STATE OF MICHIGAN
OFFICE OF THE GOVERNOR
LANSING

GRETCHEN WHITMER
GOVERNOR

GARLIN GILCHRIST II
LT. GOVERNOR

SECRETARY OF SENATE
2020 MAY 26 AM9:22

EXECUTIVE ORDER

No. 2020-99

Declaration of state of emergency and state of disaster related to the COVID-19 pandemic

On March 10, 2020, I issued Executive Order 2020-4, which declared a state of emergency in Michigan to address the COVID-19 pandemic. This new disease, caused by a novel coronavirus not previously identified in humans, can easily spread from person to person and can result in serious illness or death. There is currently no approved vaccine or antiviral treatment.

Scarcely three weeks later, the virus had spread across Michigan. As of April 1, 2020, the state had 9,334 confirmed cases of COVID-19 and 337 deaths from the disease, with many thousands more infected but not yet tested. Exactly one month later, this number had ballooned to 42,356 confirmed cases and 3,866 deaths from the disease—a tenfold increase in deaths. The virus's rapid and relentless spread threatened to overwhelm the state's health care system: hospitals in multiple counties were reportedly at or near capacity; medical personnel, supplies, and resources necessary to treat COVID-19 patients were in high demand but short supply; dormitories and a convention center were being converted to temporary field hospitals.

On April 1, 2020, in response to the widespread and severe health, economic, and social harms posed by the COVID-19 pandemic, I issued Executive Order 2020-33. This order expanded on Executive Order 2020-4 and declared both a state of emergency and a state of disaster across the state of Michigan. Like Executive Order 2020-4, this declaration was based on multiple independent authorities: section 1 of article 5 of the Michigan Constitution of 1963; the Emergency Management Act, 1976 PA 390, as amended, MCL 30.401 et seq.; and the Emergency Powers of the Governor Act of 1945, 1945 PA 302, as amended, MCL 10.31 et seq. On April 7, 2020, the Michigan legislature adopted a concurrent resolution to extend the states of emergency and disaster declared under the Emergency Management Act until April 30, 2020.

On April 30, 2020, finding that COVID-19 had created emergency and disaster conditions across the State of Michigan, I issued Executive Order 2020-67 to continue the emergency declaration under the Emergency Powers of the Governor Act, as well as Executive Order 2020-68 to issue new emergency and disaster declarations under the Emergency Management Act.

Those executive orders have been challenged in *Michigan House of Representatives and Michigan Senate v Whitmer*. On May 21, 2020, the Court of Claims ruled that Executive Order 2020-67 is a valid exercise of authority under the Emergency Powers of the Governor Act but that Executive Order 2020-68 is not a valid exercise of authority under the Emergency Management Act. Both of those rulings are likely to be appealed.

Since I first declared an emergency in response to this pandemic, my administration has taken aggressive measures to fight the spread of COVID-19, prevent the rapid depletion of this state's critical health care resources, and avoid needless deaths. The best way to slow the spread of the virus is for people to stay home and keep their distance from others. To that end, and in keeping with the recommendations of public health experts, I have issued orders restricting access to places of public accommodation and school buildings, limiting gatherings and travel, and requiring workers who are not necessary to sustain or protect life to remain at home. I have also issued orders enhancing the operational capacity and efficiency of health care facilities and operations, allowing health care professionals to practice to the full extent of their training regardless of licensure, and facilitating the delivery of goods, supplies, equipment, and personnel that are needed to combat this pandemic. And I have taken steps to begin building the public health infrastructure in this state that is necessary to contain the infection.

My administration has also moved quickly to mitigate the economic and social harms of this pandemic. Through my orders, we have placed strict rules on businesses to prevent price gouging, put a temporary hold on evictions for families that cannot make their rent, expanded eligibility for unemployment benefits, provided protections to workers who stay home when they or their close contacts are sick, and created a structure through which our schools can continue to provide their students with the highest level of educational opportunities possible under the difficult circumstances now before us.

These statewide measures have been effective, but the need for them—like the unprecedented crisis posed by this global pandemic—is far from over. Though its pace of growth has showed signs of slowing, the virus remains aggressive and persistent: to date, there have been 53,510 confirmed cases of COVID-19 in Michigan, and 5,129 deaths from the disease. There remains no treatment for the virus; it remains easy to transmit, passing from asymptomatic individuals and surviving on surfaces for days; and we still lack adequate means to fully test for it and trace its spread. COVID-19 remains present and pervasive in Michigan, and it stands ready to quickly undo our recent progress in slowing its spread. Indeed, while COVID-19 initially hit southeast Michigan hardest, the disease is now spreading more quickly in other parts of the state. For instance, cases in some counties in western and mid-Michigan are now doubling approximately every 10 days.

