




COVID-19

UPDATE:
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**Coronavirus / COVID-19
Response Team**


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**A Member Of My Employee's Household Is
In Quarantine, Isolation or Unable To
Attend School.
*Should My Employee Stay Home &
What Paid Leave Might Apply?***

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Today's Topic

- Focus on **close contact** quarantine requirements and pay/protection for **caring for others**
- We are not focusing on employee's own symptoms or positive test
- Households raise multiple concerns/considerations; quarantine requirements stack on top of each other.

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Refresher

- Public Act 238
- MIOSHA Emergency Rules
- Local health dept./CDC guidance
- FFCRA – EPSL and EFMLA
- MPMLA
- FMLA

MDHHS Emergency Order (October 29) no longer has specific workplace requirements. Remember importance of substantial compliance for immunity from liability.

Public Act 238

- An employee who has **close contact** with an individual who test positive for COVID-19 OR who displays **principal symptoms** of COVID-19 shall not report to work until:
 - 14 days have passed since last close contact OR
 - Individual with symptoms receives medical determination that he/she did not have COVID-19 at time employee had close contact with him/her
- Does NOT apply to healthcare workers, first responders, child protective service employee, childcare worker, AFC employee and corrective facility employee
- Civil liability for violations

Public Act 238

- Close contact = within 6 feet for at least 15 minutes starting from 2 days before illness onset (or, if no symptoms, prior to test) until person is isolated.
- Principal symptoms= uses MDHHS definition
 - [Revised 10/29](#)
 - Fever, uncontrolled cough, or atypical new onset of shortness of breath OR at least 2 of the following not explained by a known physical condition: loss of taste or smell, muscle aches, sore throat, severe headache, diarrhea, vomiting, or abdominal pain.

MIOSHA Emergency Rules

- Do not directly speak to quarantine requirements but state employers shall not allow employees to return to the workplace until they are released from quarantine order by the local health department.
- Fines and other penalties for violations

CDC / Local Health Department Recommendations

- Individuals who have close contact with a **confirmed case** of COVID-19 should quarantine for 14 days from date of last close contact.
- NOTE: does not discuss quarantine for close contact with symptoms.
- Close contact uses individual exposures added together over a 24-hour period (e.g., three 5-minute exposures for a total of 15 minutes)
- MIOSHA violation for non-compliance
- Does NOT trump PA 238, FFCRA or other laws

FFCRA

- Employers with fewer than 500 employees
 - Paid time off
 - Job protection
- Emergency Paid Sick Leave
 - Subject to a federal, state or local quarantine order
 - PA 238 more likely than not a state quarantine order
 - Caring for an individual who is subject to a federal, state or local quarantine order
 - Caring for a son or daughter whose school or place of care is closed for reasons related to COVID-19
- Civil liability for non-compliance

MPMLA

- Employers with more than 50 employees
- Relevant qualifying reason
 - Care for a family member with an illness
 - Need to care for a child whose school or place of care has been closed by order of a public official due to a public health emergency
 - If it has been determined by the health authorities that the eligible employee's or family member's presence in the community would jeopardize the health of others because of the eligible employee's or family member's exposure to a communicable disease, whether or not the eligible employee or family member has actually contracted the communicable disease.

FMLA

- Caring for a parent, spouse or child with a “serious health condition”
- Would potentially apply only if family member was *inpatient* OR was *incapacitated* for more than 3 full calendar days and
 - Saw HCP twice OR
 - Saw HCP one and got prescription

Scenario

Meet the Ronas

- Household members
 - Jill: single mom, your employee
 - Sam: son, 7 years old
 - Ben: son, 9 years old

Overview of Timeline

- 11/2: Notified Ben was exposed at school
 - Last close contact = 10/30
- 11/4: Ben tested
- 11/6: Ben's test is positive
- 11/8: Sam develops symptoms
- 11/15: School closes

Exposure at School

- **November 2:** Jill receives notice from the boys' school that Ben's table mate tested positive for COVID. Ben's last contact was 10/30, and he is not allowed back to school until 11/13. The same day, the local health department contacts her and says Ben is required to quarantine.
- Ben does not have any symptoms.
- What does that mean for Jill?

Exposure at School (Cont.)

- Jill currently has NO quarantine requirements herself because she has not been in contact with a confirmed case of COVID-19 or an individual with symptoms.
- But if Jill needs to be home with Ben, she likely has a right to do so.
 - EPSL: caring for a person who is subject to PA 238 (2/3 pay)
 - MPMLA: it has been determined by local health authorities that family member's presence in the community could jeopardize others.

