

MIOSHA's COVID-19 Workplace Safeguards Remain In Place

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The Centers for Disease Control and Prevention (“CDC”) released its first guidance for fully vaccinated individuals on March 8, 2021. This new guidance may tempt employers to begin relaxing workplace safeguards and distinguishing between vaccinated and non-vaccinated employees. However, to avoid citations and/or fines from the Michigan Occupational Safety and Health Administration (“MIOSHA”), employers should continue to abide by their Preparedness and Response Plans with respect to all employees for the time being.

The CDC’s guidance permits fully vaccinated individuals to visit in private indoor settings without masks or social distancing with other fully vaccinated individuals or “low risk” individuals from a single household, such as young adults or children. Individuals are considered fully vaccinated two weeks after either a single shot of Johnson & Johnson’s newly authorized vaccine or a second shot of Moderna’s or Pfizer’s two-dose regimens. These fully vaccinated individuals are no longer required to quarantine or get tested for COVID-19 when exposed to someone with the virus. The guidance is still short of a post-vaccination “free for all,” as it advises all individuals, regardless of their vaccine status, to wear face coverings and socially distance in public, undergo testing if experiencing COVID-19 symptoms, and avoid medium- and large-sized in-person gatherings.

While the CDC’s guidance is an important first step towards resuming everyday activities, employers should still lean on MIOSHA regulations. Since releasing its Emergency Rules in October 2020, MIOSHA has not articulated any exemptions to workplace rules for vaccinated individuals. Additionally, the federal Occupational Safety and Health Administration (“OSHA”) has not yet issued its national standard for COVID-19 workplace safety. There are reports that OSHA will issue its Emergency Temporary Standard, as requested by President Joe Biden, despite the expiration of the March 15, 2021 deadline.

Although anxious to return to the workplace, employers should remain patient and recognize we are taking steps in the right direction. According to the Michigan COVID-19 Vaccine Tracker, as of March 15, 2021, 11.4 percent of Michiganders have been fully vaccinated. Additionally, Governor Gretchen Whitmer has acknowledged she hopes to begin an “incremental reengagement” of office work “in the coming weeks,” perhaps even in advance of the expiration of the MIOSHA Emergency Rules on April 14, 2021.

Bodman will continue to monitor the ongoing developments from OSHA and MIOSHA, including the precautionary measures expected to remain in effect beyond April 14. Employers with specific questions related to vaccines and workplace safety measures should feel free to contact any member of Bodman's Workplace Law Group. Bodman cannot respond to your questions or receive information from you without first clearing potential conflicts with other clients. Thank you for your patience and understanding.

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