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Capitol Corner

News Brief

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100 Prison Workers Testing Positive For COVID A Day

In the last 10 days, an average of 100 Department of Corrections (DOC) employees are testing positive for COVID-19 a day, a pandemic-worst for a department that has been forced to allow some COVID-positive staff to return to work five days after a positive test.

Ok, last set of numbers, I promise, but this is cleaner as we just got in number for today, so now you can say that over the last ten days, 985 MDOC employees have tested positive and of those, 934 work in the prisons.

So basically, almost 100 per day.

The five-day turnaround is impacting about a third of the state's prisons. Out of roughly 12,000 DOC staff (9,000 of which work directly in the prisons) the DOC has had 985 employees test positive for COVID, which include 934 who work in the prisons. That's basically 10% of DOC's prison help testing positive for COVID.

"In terms of staff, this is the worst it has ever been," said DOC spokesperson Chris GAUTZ. "The National Guard has been assisting us since the beginning of the pandemic with testing, boosters and other health care functions. We have not asked or had a need to have them serve in custody functions."

The new policy instituted last week allows prisons to activate a contingency plan that allows asymptomatic or "mildly symptomatic" staff who test positive to return to work after five days of a positive test as long as they're wearing a KN 95 mask.

Under normal situations, staff are allowed to come back to work 10 days after a positive test or seven days if they've had a negative test within the last 48 hours. The Department

of Health and Human Services (DHHS) is urging the five-day turnaround be used "to the minimum extent necessary."

Staff who have a fever must stay home until 24 hours after the fever breaks. The staff can't go off an at-home test in order to start the 48-hour clock to return. In many cases, that means going to work to get a more reliable test conducted.

As a result, 10.4% of the 7.1 million tests the state has helped distribute since October have gone to the DOC or local jails. They've received another 5,640 tests this week.

Byron OSBORN, president of the Michigan Corrections Organization (MCO), said as the highly contagious Omicron variant takes hold, officers have limited options when trying to get inmates to follow masking and social distancing rules.

If prisoners refuse to mask up, the only avenue staff have is to write up a rule violation report, which does not have any immediate impact on the prisoner, he said.

"If the prisoners choose not to comply, there isn't much that can be done immediately. We simply don't have the means or the space to remove noncompliant prisoners from the population," Osborn said.

Whether DOC employees will attempt to come back sooner will be the next question.

Osborn said they're leaving it up to their members based on their own situation with their available leave credits and their health.

The correctional officers' union is providing members with workers' compensation rules so they are aware of what would be covered and what will not be covered depending on their length of absence.

"We believe that the DOC should have been more transparent with employees about the workmans' comp rules," Osborn said. "They were only told that they could file for the benefits after a positive test, but were not given specifics on the criteria or levels of coverage for absences."

Those employees who need extended time off to recover from COVID-19 do receive at least a portion of their leave time restored, although Osborn said many officers have unresolved workers' comp claims that are overdue and so they haven't had anything restored.

DHHS Director: MI And NY Are 'Very Different' With Nursing Home Deaths

Republican legislators presented an Auditor General report as giving life to the contention that the Department of Health and Human Services (DHHS) purposely sandbagged the number of COVID-19 deaths in nursing homes to make its past pandemic decisions not look as catastrophic.

The three-hour joint House-Senate Oversight Committee meeting on why the Auditor General's death numbers were higher than the DHHS' death numbers came to a close with one House member calling for a bipartisan special committee to investigate if the Governor's management of long-term care facilities merited an impeachment.

But DHHS Director Elizabeth HERTEL vehemently defended her department's accounting of COVID-19 deaths as one that followed federal and state rules. It's not a duplication of what happened in New York, where COVID-19 nursing home deaths could have been miscounted by up to 50%.

"(We're) very different," Hertel told the committee. "The suggestion that a facility or the department intentionally misrepresented or misconducted numbers, when the differences between the standards that we follow and the definitions that the (Office of the Auditor General) used in the report are clear . . . when the other limitations I've described today are clear, it's deeply disappointing."

In the beginning of 2021, New York made headlines when an attorney general investigation found the health department didn't report incidents where a resident was transferred to a hospital and died there. Ex-New York Governor Andrew CUOMO's top aide apologized to Democratic lawmakers in a private zoom call, explaining the administration "froze" from handing over nursing home death numbers out of fear of prosecution by the U.S. Department of Justice (DoJ), and the remaining influence of former President Donald TRUMP.

Something Cuomo and Gov. Gretchen WHITMER had in common was launching an executive policy requiring long-term care facilities to accept COVID-19 positive individuals, although the DHHS has said within numerous spaces that the order was never enforced in Michigan.

