STATE OF MICHIGAN
DEPARTMENT OF HEALTH AND HUMAN SERVICES
LANSING

GRETCHEN WHITMER
GOVERNOR

ROBERT GORDON
DIRECTOR

Emergency Order Under MCL 333.2253 – Exceptions to temporary restrictions on entry into certain facilities

The novel coronavirus (COVID-19) is a respiratory disease that can result in serious illness or death. It is caused by a new strain of coronavirus not previously identified in humans and easily spread from person to person. There is currently no approved vaccine or antiviral treatment for this disease.

On March 10, 2020, the Michigan Department of Health and Human Services identified the first two presumptive-positive cases of COVID-19 in Michigan. On that same day, Governor Gretchen Whitmer issued Executive Order 2020-4 declaring a state of emergency across the state of Michigan under section 1 of article 5 of the Michigan Constitution of 1963, the Emergency Management Act, 1976 PA 390, as amended, MCL 30.401-.421, and the Emergency Powers of the Governor Act of 1945, 1945 PA 302, as amended, MCL 10.31-.33. And in response to the widespread and severe health, economic, and social harms posed by the COVID-19 pandemic, the Governor issued Executive Order 2020-33 on April 1, 2020. 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 under section 1 of article 5 of the Michigan Constitution of 1963, the Emergency Management Act, and the Emergency Powers of the Governor Act of 1945. On April 30, 2020, finding that COVID-19 had created emergency and disaster conditions across the State of Michigan, the Governor 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. And on May 22, 2020, the Governor issued Executive Order 2020-99, declaring a state of emergency and a state of disaster under the Emergency Powers of the Governor Act and, to the extent permissible, under the Emergency Management Act.

On May 29, 2020, the Governor issued Executive Order 2020-108, entitled "Temporary restrictions on entry into health care facilities, residential care facilities, congregate care facilities, and juvenile justice facilities," which established a new set of restrictions pertaining to care facilities. Section One of that order provides that its restrictions apply to care facilities "[e]xcept as otherwise provided by the order of the Director of the Department of Health and Human Services." The order further provides that "[t]he Director of DHHS may issue orders and directives to implement this order, including to specify exceptions to section 1 of this order."

I find that control of the epidemic is necessary to protect the public health and that it is necessary to establish procedures to be followed during the epidemic to ensure the continuation of essential public health services and enforcement of health laws. Considering the above, and upon the advice of scientific and medical experts employed by the Michigan Department of Health and Human Services, I have concluded under MCL 333.2253 that the COVID-19 pandemic continues to constitute an epidemic in Michigan. As provided in MCL 333.2253, these emergency procedures are not limited to the Public Health Code.

I therefore order that:

1. A hospital (including a psychiatric care hospital), outpatient clinic, or doctor's office may permit entry of visitors if it does all of the following:

    a. Limits visitor entry to designated entrances that allow proper screening;

    b. Posts signage at any visitor entrance instructing visitors to be assessed for symptoms of COVID-19 before entry and instructing persons who have symptoms of a respiratory infection, including, but not limited to, fever, cough, or shortness of breath to not enter the facility;

    c. Consistent with Executive Order 2020-108, performs a health evaluation of all individuals that are not under the care of the facility each time the individual seeks to enter the facility, and denies entry to those individuals who do not meet the evaluation criteria. The evaluation criteria must include, at a minimum, COVID-19 diagnosis; symptoms of a respiratory infection, such as fever, cough, or shortness of breath; and contact in the last 14 days with someone with a confirmed diagnosis of COVID-19.

    d. Strongly discourages entering any facility to visit persons at high risk of developing severe complications from COVID-19, including older adults and persons with underlying medical conditions;

    e. Restricts visitation to the patient's room or other designated locations;

    f. Requires visitors who are medically able to wear a mask or other cloth face covering for the duration of their visit, and swiftly removes from the facility visitors who fail to abide by this requirement;

    g. For in-patient stays, makes available on-site and off-site alternatives to in-person visits, such as video or audio calls;

    h. Disallows visitation during aerosol-generating procedures or during collection of respiratory specimens unless deemed necessary by hospital staff for the care and well-being of the patient; and

    i. Permits visitation only during select hours and limits the number of visitors per patient.

2. For purposes of this order, "visitors" means a person who, but for this order, would be prohibited from entering health care facilities under Section One of Executive Order 2020-108.

3. If any provision of this order is found invalid by a court of competent jurisdiction, whether in whole or in part, such decision will not affect the validity of the remaining part of this order.

This order is effective immediately and remains in effect until lifted.

Date: June 3, 2020

Robert Gordon

Robert Gordon, Director

Michigan Department of Health and Human Services