

## COVID-19: Protecting Employees Who Stay Home When They or Their Close Contacts Are Sick.

August 11, 2020

---

Late last Friday, Governor Whitmer issued Executive Order 2020-166, which is aimed at protecting employees' rights and health following the end of the CARES portion of unemployment aid. The Executive Order:

1. Prohibits employers from firing or otherwise disciplining or retaliating against employees who stay home when they or close contacts are sick. Instead, such employees must be treated as if they were taking medical leave (i.e. traditional FMLA).
2. Requires employees who test positive for COVID-19 to remain home until:
  - a. 24 hours have passed since the resolution of a fever without fever-reducing medications;
  - b. 10 days have passed since their symptoms first appeared or since they were swabbed for the test that yielded a positive result; and
  - c. Other symptoms have improved.
3. Requires employees who have been in close contact (being within six feet for at least 15 minutes) with an individual who tests positive for COVID-19 or is displaying principal symptoms of COVID-19 remain home until either:
  - a. 14 days have passed since the last close contact with the sick or symptomatic individual; or
  - b. The individual displaying COVID-19 symptoms receives a negative COVID-19 test.

\* This does not apply to health care professionals, workers at health care facilities, first responders, child protective service employees, childcare workers, workers at adult foster care facilities, or workers at correctional facilities.

The Executive Order broadly defines "principal symptoms of COVID-19" as a fever, sore throat, a new uncontrolled cough that causes difficulty breathing, diarrhea, vomiting,

abdominal pain, new onset of a severe headache, and new loss of taste or smell. We understand that the Small Business Association of Michigan (SBAM) is currently working with the Governor's office to obtain some clarity on this order, given the increased obligations on employers, the redefined and expanded definition of COVID-19 symptoms, and the potential for abuse.

GMH's Coronavirus Task Force is here to answer your questions. Please contact any of the below lawyers for more Coronavirus support.

*THE LOCAL, STATE AND FEDERAL GOVERNMENT REQUIREMENTS RELATED TO COVID-19 MAY CHANGE, AND ADDITIONAL GUIDANCE, RULES, LAWS AND REGULATIONS MAY BE ISSUED OR AMENDED, AT ANY TIME. ACCORDINGLY, OUR GUIDANCE OR POSITION ON THESE TOPICS MAY ALSO CHANGE, WITH OR WITHOUT NOTICE, AND THE ABOVE INFORMATION IS FOR EDUCATIONAL PURPOSES ONLY AND SHOULD NOT BE INTERPRETED OR RELIED UPON AS LEGAL ADVICE. EACH SITUATION IS UNIQUE AND SHOULD BE REVIEWED WITH THE ASSISTANCE OF COMPETENT PROFESSIONALS.*



**Elizabeth "Liza" A. Favaro**  
(Employment, Insurance, Supply Chain)

(248) 457-7181  
[efavaro@gmhlaw.com](mailto:efavaro@gmhlaw.com)



**Bruce W. Haffey**  
(Corporate, M&A, Supply Chain)

(248) 457-7140  
[bhaffey@gmhlaw.com](mailto:bhaffey@gmhlaw.com)



**Alexander Lebedinski**  
(Health Care, Business Transactions, Immigration)

(248) 457-7058  
[alebedinski@gmhlaw.com](mailto:alebedinski@gmhlaw.com)



**James Y. Rayis**  
(International)

(248) 457-7173  
[jrayis@gmhlaw.com](mailto:jrayis@gmhlaw.com)



**Nina M. Jankowski**  
(Employment)

(248) 457-7183  
[njankowski@gmhlaw.com](mailto:njankowski@gmhlaw.com)