"They like to say that they didn't enforce something, yet everyone assumed that it was going to be enforced, right? They're afraid that they're gonna lose their licenses. (They were told) it's a misdemeanor if you violate it," said House

Oversight Chair Steven JOHNSON (R-Wayland Twp.). "I don't think that you can accept that as gospel truth and that that's just OK."

Johnson talked about facility operators who were afraid of losing their livelihood, being sent to jail or obtaining a dramatic fine for not following an order that was spoken.

"And I have to take Governor Whitmer's word that she's not going to enforce this? I'm sorry, but I wouldn't take her word for it," Johnson said.

Earlier this week, Michigan's OAG – the state's constitutionally-designed oversight branch – published numbers indicating:

- The DHHS did not include 2,386 deaths related to COVID-19 that occurred in a long-term care facility, equating to a 30% undercount.
- Of the missed deaths, 38.6% came from smaller long-term care centers with 12 residents or less and other facilities non-obligated to report COVID-19 deaths to the state's health department.
- 61.4% of the missed deaths came from auditors reviewing data from the Michigan Disease Surveillance System (MDSS), which contradicted DHHS numbers by exhibiting self-reported data from facilities.

"They didn't do what New York did where they had the actual number and purposely brought it back down. They just never did the work to find out the true number, and to me I don't know if that's laziness or negligence," Johnson told the media. "But either way, they didn't tell the people the true effect of Gov. Whitmer's decision to put COVID-positive patients into nursing homes."

MIRS QUOTE OF THE WEEK

"The only snake oil I'm selling is called freedom, OK."

--Republican gubernatorial candidate Garrett SOLDANO when asked about the Michigan Democratic Party's description of him as a "snake oil salesman."

When asked, the OAG confirmed it believed it collected a true count of the COVID-19 long-term care facility deaths. However, Auditor General Doug RINGLER said they knew the DHHS wasn't tracking all of the death numbers being reflected in their labs, adding the OAG felt the word "under-report" was unfair toward the department.

"We did an analysis in black and white. We have identified what it was we did. We identified the pluses of our work. We identified some of the warts that existed from trying to do data analytics...It's there in black and white," Ringler said near the end of the meeting. "We said what we mean. We mean what we said."

After the meeting, conservative Rep. Steve CARRA (R-Three Rivers) sent a letter to House Speaker Jason WENTWORTH (R-Farwell), requesting the creation of a bipartisan special committee to investigate if the Governor's management of long-term care facilities would merit an impeachment.

"The House and Senate oversight committees are doing a lot of work looking into the many problems that have come up in the past three years," said House GOP Spokesperson Gideon D'ASSANDRO. "Speaker Wentworth trusts them to continue holding this administration accountable and getting answers for Michigan families."

Additionally, the DHHS issued an epidemic order earlier this morning mandating nursing homes offer on-site doses of the COVID-19 vaccine to residents who are not up to date as of Jan. 20 of this year. Although residents are not required to accept a vaccine, facilities are encouraged to present informational materials to spearhead informed decisions.

Currently, 74% of eligible nursing home residents have already received their booster shot in Michigan, according to the DHHS.

LaFave, Residents File Suit Challenging Congressional Map

Eight Michigan residents, including a state Representative, filed a federal lawsuit today alleging the recently adopted congressional maps "unnecessarily fragments counties, township and municipalities ... without any legitimate or rational state interest."

The two count complaint, filed in the U.S. District Court Western District, asks a three-judge panel to stop the Michigan Independent Citizens Commission (MICRC) from holding any congressional elections using the new map, called the Chestnut plan, alleging it violates the U.S. Constitution and Fourteenth Amendment.

"The individuals serving on the Michigan Independent Citizens Redistricting Commission failed to draw Michigan's congressional maps in accordance with neutral, and traditionally accepted, redistricting criteria," the complaint from attorneys Charles SPIES and Jason TORCHINSKY reads.

The plaintiffs, including Rep. Beau LAFAVE (R-Iron Mountain), a Secretary of State candidate, allege Michigan's congressional map falls "far below" the standard and is unconstitutional.

The complaint says the U.S. Constitution mandates each congressional district should have a population equality "as nearly as is practicable," and based on 2020 Census numbers – which shows Michigan's population at more than 10 million – means each district should have an ideal population of about 775,179 people.

However, the complaint alleges the MICRC's approved plan "substantially deviates" from that, noting District 13 has the highest population of 775,666 persons – or 487 above the

ideal number while District 5 has a population that is 895 below the ideal population.

Overall, the Chestnut plan has a population deviation of 1,122 persons – or 0.14%, the complaint alleges.

"The existence of congressional district plans with lower population deviation shifts the burden from the plaintiff to the state to justify the need for the deviations," the complaint reads.