Michigan's Safer at Home orders have aimed to reduce the spread of COVID-19 within the state. As summer approaches, Michigan's more rural counties are beginning to see more out-of-town visitors. The residents of these rural counties are among the most vulnerable to COVID-19, with older populations and rates of chronic illness among the highest in the state. Twenty-one of Michigan's eighty-three counties—all rural—have a median age over 50, and nearly 30% of Michigan's rural population is 65 or older. These rural areas tend to be miles away from larger hospitals with the personnel, beds, and equipment to fight this virus.

The economic and social harms from this pandemic likewise persist. Michigan has experienced an uptick in individuals reaching out to domestic violence hotlines and many shelters across Michigan are already over capacity. Due to the pandemic and the responsive measures necessary to address it, businesses and government agencies have had to quickly and dramatically adjust how they work. Where working from home is not possible, businesses have closed or significantly restricted their normal operations.

The economic damage—already severe—will continue to compound with time. Between March 15 and May 13, Michigan had 1.8 million initial unemployment claims—the fifth-highest nationally, amounting to nearly 36% of the Michigan workforce. During this crisis, Michigan has often processed more unemployment claims in a single day than in the most painful week of the Great Recession, and the state has already reached its highest unemployment rate since the Great Depression (22.7% in April). Between March 15 and May 21, Michigan paid out over $7 billion in benefits to eligible Michiganders. The Michigan Department of Treasury predicts that this year the state will lose between $1 and $3 billion in revenue. As a result, local governments will struggle to provide essential services to their communities and many families in Michigan will struggle to pay their bills or even put food on the table.

So too will the pandemic continue to disrupt our homes and our educational, civic, social, and religious institutions. Transitioning almost overnight to a distance-learning environment has placed strain on educators, students, and parents alike. The closure of museums and theaters limits people's ability to enrich themselves through the arts. And curtailing gatherings has left many seeking new ways to connect with their community during these challenging times.

A second wave of COVID-19 cases continues to pose a deadly threat to the people of this state. As various sectors of Michigan's economy begin to reopen, we must be able to respond nimbly to new data about transmission and health risks of the virus. Over the past months, researchers have discovered that COVID-19 can attack not only the lungs, but also the heart, brain, kidneys, liver, and blood. While older individuals are at higher risk of contracting and dying from COVID-19, studies have shown that the disease may increase the severity of strokes in younger people.

The health, economic, and social harms of the COVID-19 pandemic thus remain widespread and severe, and they continue to constitute a statewide emergency and disaster. While the virus has afflicted some regions of the state more severely than others, the extent of the virus's spread, coupled with its elusiveness and its ease of transmission, render the virus difficult to contain and threaten the entirety of this state. Michigan's fatality rate from COVID-19 remains the highest among neighboring states and sits around three percentage points higher than the national average. The underlying health factors that contribute to the severity of COVID-19 in Michigan remain present, as does the disease.

Although local health departments have some limited capacity to respond to cases as they arise within their jurisdictions, state emergency operations are necessary to bring this pandemic under control in Michigan and to build and maintain infrastructure to stop the spread of COVID-19, trace infections, and quickly direct additional resources to hot-spots as they emerge. State assistance to bolster health care capacity and flexibility also has been, and will continue to be, critical to saving lives, protecting public health and safety, and

averting catastrophe. Moreover, state disaster and emergency recovery efforts remain necessary not only to support Michiganders in need due to the economic effects of this pandemic, but also to ensure that the prospect of lost income does not impel workers who may be infected to report to work.

Statewide coordination of these efforts is crucial to creating a stable path to recovery. Until that recovery is underway, the economic and fiscal harms from this pandemic have been contained, and the threats posed by COVID-19 to life and the public health, safety, and welfare of this state have been neutralized, statewide disaster and emergency conditions will exist.

Acting under the Michigan Constitution of 1963 and Michigan law, I order the following:

1. The COVID-19 pandemic constitutes a disaster and emergency throughout the State of Michigan.

2. This order constitutes a state of emergency declaration under the Emergency Powers of the Governor Act of 1945. Subject to the ongoing litigation, and the possibility that current rulings may be overturned or otherwise altered on appeal, and to the extent the governor may declare a state of emergency and a state of disaster under the Emergency Management Act of 1976 when emergency and disaster conditions exist yet the legislature has not granted an extension request, this order constitutes a state of emergency and state of disaster declaration under that act.

3. This order is effective immediately and continues through June 19, 2020 at 11:59 pm. I will evaluate the continuing need for this order prior to its expiration.

4. Executive Orders 2020-67 and 2020-68 are rescinded. All previous orders that rested on those orders now rest on this order.

Given under my hand and the Great Seal of the State of Michigan.

Date: May 22, 2020

Time: 4:49 pm

GRETCHEN WHITMER
GOVERNOR

By the Governor:

SECRETARY OF STATE