




**Covid-19**

UPDATE:  
March 19, 2020

**Coronavirus / COVID-19  
Response Team**


MILLER   
JOHNSON  
Attorneys

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MILLER   
JOHNSON  
Attorneys

**Health Care Providers  
Assessment**

» David Buday  
Tim Gutwald

MILLER   
JOHNSON  
Attorneys

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## Agenda

- Michigan Executive Orders
  - 2020-10- Limiting and excluding visitors
  - 2020-13- Regulatory/licensing waivers
- Telehealth
- HIPAA Guidance
- CMS Waivers
- Employment Issues

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## Executive Order

### 2020-07

- Replaced EO 2020-06
- Covered facilities
- Exclusion of Visitors
- Mandatory Health Assessment

### 2020-13

- Emergency Certificates of Need
- LARA waivers for hospitals
- Licensing

## Telehealth

Medicare and Medicaid have waived certain restrictions

- Originating Site
- Distant Site
- Controlled Substances

Medicare Advantage Plans

Informed Consent

Privacy and Technology

- Broad discretion to use non-public facing technology

## HIPAA/Patient Confidentiality

- HHS
  - Going to exercise discretion
  - Focus is on good faith efforts to comply
- Treatment
- Public Health Activities
- Disclosure to Family, Friends and Others
- Disclosures to prevent a Serious and Imminent Threat
- Disclosures to Media

## CMS Waivers

- Waiving 3-day prior hospitalization requirement for skilled nursing coverage
- Hospitals can house inpatients in “distinct part units” of the hospital
- DME equipment can be replaced without face-to-face encounter
- Waiving in state licensing requirement
- Expedited/simplified provider enrollment
- Waiver of cost sharing amounts permitted

## Employment Issues

### **What Happens When a Healthcare Provider, Such as a Nurse or a Physician, Refuses to Provide Treatment ?**

- Clear communication and education
- Understanding contractual or employment relationship with the individual
- Alignment with senior leadership on how to handle

## On-Site Childcare

- Does it make sense for the Healthcare System to have on-site childcare?
- The State has indicated a willingness to expedite whatever license requirements there may be

**From:** Horvath, Larry (LARA) <[horvathl@michigan.gov](mailto:horvathl@michigan.gov)>  
**Sent:** Saturday, March 14, 2020 4:56 PM  
**To:** (redacted)  
**Cc:** Groen, Meghan <[GroenM@michigan.gov](mailto:GroenM@michigan.gov)>; Gaedeke, Kimberly (LARA) <[GaedekeK@michigan.gov](mailto:GaedekeK@michigan.gov)>  
**Subject:** RE: (redacted) temporary day care

This email is to confirm receipt and acknowledge our immediate temporary approval to move forward. I am sure the Governor / State will have more guidance soon but this should give you immediate relief for now. Take care.

Larry Horvath, Director  
Bureau of Community and Health Systems  
(517) 643-5165  
[www.michigan.gov/bchs](http://www.michigan.gov/bchs)



## On-Site Childcare

- Wise to comply with all of the regulatory requirements for childcare even if Healthcare System believes it is exempt from licensing requirements
- Other options:
  - Contractual relationships with for-profit organizations that provide childcare
  - Outreach to community for assistance

## Can the Healthcare System Restrict Travel for Employees Who Provide Direct Patient Care?

- Absent a policy or contractual commitment made by a healthcare organization, travel can be restricted
- Waiting to be engaged vs. engaged to be waiting

## Unemployment Benefits

- I heard the Governor extended unemployment benefits related to the coronavirus. Is that true?

**Governor Whitmer Expands Unemployment Benefits for Michigan Workers**

FOR IMMEDIATE RELEASE  
March 16, 2020

- The Governor extended unemployment benefits for those workers unable to work because:
  - They have family care responsibility due to school closures
  - They have family members who become ill with the coronavirus
  - They have symptoms of coronavirus or are under self-quarantine or self-isolation and do not have paid sick leave
  - They are first responders with exposure to coronavirus who become ill or are quarantined due to exposure to coronavirus



## Executive Order 2020-10 (COVID-19)

### EXECUTIVE ORDER

No. 2020-10

#### Temporary expansions in unemployment eligibility and cost-sharing

The novel coronavirus (COVID-19) is a respiratory disease that can result in serious illness or death. It is caused by a new strain of coronavirus not previously identified in humans and is easily spread from person to person. There is currently no approved vaccine or antiviral treatment for this disease.

On March 10, 2020, the Michigan Department of Health and Human Services identified the first two presumptive-positive cases of COVID-19 in Michigan. On that same day, I issued Executive Order 2020-4, which declared a state of emergency across the state of Michigan under section 1 of article 5 of the Michigan Constitution of 1963, the Emergency Management Act, 1976 PA 390, as amended, MCL 30.401 to 30.421, and 1945 PA 302, as amended, MCL 10.31 to 10.33.

