

CLIENT ALERTS

Governor Whitmer issues Executive Order 2020-166 changing the quarantine requirements for those who test positive or are symptomatic and who have had close contact

8.11.2020

On Friday, August 7, 2020, Governor Whitmer issued Executive Order No. 2020-166 (the "Order"), which changes the quarantine requirements for those who test positive or are symptomatic, and for those who have come into close contact with someone who has tested positive or is symptomatic. The Order, effective immediately, rescinds Executive Order No. 2020-36 but renews its prohibition on employers from discharging, disciplining, or retaliating against employees who stay home when they or their close contacts are sick, with some modification.

Specifically, the Section 2 of the Order requires that any individual who tests positive for COVID-19 or who displays one or more of the principal symptoms of COVID-19 remain in their residence (apart from seeking medical care) until:

1. Twenty-four (24) hours have passed since the resolution of fever without the use of fever-reducing medications; AND
2. Ten (10) days have passed since symptoms first appeared or since they were swabbed for the test that yielded the positive result; AND
3. Other symptoms have improved.

Perhaps the most significant change from the prior requirements of Executive Order 2020-36 is that a negative test result for COVID-19 is no longer sufficient to cease the application of the required quarantine period. Additionally, rather than the previously required three (3)-day period after symptoms have resolved, Section 2 of the new Order adds a specific twenty-four (24)-hour period from resolution of a fever, and increases the period required after symptoms first appeared or since being swabbed for the test that yielded the positive result from seven (7) to ten (10) days. The Order also vaguely requires that "other symptoms have improved."

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Section 3 of the Order also renews the requirement from Executive Order 2020-36 that any person who has had close contact with an individual who tests positive for COVID-19 or with an individual who displays one or more of the principal symptoms of COVID-19 should remain in their residence (apart from seeking medical care) until either:

1. Fourteen (14) days have passed since the last close contact with the sick or symptomatic individual; OR
2. The individual displaying symptoms receives a negative COVID-19 test.

Section 3 does not apply to certain classes of workers, as set forth in Section 4 the Order, provided that their employers' rules governing occupational health allow them to go to work.

Employers are instructed to treat employees the categories above as if taking medical leave under Michigan's Paid Medical Leave Act ("PMLA"). If the employee has no paid leave remaining, the leave may be unpaid and employers are permitted, but not required, to debit taken hours described in sections 2 or 3 of the Order from the employee's accrued leave. The length of such leave is not limited by the amount of leave that an employee has accrued under the PMLA and must extend, whether paid or unpaid, as long as the employee remains away from work within the time periods described in Sections 2 or 3 of the Order.

Notably, nothing in Executive Order 166 prevents an employer from discharging or disciplining an employee (1) who is otherwise allowed to return to work under Sections 2 and 3 of the Order but declines to do so; (2) who asks to be discharged; or (3) for any other reason that is not unlawful.

Likewise, an individual who tests positive for COVID-19 or displays one or more of the principal symptoms and who voluntarily returns to work (i.e. without threat of discharge, discipline, or retaliation from their employer) prior to the respective periods specified in Sections 2 and 3 of the Order is not protected by the Order's provisions against discharge, discipline, or retaliation.

Please reach out to your Butzel Long attorney with specific questions and for assistance applying this or any other executive orders to your business.

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