

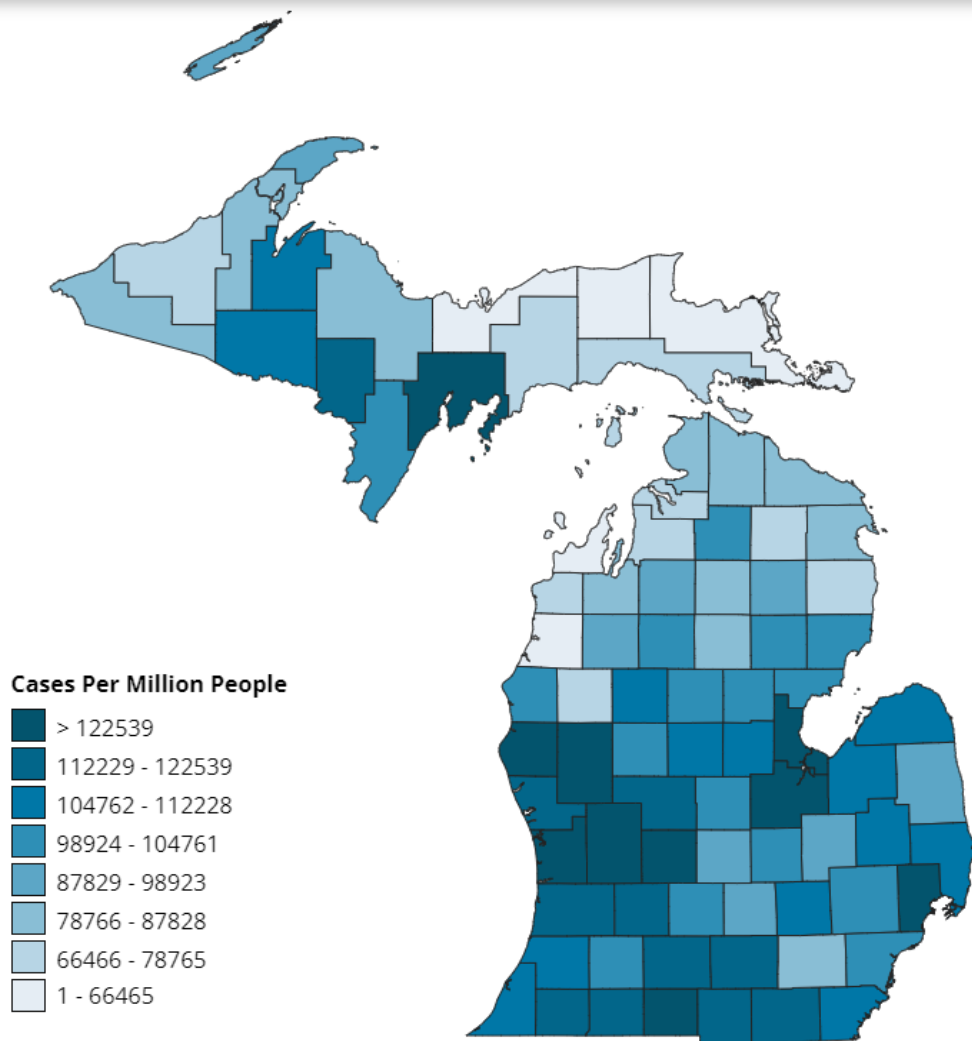
COVID-19 Vaccination Policies for Health Care Employees

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October 21, 2021



STATEWIDE DATA AS OF 10/20/21



Total Confirmed Cases

1,097,129

Total COVID-19 Deaths

21,744

Tuesday & Wednesday
Daily Confirmed Cases

7,108*

Tuesday & Wednesday
Daily COVID-19 Deaths

135**

*Note on cases (10/20/2021): Today's daily case count represents new referrals of confirmed cases to the MDSS since the last web update report. Over the two days (Tuesday and Wednesday), the average number of new confirmed cases is 3554 per day.

**The deaths announced today includes 78 deaths identified during a Vital Records review. See cumulative data page for more information.