The Emergency Management Act vests the governor with broad powers and duties to "cop[e] with dangers to this state or the people of this state presented by a disaster or emergency," which the governor may implement through "executive orders, proclamations, and directives having the force and effect of law," MCL 30.403(1) to (2). Similarly, the Public Act 302 of 1945 (emergency powers of governor), provides that, after declaring a state of emergency, "the governor may promulgate reasonable orders, rules, and regulations as he or she considers necessary to protect life and property or to bring the emergency situation within the affected area under control." MCL 10.31(1).

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To mitigate the spread of COVID-19, protect the public health, and provide essential protections to vulnerable Michiganders, it is reasonable and necessary to temporarily suspend rules and procedures to expand eligibility for unemployment benefits and cost-sharing with employers.

Acting under the Michigan Constitution of 1963 and Michigan law, I order the following:

1. Effective immediately, and continuing until April 14, 2020 at 11:59 pm, strict compliance with subdivision (a) of subsection (1) of section 29 of the Michigan Employment Security Act, 1936 PA 1, as amended ("Employment Security Act"), MCL 421.29(1)(a), is suspended.
  - a. Effective immediately, and continuing until April 14, 2020 at 11:59 pm, an individual must be considered to have left work involuntarily for medical reasons if they leave work because of self-isolation or self-quarantine in response to elevated risk from COVID-19 due to being immunocompromised, displaying the symptoms of COVID-19, having contact in the last 14 days with someone with a confirmed diagnosis of COVID-19, the need to care for someone with a confirmed diagnosis of COVID-19, or a family care responsibility as a result of a government directive.
  - b. Effective immediately, and continuing until April 14, 2020 at 11:59 pm, an individual must be deemed laid off if they became unemployed because of self-isolation or self-quarantine in response to elevated risk from COVID-19 due to being immunocompromised, displaying the symptoms of COVID-19, having contact in the last 14 days with someone with a confirmed diagnosis of COVID-19, the need to care for someone with a confirmed diagnosis of COVID-19, or a family care responsibility as a result of a government directive. The employer of an individual covered by this subsection must seek a registration and work search waiver from the Unemployment Insurance Agency.

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2. Effective immediately, and continuing until April 14, 2020 at 11:59 pm, strict compliance with subsection (3) of section 48 of the Employment Security Act, MCL 421.48(3), is suspended. An individual on a leave of absence due to displaying the symptoms of COVID-19, having contact in the last 14 days with someone with a confirmed diagnosis of COVID-19, the need to care for someone with a confirmed diagnosis of COVID-19 must be considered to be unemployed, or a family care responsibility as a result of a government directive, unless the individual is already on sick leave or receives a disability benefit.

3. Effective immediately, and continuing until April 14, 2020 at 11:59 pm, strict compliance with subsections (4) through (7) of Rule 421.210 is suspended. An individual who becomes unemployed because self-isolation or self-quarantine in response to elevated risk from COVID-19 due to being immunocompromised, displaying the symptoms of COVID-19, having contact in the last 14 days with someone with a confirmed diagnosis of COVID-19, the need to care for someone with a confirmed diagnosis of COVID-19, or a family care responsibility as a result of a government directive, and files a claim for unemployment benefits within 28 days of the last day worked must be considered to have filed on time.

4. Effective immediately, and continuing until April 14, 2020 at 11:59 pm, strict compliance with subdivision (7) of subsection (c) of section 27 of the Employment Security Act, MCL 429.27(c)(7) is suspended. For each eligible individual filing an initial claim until April 14, 2020 at 11:59pm, not more than 26 weeks of benefits are payable to an individual in a benefit year.

5. Effective immediately, and continuing until April 14, 2020 at 11:59 pm, strict compliance with subdivision (b) of subsection (1) of section 28c of the Employment Security Act, MCL 429.28c(1)(b), is suspended. The unemployment insurance agency may approve a shared-work plan, regardless of whether the employer's reserve in the employer's experience account as of the most recent computation date preceding the date of the employer's application is a positive number.

6. Effective immediately, and continuing until April 14, 2020 at 11:59 pm, an employer or employing unit must not be charged for unemployment benefits if their employees become unemployed because of an executive order requiring them to close or limit operations.

## Families First Coronavirus Response Act

- Both the Senate and the House have passed the bill
- Key provisions include:
  - Two weeks of full pay for covered absences
  - 66% pay for remainder of the leave period
  - FMLA-type protection for employees
  - Continuation of health care
  - Tax credits to reimburse employers
- Miller Johnson will have webinars next week on the bill



**David Buday**

269.226.2952

[budayd@millerjohnson.com](mailto:budayd@millerjohnson.com)



**Tim Gutwald**

616.831.1727

[gutwaldt@millerjohnson.com](mailto:gutwaldt@millerjohnson.com)

[millerjohnson.com](http://millerjohnson.com)

45 Ottawa Ave SW  
Suite 1100  
Grand Rapids, MI 49503

100 W Michigan Ave  
Suite 200  
Kalamazoo, MI 49007

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