



COVID-19 Workplace Compliance Now Clearer and Simpler for Michigan Employers: The 6 Key Requirements

Insights

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Michigan workplace safety authorities just released their highly anticipated revised Emergency Rules that streamline employer's duties when it comes to responding to COVID-19-related concerns and better reflect the most recent CDC guidance on vaccinated individuals. The new rules from the Michigan Occupational Safety and Health Administration (MIOSHA) most notably remove the remote working requirement and virtually all masking and social distancing requirements for fully vaccinated employees. Further, the new MIOSHA Rules remove many administratively burdensome requirements such as performing employee exposure determinations and following detailed industry-specific safety requirements. In announcing the new MIOSHA Rules via Governor Gretchen Whitmer, MIOSHA also announced that it was withdrawing its draft permanent COVID-19 work rules, which means Michigan employers can only be subject to a MIOSHA emergency COVID-19 work rule until October 13, 2021. In light of all the changes, this article addresses the six key requirements all employers must follow under the revised Emergency Rules.

Requirement 1: Draft or Update COVID-19 Preparedness and Response Plan

Every employer in Michigan is required to maintain a "COVID-19 preparedness and response plan." Each employer's Plan reflects the choices an employer has made to prevent employee exposure to COVID-19. It must at least be consistent with current CDC guidance, federal Occupational Safety and Health Administration guidance, and the other MIOSHA Rules. Each Plan must cover at least six items:

- **Engineering controls** (e.g., physical barriers, air purification systems, etc.). This section must cover steps employers have made to the physical workplace to prevent COVID-19 exposure.
- **Administrative Controls** (Rule 6 mostly). This section must cover the changes in work policy or procedure meant to prevent employee exposure to COVID-19. It should explain how the employer is implementing and enforcing basic prevention measures, health surveillance, workplace controls, training, and recordkeeping.
- **Basic infection prevention measures**. This section must cover steps to prevent exposure to COVID-19.
- **Personal protective equipment**. This section must explain how to use PPE.

- **Health surveillance.** This section must explain the steps the employer is taking to monitor COVID-10 exposure.
- **Training.** This section must describe the employer's steps to educate and train employees.

Requirement 2: Implement Basic Prevention Measures

Employers are required to promote frequent and thorough hand washing and providing means to do so. Employers must also require employees who are experiencing COVID-19 symptoms to not to report to work or work in an isolated environment. Employers must increase facility cleaning and disinfection, consistent with CDC and EPA guidance. You can find details on how to comply with the latest CDC guidance on facility cleaning protocols [here](#).

Requirement 3: Conduct Health Surveillance For All Employees

Employers must conduct a daily self-screening of **all** persons (regardless of whether they are fully vaccinated) entering the workplace which must include, at a minimum, a questionnaire covering symptoms and suspected or confirmed exposure to COVID-19. For an example of what a daily screening questionnaire could look like, check out the one the CDC [uses](#) for its own facilities.

Employers must direct employees to promptly report any signs or symptoms of COVID-19 before or during a work shift, and must physically isolate any employees known or suspected to have COVID-19 from the workplace. When an employer learns of an employee or visitor with a known case of COVID-19, it must notify any person who may have come in contact with that person within 24 hours.

Employers must isolate any employee with a known or suspected case of COVID -19 from the remainder of the workforce and only allow such employee to return to the workplace after they are no longer infectious according to the latest CDC guidelines.

Requirement 4: Implement Workplace Controls

Employers must designate one or more worksite COVID-19 safety coordinators to implement, monitor, and report on the COVID-19 control strategies

Employers must ensure that any employees, except fully vaccinated persons, remain at least six feet from one another to the maximum extent feasible while on worksite premises. Employers must also require any employee, except fully vaccinated persons, to wear face coverings when employees cannot consistently maintain six feet of separation from other individuals indoors in the workplace and provide non-medical grade face coverings to their employees who are not fully vaccinated at no cost to the employee. However, fully vaccinated persons must continue to wear face coverings when in the healthcare setting where patients may be present and when using airplane or public transportation if required by the latest CDC guidance.

The revised MIOSHA Rules state employers can comply with the above social distancing and indoor masking requirements “in a manner deemed effective for the place of employment.” This essentially means that each employer can determine how to effectively manage the social distancing and wearing of facemasks for non-vaccinated employees based on the specific nature/make-up of their workforce.

The revised MIOSHA Rules go even further and provide some options (non-exclusive) that employers may implement for those two requirements: (a) keeping records of whether employees are fully vaccinated and exempting them distancing and face covering rules; (b) posting signs in the work area reminding employees that are not fully vaccinated to wear face coverings and maintain appropriate distancing; (c) allowing or requiring remote work; and (d) requiring face coverings and social distancing for all employees regardless of vaccination status. Employers interested in learning more about how to implement the new face covering and social distancing requirement in Michigan should refer to our firm’s generalized [guidance on the topic](#).

Requirement 5: Train and Educate Employees

Employers must educate and train employees on the employer’s COVID-19 preparedness and response plan. Employers must provide training on the following:

- Basic training on COVID-19 and its causative agent (SARS-CoV-2);
- Workplace infection-control practices, which must now include information on vaccinations available for COVID-19;
- The proper use of PPE, which is now mostly just proper mask wearing;
- Steps the employee must take to notify the employer of any COVID-19 symptoms or a suspected or confirmed diagnosis of COVID-19; and
- How to report unsafe working conditions.

Employers are required to provide updated training anytime they change their Plan.

Requirement 6: Ensure Proper Recordkeeping

There are now four recordkeeping requirements under the revised MIOSHA Rules:

- COVID-19 employee training (e.g., a copy of PowerPoint slides, instruction sheets, and sign-in sheets);
- Daily health screenings for non-vaccinated employees or contractors;
- Employee vaccination status records (if applicable); and
- Notifications to employees and visitors who may have come in contact with a known COVID-19 positive employee, customer, or visitor.

Employers must maintain records for six months from time of generation. We would advise employers follow the six-month retention requirement on a moving forward basis unless and until MIOSHA confirms it has retroactive effect.

Keep Yourself Informed and Consult Legal Counsel When in Doubt

Although all of the above changes simplify and clarify employers' workplace COVID-19 duties to employees, Governor Whitmer did hint that these rules may change again if and when the federal OSHA issues its own COVID-19 workplace guidelines or emergency rules. For this reason, Michigan employers should be on the lookout for news and alerts from federal OSHA.

To ensure you stay up to speed with the latest developments, make sure you are subscribed to [Fisher Phillips' Insight System](#) to get the most up-to-date information, and check out our [FP Vaccine Resource Center For Employers](#). For further information, contact your Fisher Phillips attorney, the author of this Insight, or any attorney in our [Detroit office](#).

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