatting COVID-19,⁹ and some believe that rapid tests should be conducted as frequently as 2 times per week per individual, as recommended by public health officials in the United Kingdom.¹⁰ If the United States were to adopt similar recommendations, we would need roughly 2.3 billion tests per month – a figure several times the 500 million proposed by your administration. **Understanding the complexities of the manufacturing and distribution processes, we respectfully urge that you utilize the full scope of your executive power under Defense Production Act to manufacture enough rapid tests to ensure that each American can take at least one rapid test per week.**

Ensure the Program to Deliver At-Home Tests is Accessible for All: We commend the administration’s plans to establish a program that will enable Americans to order free COVID-19 rapid tests directly to their homes. This is a critical step in facilitating regular, widespread

⁵ <https://www.cdc.gov/coronavirus/2019-ncov/your-health/quarantine-isolation.html>

⁶ <https://www.washingtonpost.com/health/2021/12/09/rapid-coronavirus-tests-availability/>

⁷ <https://www.hhs.gov/about/news/2021/11/10/biden-administration-invest-650-million-rapid-diagnostic-testing-latest-action-increase-access-tests.html>

⁸ <https://www.hhs.gov/about/news/2021/10/25/new-hhs-actions-add-biden-administration-efforts-increase-access-easy-use-over-counter-covid-19-tests.html>

⁹ <https://www.rapidtests.org/expert-letter>

¹⁰ <https://www.kff.org/report-section/rapid-home-tests-for-covid-19-issues-with-availability-and-access-in-the-u-s-issue-brief/>

testing. However, in addition to the website-based ordering mechanism discussed in the December 21, 2021 White House Fact Sheet,¹¹ we encourage your administration to consider additional methods for enabling the order and delivery of antigen tests to people's homes. Under the current website-based proposal, individuals and households that do not have regular, reliable access to broadband will not have the ability to order free rapid tests to their homes. Without alternative non-broadband-based methods for ordering these tests, low-income households, rural communities, seniors, and individuals who experience disabilities will be at a significant disadvantage in accessing tests through this program. **As the administration implements this program, we strongly recommend that additional means of ordering rapid tests to be delivered to homes be included in the roll out of the program, such as a national hotline number for placing orders.**

Integrate Access to Testing into Daily Lives: It is critical to ensure that robust testing is available in designated medical facilities, and we commend your efforts to expand federal testing locations and home delivery methods – but the realities of the Omicron variant demand more. Access to free, rapid testing must meet people where they already are. We urge you to take additional steps to integrate access to free rapid tests in public locations that are already frequented by people in their day-to-day lives, such as grocery stores, pharmacies, and local businesses. Ensuring rapid tests are accessible in the most convenient possible locations will help ensure regular, easy access to tests that some people may not otherwise have the time or resources to take. **We strongly encourage you to take additional steps to integrate access to free rapid testing in public locations that are already frequented by people in their day-to-day lives, such as post offices, Federally Qualified Health Centers, grocery stores, pharmacies, local businesses, and delivered as part of the Meals on Wheels program. Further, we urge you to ensure that easy access to rapid tests is also available to individuals with disabilities, who may not be able to reach many testing locations.**

Ensure Comprehensive Implementation of Private Plan Test Coverage: We were pleased to learn earlier this month that your administration will implement requirements for private health insurers to reimburse enrollees for over-the-counter rapid tests. However, we continue to have concerns about the reimbursement process, and the ability for enrollees to effectively navigate the process. Under the plan released earlier this month, Americans will have to purchase the at-home rapid tests, and then submit the receipts to their insurer for reimbursement.^{12,13} This will require time and effort that many Americans may find daunting. Additionally, the reimbursement process will require enrollees to cover upfront costs for the tests – which are currently priced at roughly \$14 to \$34 per testing kit. For families who are struggling financially, the overhead cost

¹¹ <https://www.whitehouse.gov/briefing-room/statements-releases/2021/12/21/fact-sheet-president-biden-announces-new-actions-to-protect-americans-and-help-communities-and-hospitals-battle-omicron/>

