



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 residential care 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 2020-127 on June 18, 2020 again finding that the COVID-19 pandemic constitutes a disaster and emergency throughout the State of Michigan.

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. 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.

On June 26, 2020, the Governor issued Executive Order 2020-136, 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 these care facilities. Section 1 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.” The absence of visitors has of course been difficult for many facility residents; in some cases, not being able to see loved ones may put a resident’s health and wellbeing at significant risk.

This order provides further guidance relative to visitation restrictions for the range of residential care facilities, namely homes for the aged, nursing homes, adult foster care facilities, hospice facilities, substance abuse disorder residential facilities, independent living facilities, and assisted living facilities (referred to as “facilities” in this order) in order to ensure continuation of essential public health services while also providing clarity on the circumstances under which visitation is allowed in these facilities.

I therefore order that:

1. Facilities must make best efforts to facilitate visitations with individuals under their care by phone or other electronic communication platforms to the fullest extent possible;
2. Facilities may permit in-person visitation only in the following circumstances:
  - a. The visit supports activities of daily living (“ADLs”) or are necessary to ensure effective communication with individuals with hearing, vision or speech impairments and are limited to arrangements that:
    - i. Existed prior to March 14, 2020, or become necessary in light of a change in the resident’s condition, such as refusing to eat, that could be improved with assistance from a resident support person; and
    - ii. Involve a family member or friend assisting a resident with activities of daily living, such as feeding the resident to encourage and ensure adequate nutrition; and
    - iii. Require the visitor to wear a mask at all times and use appropriate procedures for the assigned ADL tasks, with the facility ensuring compliance through training or observation; and
    - iv. Are scheduled in advance for specific and individualized ADL tasks; and
    - v. Occur in the resident’s room, if private, or in a room designated by the facility; and
  - b. When a resident is in “serious or critical condition or in hospice care” consistent with Executive Order 2020-136.
3. Facilities with residents that had ADL arrangements prior to March 14, 2020, or residents that have had a change of condition that could be improved with ADL arrangements, must attempt to contact the resident’s next of kin to establish arrangements.
4. Facilities may permit entry of visitors consistent with section 3 of this order if the facility:
  - a. Permits visits by appointment only. Facilities may impose reasonable time limits on visits, require that visitors log arrival and departure times, and limit the number of visitors per scheduled visit to two persons or fewer;
  - b. Excludes visitors who are unwilling or unable to wear a face covering for the duration of their visit, and persons unable to follow hand hygiene requirements, and instead encourages those persons to use video or other forms of remote visitation;
  - c. Limits visitor entry to designated entrances that allow proper COVID-19 screening;
  - d. Consistent with Executive Order 2020-136, performs a health evaluation of all visitors each time the visitor seeks to enter the facility, and denies entry to visitors who do not meet the evaluation criteria. Screenings must include tests for fever ( $\geq 100.0^{\circ}\text{F}$ ), other symptoms consistent with COVID-19, and known exposure to someone with COVID-19. Facilities must restrict anyone with fever, symptoms, or known exposure from entering the facility;
  - e. Has adequate access to testing for COVID-19;

- f. Posts signage at all visitor entrances instructing that visitors must 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;
  - g. Makes safely available hand sanitizer and/or hand washing facilities to visitors, and posts educational materials on proper hand washing and sanitization;
  - h. Ensures availability of adequate staff to assist with the transition of residents, monitoring of visitation, and for cleaning to appropriately disinfect surfaces in the visitation areas after each visit;
  - i. Uses designated outdoor locations where feasible, and otherwise uses the resident's room or other designated locations. Facilities must make available adequate staff to assist with moving residents to visitation locations, monitoring of visitation, and wiping down visitation areas after each family visit. Staff must be able to transport residents safely to and from the visitation space. Residents must not be transported through any space designated as a COVID-19 care space or any space where residents suspected or confirmed to be infected with COVID-19 are present. Outdoor visitation spaces must provide adequate protection from weather elements (e.g., shaded from sun).
  - j. Educates visitors on additional personal protective equipment (PPE) use requirements for visitors beyond a face covering, if any. The facility must supply the visitor with the additional PPE. Entry may not be denied based on a visitor not having the additional PPE required by the facility;
  - k. Disallows visitation during aerosol-generating procedures or during collection of respiratory specimens unless deemed necessary by staff for the care and well-being of the resident;
  - l. Appropriately restricts visitor movement within the facility to reduce the risk of infection;
  - m. Requires that visitors follow social distancing requirements with residents and employees. Visitors who are providing support for ADLs are not expected to abide by social distance requirements between the visitor and the individual needing ADL support;
  - n. Makes available an employee trained in infection control measures at all times during the visit;
  - o. Limits the number of visitors based upon limited space, infection control capacity, and other appropriate factors to reduce the risk of transmission;
  - p. Advises residents and visitors to not share food;
  - q. Instructs visitors who develop symptoms consistent with COVID-19 within 14 days of a visit to notify the facility;
  - r. Communicates with residents and their families to inform them of updated visitation protocols;
  - s. Prohibits visits to residents who are in isolation or are otherwise under for observation for symptoms of COVID-19.
5. For the purpose of applying Executive Order 2020-136, the phrase "serious or critical condition or in hospice care" includes the following:

- a. Residents enrolled in hospice services, regardless of whether the resident appears to be in serious or critical condition or at the end of life;
  - b. Residents receiving end of life care who are not enrolled in hospice;
  - c. Residents whose wellbeing is at significant risk, based on the clinical judgment of a treating medical professional, where family visits are a potentially effective intervention;
  - d. Residents who experience a significant adverse change of condition.
6. For purposes of this order, “visitor” means a person who, but for this order, would be prohibited from entering health care facilities under section 1 of Executive Order 2020-136.
  7. For purposes of this order, “facilities” means homes for the aged, nursing homes, adult foster care facilities, hospice facilities, substance abuse disorder residential facilities, independent living facilities, and assisted living facilities.
  8. For purposes of applying Executive Order 2020-136 and subject to section 4 of this order, visitation restrictions do not apply to representatives of the Michigan Long Term Care Ombudsman program.
  9. 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 30, 2020



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Robert Gordon, Director  
Michigan Department of Health and Human Services