



PA-238/339 Implementation: Essential Workers and Quarantine

Michigan.gov/Coronavirus

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Background: COVID-19 Worker Protections

Employees have many rights during COVID-19, such as protection from unsafe workplace conditions and exposure; a right not to be forced to work while ill or in quarantine; and access to unemployment compensation or paid sick leave if unable to work. These rights stem from multiple sources including [federal law](#), [state law](#), and [state administrative rules](#). Further information about worker protections under Michigan orders and laws can be found [here](#).

PA 238/339

Public Act 238 of 2020, signed into law on October 22, 2020, and amended on December 30th, 2020 through Public Act 339 of 2020, provides important legal protections for employees during COVID-19. This law governs COVID-19 isolation and quarantine periods and prohibits employers from taking adverse actions against employees affected by COVID-19. Specifically, PA 238/339 provides legal protection for employees who are complying with quarantine or isolation guidelines and notes that they may not be “discharge[ed], discipline[d], or otherwise retaliate[d] against” by employers if they are complying with public health guidelines. In other words, employers cannot fire or otherwise retaliate against employees who do not come to work because they are in isolation or quarantine.

PA 339 also provides that there is an exemption for quarantine requirements for individuals under very specific circumstances:

An employee who is any of the following, is otherwise subject to quarantine, is not experiencing any symptoms, and has not tested positive for COVID-19 may be allowed to participate in onsite operations when strictly necessary to preserve the function of a facility where cessation of operation of the facility would cause serious harm or danger to public health or safety.

Individuals who fall into this category may continue to work during quarantine, but only to the extent that their work is strictly necessary to continue operations. Mere inconvenience or overtime expense faced by an employer to secure an alternative employee to fill in is insufficient to trigger exemption from quarantine.

When such workers are required to continue working while quarantined, they must closely follow all [CDC guidelines](#). Specifically, CDC notes that asymptomatic essential workers who continue to work instead of quarantining should adhere to the following precautions:

- **Pre-Screen:** Encourage employees planning to enter the workplace to self-screen at home prior to coming onsite. Employees should not attempt to enter the workplace if any of the following are present: [symptoms](#) of COVID-19; temperature equal to or higher than 100.4 °F¹; or are waiting for the results of a viral test.
- **Screen at the workplace:** Employers should conduct an on-site symptom assessment, including temperature screening, prior to each work shift. Ideally, screening should happen before the individual enters the facility.
- **Regularly monitor:** As long as the employee doesn't have a fever or symptoms, they should self-monitor under the supervision of their employer's occupational health program or their workplace COVID-19 coordinator or team.
- **Wear a cloth mask:** Ensure all employees wear a cloth [mask](#) in accordance with CDC and OSHA guidance and any state or local requirements.
- **Social Distance:** Employee should stay at least 6 feet apart from others and practice [social distancing](#) as work duties permit in the workplace.
- **Clean and disinfect workspaces:** [Clean and disinfect](#) all areas such as offices, bathrooms, common areas, shared equipment routinely.

Covered categories of workers

PA 339 notes that the following workers may continue to work rather than quarantining if they are asymptomatic and follow the safety precautions described above:

- A health care professional.
- A worker at a health care facility.
- A first responder.
- A child protective service employee.
- A worker at a child caring institution, as that term is defined in section 1 of 1973 PA 116, MCL 722.111.
- A worker at an adult foster care facility, as that term is defined in section 3 of the adult foster care facility licensing act, 1979 PA 218, MCL 400.703.
- A worker at a correctional facility.
- A worker in the energy industry who performs essential energy services as described in the United States Cybersecurity and Infrastructure Security Agency's Guidance on the Essential Critical Infrastructure Workforce: Ensuring Community and National Resilience in COVID-19 Response, Version 2.0, March 28, 2020.

PA 339 also empowers the Director of the Michigan Department of Health and Human Services to "designate categories of critical employees at facilities where cessation of operations would cause serious harm or danger to public health or safety."

Through this guidance, MDHHS hereby specifies that the following employees are also included in the category of exempted critical employees who may be required to continue working:

- A 911 dispatcher
- A public health professional
- A worker in an election
- A worker at a water, sewer, wastewater, or internet utility
- A worker providing public works, which includes maintaining, repairing, and clearing roads or refuse collection or disposal services
- A worker providing public transit services
- A worker in a court of law
- A funeral worker or medical examiner