The plaintiffs – including Michael BANERIAN, of Royal Oak; Peter COLOVOS, of Benton Harbor; William GORDON, of Scio Township; Joseph GRAVES, of Linden; Cameron PICKFORD, of Charlotte; and Harry SAWICKI, of Dearborn Heights – also want the court to establish a deadline for the MICRC to redraw the maps and if they fail to do so, to appoint a special master to "draw constitutionally compliant congressional districts." Named defendants are Secretary of State Jocelyn BENSON and the MICRC members.

THIS WEEK IN MICHIGAN HISTORY

On Jan. 20, 1952, Michigan should abolish its State Military Board, its chief of staff, the State Naval Board and naval forces as a way to save the state \$530,000 a year, according to a report prepared by the Citizens Research Council.

The group wrote the report for the "Little Hoover Commission," which looked at way to streamline the state's military establishment. The group also suggested a \$100 charge for every 15 days a non-Michigan National Guard division uses facilities of Camp Grayling.

GM Announcement Won't Be In State Capitol

MIRS first reported that General Motors was checking out state Capitol locations for its anticipated announcement that Michigan is going to nail down the firm's next electric car battery plant.

However, the word now comes that the likely announcement may be in the large state Senate committee room on the ground floor of the Boji Tower in downtown Lansing instead.

The survey team, after huddling with state Capitol technicians, determined that the Speaker's Library, the House

Appropriations room and the first floor of the state Capitol in the rotunda would not meet their needs for streaming and broadband coverage out of the building. Thus, the search began for an alternative location.

To be clear, GM has not released its decision that the Lansing area is getting anything, but the betting money is that the Governor, GM's CEO Mary BARRA and GM President Mark REUSS will share the podium for the announcement that could be as early as next week, although the company remains tight-lipped about the specifics.

Kuppa To Run For Senate, District Leans Red With Many Immigrant Households

Rep. Padma KUPPA (D-Troy) filed a campaign committee for the new 9th State Senate district for 2022, giving the Democrats a credible candidate in a critical swing district.

The new Metro Detroit district includes Troy, Rochester, Rochester Hills and a portion of Sterling Heights, bringing the second-term Democratic representative into new domains. She currently serves Clawson and Troy in the House.

A close affiliate to the Senate Democratic campaign team said the district is more of a toss up than a slight 52.4%-47.6% Republican lean. Additionally, Kuppa has been recognized for her "American Dream" achievements, as she came to Michigan as a woman engineer aiming to work in Michigan's historic auto industry.

Kuppa is the first Indian immigrant and Hindu in Michigan's Legislature. She was born in Bhilai, a city in eastern central India. Before becoming a lawmaker, Kuppa worked as a business analyst for Ally Financial, the bank holding company headquartered in Detroit. She is also a mechanical engineer and has participated in the automotive, higher education and information technology fields.

For her first House race in 2018, Kuppa flipped a district that was formerly held by Republican Rep. Martin HOWRYLAK, who was term-limited at the time. In 2014 and 2016, Howrylak consistently won his general elections with more than 55% of the vote.

However, Oakland County overall has been more likely to vote blue in its presidential elections. It went 51% for Democratic presidential nominee Hillary CLINTON in 2016 and more than 56% for now-President Joe BIDEN in 2020.

However, also in 2020, President Donald TRUMP won in Sterling Heights, the new district's Macomb County pair-up; and Democratic U.S. Reps Elissa SLOTKIN (D-Holly) and Haley STEVENS (D-Rochester Hills) would have lost in November 2020 if only their Oakland County constituents were counted – Slotkin had 14,451 fewer Oakland County votes than Republican opponent Paul JUNGE and Stevens had 4,562 fewer votes than Republican Eric ESSHAKI.

When it came time to flip her House district, Kuppa defeated Republican Oakland County Commissioner Doug TIETZ with 51.3% of the vote in 2018. She won 55% to 45% in her 2020 re-election bid.

Troy is especially diverse in Michigan, with an Asian population of 25.6% as of 2019. In all, 29% of residents were born outside of the United States and more than 33% of households spoke a language other than English from 2015 to 2019.

By adding Sterling Heights, the new district has the potential to amplify even more varying and non-traditional American voices. For example, as of 2019, more than 27% of Sterling Heights residents were born outside of the U.S., with new families coming in majorly from Mexico, India and Iraq.

Former Rep. Michael WEBBER, who was term-limited from the House in December 2020, has also filed to run in the new Senate district. The Rochester Hills Republican served as the chair of the House Regulatory Reform Committee and was vice president of the Rochester Hills City Council for three years prior to running for the Legislature.

Webber won his last House general election with 55.1% of the vote in November 2018.