¹² <https://www.whitehouse.gov/briefing-room/statements-releases/2021/12/02/fact-sheet-president-biden-announces-new-actions-to-protect-americans-against-the-delta-and-omicron-variants-as-we-battle-covid-19-this-winter/>

¹³ <https://www.nytimes.com/2021/12/02/upshot/biden-covid-rapid-tests.html>

may be enough to dissuade purchasing the tests all together. **We ask that the Departments of Health and Human Services, Labor, and the Treasury take these potential hurdles into consideration while drafting the upcoming January 2022 guidance, and ensure that the reimbursement process does not dissuade Americans covered under private and ERISA health plans from regularly accessing rapid tests.**

The rapid spread of the Omicron variant over the past weeks suggests that Americans are in a dramatically more vulnerable position than we had anticipated being just last month. There is no time to waste, and widespread and affordable access to rapid tests will be an integral part of our country's public health response to the Omicron variant and through the duration of the pandemic.

We stand at the ready to continue to work with your administration on combatting the ongoing COVID-19 pandemic. Thank you for your continued leadership on this issue.

Sincerely,



Adam B. Schiff
Member of Congress



Bernard Sanders
United States Senator

_____/s/_____

Ro Khanna
Member of Congress

_____/s/_____

Jake Auchincloss
Member of Congress

_____/s/_____

Nanette Diaz Barragán
Member of Congress

_____/s/_____

Karen Bass
Member of Congress


_____/s/_____

Donald S. Beyer Jr.
Member of Congress



Richard Blumenthal
United States Senator

_____/s/_____
Jamaal Bowman, Ed.D.
Member of Congress



Cori Bush
Member of Congress


_____/s/_____
André Carson
Member of Congress

_____/s/_____
Judy Chu
Member of Congress

_____/s/_____
David N. Cicilline
Member of Congress


_____/s/_____
Steve Cohen
Member of Congress

_____/s/_____
Jim Cooper
Member of Congress




Jim Costa
Member of Congress


_____/s/_____
Danny K. Davis
Member of Congress



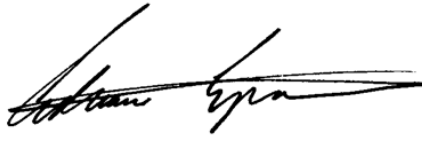
Peter A. DeFazio
Member of Congress



Mark DeSaulnier
Member of Congress



Tammy Duckworth
United States Senator



Adriano Espaillat
Member of Congress



Ruben Gallego
Member of Congress

/s/

Jahana Hayes
Member of Congress

/s/

Eleanor Holmes Norton
Member of Congress

/s/

Conor Lamb
Member of Congress

/s/

Barbara Lee
Member of Congress



Mike Levin
Member of Congress



Ted Lieu
Member of Congress



Kathy Manning
Member of Congress

/s/

Edward J. Markey
United States Senator



Grace Meng
Member of Congress

/s/

Joseph D. Morelle
Member of Congress



Grace F. Napolitano
Member of Congress



Marie Newman
Member of Congress

_____/s/_____

Alexandria Ocasio-Cortez
Member of Congress



Alex Padilla
United States Senator

_____/s/_____

Chellie Pingree
Member of Congress

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Ayanna Pressley
Member of Congress

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Tim Ryan
Member of Congress

_____/s/_____

Jan Schakowsky
Member of Congress

_____/s/_____

Eric Swalwell
Member of Congress

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Mike Thompson
Member of Congress

_____/s/_____

Rashida Tlaib
Member of Congress



Dina Titus
Member of Congress

_____/s/_____
Ritchie Torres
Member of Congress

_____/s/_____
Lori Trahan
Member of Congress

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Elizabeth Warren
United States Senator

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Bonnie Watson Coleman
Member of Congress

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Peter Welch
Member of Congress

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Ron Wyden
United States Senator