GOVERNING GUIDELINES, RECOMMENDATIONS, AND REGULATIONS



COVID-19 Emergency Rules

- Issued June 17, 2021
- In effect for six months
- Impact health care employers and employees
- Control, prevent, and mitigate the spread of COVID-19 among employees
- Adopt OSHA regulations including June 2021 Emergency Temporary Standard (ETS) for health care

Subpart U-COVID-19 Healthcare ETS

- Effective June 21, 2021
- <https://www.osha.gov/coronavirus/ets>
- One standard with multiple sections
 - Healthcare
 - Mini Respiratory Protection Program
 - Severability
 - Incorporation by Reference
- Healthcare is the main section

Source: OSHA

Subpart U COVID-19 Healthcare ETS (continued)

- Applicability (eligible physician practices are exempt)
- Key requirements include, but are not limited to
 - COVID-19 Plan
 - Screenings (patients and employees)
 - Safety protocols (PPE, physical distancing, physical barriers)
 - Cleaning and disinfection
 - Training
- Vaccination policy must provide reasonable time and paid leave for vaccinations and vaccine side effects

Interim Infection Prevention and Control Recommendations for Healthcare Personnel During the COVID-19 Pandemic

- Updated as of September 10, 2021
- Recommended routine infection prevention and control (IPC) practices
- Recommended infection prevention and control (IPC) practices when caring for a patient with suspected or confirmed SARS-CoV-2 infection
- Setting-specific considerations (e.g., dialysis facilities, emergency medical services, dental facilities, etc.)
- Recognize community transmission status by county
- <https://www.cdc.gov/coronavirus/2019-ncov/hcp/infection-control-recommendations.html>

CDC DATA

Hospitalizations in Grand Traverse County, Michigan

Data through Mon Oct 18 2021

New Admissions (last 7 days)	43
Rate of New Admissions (last 7 days)	9.82
% Change (last 7 days)	22.86

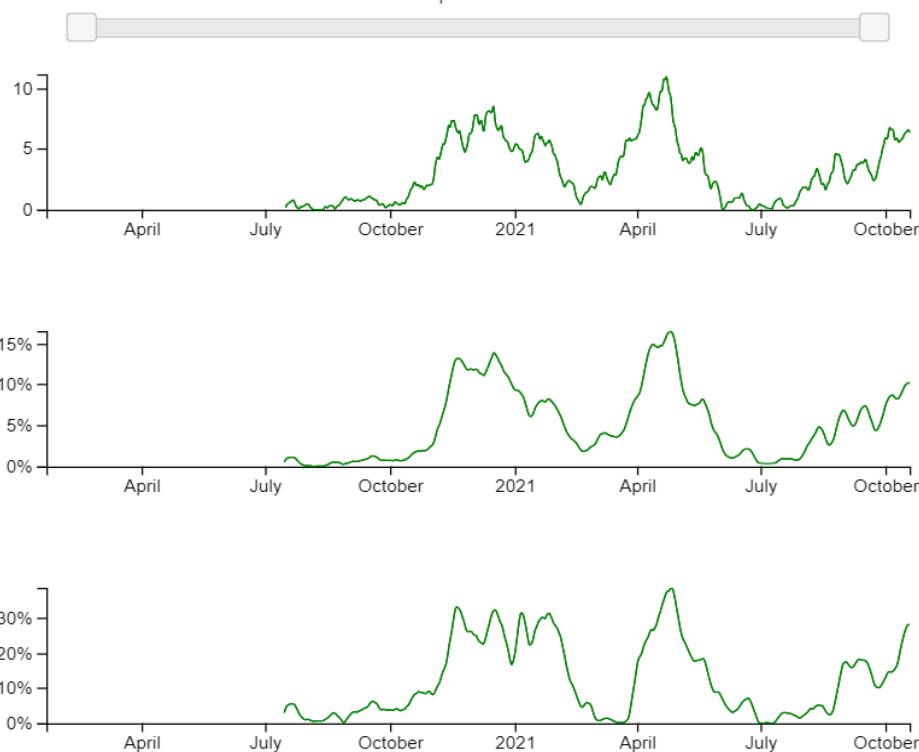
% Beds Used (last 7 days)	9.38
% Change (last 7 days)	1.75

% ICU Beds Used (last 7 days)	25.71
% Change (last 7 days)	8.57

7 Day Moving Averages

Tue, Jan 21st 2020 - Tue, Oct 19th 2021

Use slider to update time series chart



Interim Guidance for Managing Healthcare Personnel with SARS-CoV-2 Infection or Exposure to SARS-CoV-2

- Updated as of September 10, 2021
- Return to work criteria
- Guidance following exposure
- <https://www.cdc.gov/coronavirus/2019-ncov/hcp/guidance-risk-assessment-hcp.html>

COVID-19 VACCINATION GUIDELINES AND POLICIES

Current Status

- Employers may require their employees be vaccinated
- Employers need to make reasonable accommodations or modifications for employees who are not vaccinated due to a medical/disability or sincerely held religious, belief, practice, or observance exemption
- Except in rare cases, employers can ask about an employee's vaccination status without violating HIPAA
- Employers can request proof of vaccination against COVID-19, but cannot require the employee to provide any medical information as part of the proof

COVID-19 VACCINATION GUIDELINES AND POLICIES

Current Status (continued)