Timeline

- 11/2-11/13: Ben quarantine
 - EPSL (pay + job protection)

Positive Test

- Jill decides to get Ben tested on Wednesday (11/4), and she finds out on Friday (11/6) that his test was positive.
- Jill says that nobody in her household has symptoms.
- Now what does that mean for Jill?

Positive Test (Cont.)

- Jill has to care for – and be in contact with – a person with COVID.
 - Ben will have to isolate for 10 days from the date of his test, or until 11/14.
 - Assuming that Jill has close contact with him through his isolation period, she will then have to quarantine for an additional 14 days, or until 11/28
- Jill can receive EPSL (+job protection) from 11/2-11/13 (2 weeks)
- For Jill's quarantine period between 11/14-11/28, she will have job protection under PA 238 and could use available time under MPMLA, PTO or take unpaid leave.

Timeline

- 11/2-11/4: Ben quarantine
 - EPSL (pay + job protection)
- 11/4-11/14: Ben isolation
 - EPSL through 11/13 (pay + job protection)
- 11/13-11/28: Jill quarantine
 - PA 238 (job protection)
 - MPMLA, PTO (pay)

Symptoms

- Jill calls to update you again on 11/9. She says that Sam developed symptoms the day before and is also home now. Sam's doctor advised to just assume Sam has COVID and to isolate him for 10 days.
- Now what does that mean for Jill?

Symptoms

- Sam will have to isolate until:
 - 10 days from the onset of his symptoms
 - Fever free for 24 hours (without fever medication) and
 - All other symptoms have improved
- Assuming all goes well, Sam will have to isolate from 11/8-11/18.
- Assuming Jill has close contact with Sam through his isolation period, she will then have to quarantine for 14 days, or until 12/3.

Symptoms

- Jill will likely have job protection through 12/3.
 - EPSL through 11/13
 - PA 238: Quarantine after close contact with confirmed case or symptoms of COVID-19
 - Available MPMLA
 - FMLA to care for Sam?
- Jill will not have paid time after she exhausts EPSL, MPMLA and PTO.

Timeline

- 11/2-11/4: Ben quarantine
 - EPSL (pay + job protection)
- 11/4-11/14: Ben isolation (positive test)
 - EPSL through 11/13 (pay + job protection)
- 11/8-11/18: Sam isolation (symptoms)
 - FMLA?
- 11/14-12/3: Jill quarantine
 - PA 238 (job protection)
 - MPMLA, PTO (pay)

School Closure

- On 11/5, the health department closes the school due to the outbreak. School is moving to a virtual format for until the holiday break begins 12/21.
- Does this change anything for Jill?

School Closure

- FFCRA: Emergency FMLA provides job protections and paid leave (2/3) for time when she is not able to work because she needs to care for Sam and Ben due to the school closure.
 - Arguably, NOT available during Jill's quarantine period (through 12/3) because she would not have been available to work anyway.
 - Likely available between 12/3 and 12/20.

Timeline

- 11/2-11/4: Ben quarantine
 - EPSL (pay + job protection)
- 11/4-11/14: Ben isolation (positive test)
 - EPSL through 11/13 (pay + job protection)
- 11/8-11/18: Sam isolation (symptoms)
 - FMLA?
- 11/14-12/3: Jill quarantine
 - PA 238 (job protection)
 - MPMLA, PTO (pay)
- 11/15-12/21: School closure
 - EFMLA 12/3-12/21

Questions



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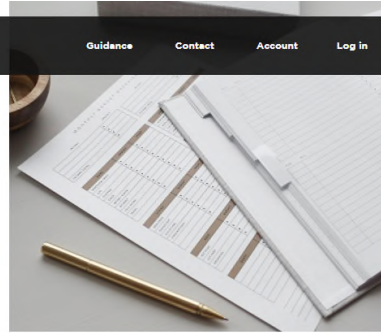
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For less than the cost of a typical handbook update, you gain access to an extensive collection of resources and Miller Johnson work product that we are confident will provide meaningful support to your efforts to navigate waters that are not only choppy but continuously changing direction.

Here is a sampling of what subscribers will find:

- Forms, Plans and Policies - we have drafted templates for you to put into service immediately
- Practical Guidance - tools to effectively, safely and confidently return to work incorporating best practices from outside organizations, including community partners such as Spectrum Health
- Industry Specific Guidance - pages devoted to industries singled



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