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Labor & Employment Client Alert

MIOSHA Issues New Emergency Rules Lifting Mask Requirement for Fully Vaccinated Persons

By: Brian Kreucher & Daniel Villaire | May 26, 2021

On Monday, May 24, 2021, Gov. Whitmer announced new MIOSHA Emergency Rules: https://www.michigan.gov/documents/leo/MIOSHA_COVID_Emergency_Rules_726100_7.pdf.

Under the new emergency rules, MIOSHA has removed the requirement that employers create a “Policy prohibiting in-person work for employees to the extent that their work activities can feasibly be completed remotely.” MIOSHA has also removed all industry specific rules and updated other aspects of the emergency rules to reflect recent guidance from the CDC and the MDHHS: https://www.michigan.gov/coronavirus/0,9753,7-406-98178_98455-560465--,00.html.

NEW MIOSHA EMERGENCY RULE HIGHLIGHTS:

Rule 6:

- Employers no longer need to require fully vaccinated employees to socially distance or wear face coverings, unless employees are in a healthcare setting where patients may be present or using airplane or public transportation, if masks are required in those settings by the most recent CDC guidance. Employees who are not vaccinated must continue to remain 6 feet apart to the extent feasible and, when indoors, wear a facemask if they are unable to maintain 6 feet of distance. Employers can manage these restrictions in any manner deemed effective by the employer which may include:
 - o Keeping records of whether employees are fully vaccinated and exempting them from the distancing and mask restrictions.
 - o Posting signs in the work area reminding employees that are not fully vaccinated to wear face coverings and maintain appropriate distancing.
 - o Allowing or requiring remote work.
 - o Requiring face coverings and social distancing for all employees regardless of vaccination status.



Note that employers are still required to do the following under the new emergency rules:

- **Rule 3:** Have a COVID-19 preparedness and response plan.
- **Rule 4:** Continue to maintain basic infection prevention measures, including separating and isolating workers experiencing symptoms of COVID-19, even if the workers have been vaccinated.
- **Rule 5:** Conduct a daily entry self-screening protocol for all employees or contractors entering the workplace, including, at a minimum, a questionnaire covering symptoms and suspected or confirmed exposure to people with possible COVID-19, and require certain follow up for symptomatic employees. The daily self-screening must be completed regardless of vaccination status.
- **Rule 6:** Have in place additional workplace controls and continue to designate one or more worksite COVID-19 safety coordinators. However, safety coordinators are not required to be on site at all times.
- **Rule 7:** Training requirements, including information on vaccinations available for COVID-19.
- **Rule 8:** Recordkeeping requirements.

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