- Information and documentation regarding vaccination status must be kept confidential, like all medical information
- Employers may not disclose that an employee is receiving a reasonable accommodation
- Retaliation against an employee for requesting an accommodation is against the law
- COVID-19 vaccination policies must comply with federal and state employment nondiscrimination laws
- Employers may offer incentives to employees to voluntarily receive a COVID-19 vaccination; however, the amount may be limited under the ADA

COVID-19 VACCINATION GUIDELINES AND POLICIES

Future Status

- President Biden's COVID-19 action plan – “Path Out of the Pandemic”
 - <https://www.whitehouse.gov/covidplan/>
 - CMS Interim Final Rule
 - Expected to be released in October
 - Proposed to require most workers in health care facilities participating with Medicare and/or Medicaid to be vaccinated
 - OSHA ETS
 - Expected to be issued in October
 - Proposed to require all employers with more than 100 employees to mandate the COVID-19 vaccine or to require weekly COVID-19 testing of unvaccinated employees

IMPLEMENTING MANDATORY VACCINATIONS

Best Practices from MSMS Legal Counsel

- Adopt a written policy
 - Reasonable advance notice
 - Set compliance deadline and outline consequences for noncompliance
 - Specify acceptable documentation to show proof of compliance
- Include exemptions in the policy
- Medical and religious exemptions
- Process for requesting an exemption
- Process for evaluating a request and determining reasonable protective measures

IMPLEMENTING MANDATORY VACCINATIONS

FAQs from MSMS Legal Counsel

Q. Is it an ADA violation if an employee's vaccination status becomes known to everyone?

A. The ADA requires employer to keep any medical information learned about an employee confidential. Pursuant to guidance issued by the Equal Employment Opportunity Commission ("EEOC"), documentation or other confirmation of COVID-19 vaccination is considered employee medical information. As such, an employee's vaccination status must be kept confidential and stored separately from the employee's personnel file.

IMPLEMENTING MANDATORY VACCINATIONS

FAQs from MSMS Legal Counsel

Q. Are you required to fire staff who refuse to comply with these mandates?

A. Employers who choose to implement mandatory vaccination requirements as a condition of employment may terminate employees who refuse to comply and who do not otherwise qualify for an exemption. It is being reported by various media outlets that some employers are treating non-compliance with mandatory vaccine policies as a voluntary quit, while other employers are classifying such termination as termination "for cause" due to non-compliance with a workplace policy.

IMPLEMENTING MANDATORY VACCINATIONS

FAQs from MSMS Legal Counsel

Q. Is natural immunity considered a viable vaccination exemption reason?

A. No, natural COVID-19 immunity, due to having previously had COVID-19, is not legally recognized as a viable vaccine exemption.

IMPLEMENTING MANDATORY VACCINATIONS

FAQs from MSMS Legal Counsel

Q. How can you identify and head off potential employee OSHA complaints?

A. Employers are encouraged to implement protections from retaliation and set up an anonymous process for workers to voice concerns about COVID-19-related hazards. Specifically, employees should be advised that they will not be discriminated against or discharged for reporting or engaging in occupational safety and health activities, including raising reasonable concerns about infection control or wearing their own personal protective equipment in the workplace.

RESOURCES

- MSMS COVID-19 Resource Center - <https://www.msms.org/Resources/Quality-Patient-Safety/COVID-19-Resource-Center-for-Physicians-and-Patients>
- AMA COVID-19 Resource Center- <https://www.ama-assn.org/delivering-care/public-health/covid-19-2019-novel-coronavirus-resource-center-physicians>
- CDC - <https://www.cdc.gov/coronavirus/2019-nCoV/hcp/index.html>
- OSHA - <https://www.osha.gov/coronavirus>
- EEOC - <https://www.eeoc.gov/wysk/what-you-should-know-about-covid-19-and-ada-rehabilitation-act-and-other-eeo-laws#K>
- LEO-MIOSHA COVID-19 Resources - <https://www.michigan.gov/leo/0,5863,7-336-100207---,00.html>
- State of Michigan - <https://www.michigan.gov/coronavirus/>

RESOURCES

- MSMS Staff Contacts
 - Payer issues: Virginia Gibson, Deputy Chief of Staff, Payer and Employer Relations, vgibson@msms.org
 - Billing and coding questions: Stacie Saylor, CPC, CPB, MSMS Reimbursement Advocate, ssaylor@msms.org
 - Education programming: Rebecca Blake, MSMS Senior Director of Education, rblake@msms.org
 - Compliance and legal questions: Stacey Hettiger, MSMS Senior Director of Medical & Regulatory Policy, shettiger@msms.org
 - Telehealth and health IT questions: Dara Barrera, MSMS Manager of Practice Management and HIT, djbarrera@msms.org

Thank you!
Questions?