

## COVID-19: Helping Small Businesses in the New Year

January 8, 2021

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### 1. Continued Restrictions on In-Person Work When Working Remotely is Possible.

As it currently stands, restrictions on in-person work continue through January 15, 2021; the Michigan Department of Health and Human Services' (MDHHS) January 4, 2021 amendment to the [Emergency Gatherings and Face Mask Order](#) does not change these restrictions.

Under the Order, workplace "gatherings" must be consistent with the Emergency Rules issued by MIOSHA on October 14, 2020, which requires employers to "create a policy prohibiting in-person work for employees to the extent that their work activities can feasibly be completed remotely."

This is consistent with MDHHS' [Guidelines for Keeping a Safe Workplace](#), issued on November 6, 2020, which includes a recommendation for remote work in office settings. The guidance states that "[t]he responsibility to maintain a safe workplace is paramount, and strongly suggests that employers should allow their employees to work from home if possible." "[E]mployers should only permit in-person work when attendance is strictly required to perform job duties."

### 2. Expiration of Paid Sick Leave and Expanded Family and Medical Leave: What's Next?

Employers are no longer required to provide paid sick leave and expanded family and medical leave under the Families First Coronavirus Response Act (FFCRA) after December 31, 2020. However, this does not stop an employer from voluntarily deciding to provide its employees with such leave after December 31, 2020. If an employer chooses to provide paid sick leave and expanded family and medical leave after December 31, 2020, they can still apply for the employer tax credits which have been extended until March 31, 2021. This does not mean, however, that employees should report to work when they have or are suspected to have COVID-19. Contact a member the Coronavirus Task Force to help you determine how to manage COVID-19-related leaves of absence.

### 3. Extension of Unemployment Benefits.

The Michigan Legislature has re-approved COVID-19 unemployment provisions that allow for unemployment benefits when employees cannot work due to a COVID-19 related

reason. The legislation keeps the maximum benefit weeks allowed at 26 weeks through the end of March.

In addition, a federal COVID-19 emergency relief package has been signed into law that continues and expands federal unemployment insurance (UI) programs. UI extensions and expansions include:

- **Pandemic Unemployment Assistance (PUA):** Extends and phases out PUA, a temporary federal program covering self-employed and gig workers, to March 14 (after which no new applicants) through April 5, 2021.
  - Provides additional weeks for those who would otherwise exhaust benefits by extending PUA from 39 to 50 weeks— with all benefits ending April 5, 2021.
  - New PUA program eligibility requirements: New and active claimants must provide documentation to substantiate employment (not just self-certification as is currently the case) starting at the end of January.
- **Pandemic Unemployment Compensation (PUC):** Provides all unemployment recipients with an additional \$300 per week from Dec. 27 through Mar. 13, 2021.
- **Pandemic Emergency Unemployment Compensation (PEUC):** Extends and phases out PEUC, which provides additional weeks when state unemployment runs out, to March 14 (after which no new applications) through April 5, 2021.
  - Provides additional weeks for those who would otherwise exhaust benefits by increasing weeks available from 13 to 24—with all benefits ending April 5, 2021.

#### **4. Employers Mandating COVID-19 Vaccines.**

The U.S. Equal Employment Opportunity Commission (EEOC) released [guidance](#) on December 16, 2020 which states that employers may mandate vaccines to their employees, but employers must be careful about how they handle the process:

- Employers must not turn the prescreening vaccination questions into a medical screening. In other words, the prescreening questions must be “job related and consistent with business necessity,” not to violate the American with Disabilities Act (ADA) provision on disability-related inquiries.
- Once an employer is on notice that an employee’s disability or sincerely held religious belief, practice, or observance prevents the employee from receiving the vaccination, the employer must provide a reasonable accommodation.
- Employers must be HIPAA compliant in their roll out and distribution of the vaccine.

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.



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