

Mississippi Supreme Court: Be Prepared for 2009 H1N1.

Centers of Disease Control and Prevention (CDC) and the Mississippi State Department of Health are continuously monitoring and investigating human cases of a new type of influenza, 2009 H1N1 “swine influenza” (also known as “novel H1N1 influenza”). H1N1 is present in Mississippi. H1N1 has contributed to a number of deaths nationwide, principally in those with pre-existing health conditions. As of November 30, 2009, the Mississippi State Department of Health reports 1,272 Mississippi cases of H1N1 have been identified since May 15, 2009. Mississippians are advised to continue to exercise protective hygiene to avoid illness.

The World Health Organization (WHO) has characterized H1N1 at Phase 6 on the pandemic alert scale (the sixth phase is the highest alert status, indicating widespread human infection in at least two separate regions of the world). Unlike other emergencies where 30 days is the usual time for scaled-back operations, a pandemic may ebb and flow over a period exceeding 180 days. It is important that our Mississippi courts remain vigilant in our attempts to prevent the spread of H1N1 within court facilities.

Following Hurricane Katrina, the Mississippi Supreme Court provided guidelines for the Mississippi Courts to follow in preparing plans for the continuity of court operations during emergencies, natural and man made disasters. Each court was also encouraged to include in its plans measures for dealing with the possibility of a pandemic. The main goal set for each court was to “*Make every effort to keep our courthouses open without compromising the safety of the public, judicial officers, and court personnel.*” For those courts within Mississippi that have not completed a Continuity of Operations Plan, you are strongly urged to complete this task as soon as possible. With that said, this document is an attempt to provide Mississippi’s courts with guidance on how to prepare and respond in the event that the H1N1 virus spreads further.

General Information About the H1N1 Virus

Centers for Disease Control and Prevention (CDC) provides the public with credible health information. Below are some highlights of what we are facing when dealing with H1N1. For a more in depth look at H1N1, you may visit <http://www.cdc.gov/h1n1flu/>.

What is 2009 H1N1 (swine flu)? 2009 H1N1 (referred to as “swine flu” early on) is a new influenza virus causing illness in people. This new virus was first detected in people in the United States in April 2009. This virus is spreading from person-to-person worldwide, probably in much the same way that regular seasonal influenza viruses spread. On June 11, 2009, the World Health Organization (WHO) signaled that a pandemic of 2009 H1N1 flu was underway.

How severe is illness associated with 2009 H1N1 flu virus? Illness with the new H1N1 virus has ranged from mild to severe. While most people who have been sick have recovered without needing medical treatment, hospitalizations and deaths from infection with this virus have occurred.

In seasonal flu, certain people are at “high risk” of serious complications. This includes people 65 years and older, children younger than five years old, pregnant women, and people of any age with certain chronic medical conditions. About 70 percent of people who have been hospitalized with this 2009 H1N1 virus have had one or more medical conditions previously recognized as placing people at “high risk” of serious seasonal flu-related complications. This includes pregnancy, diabetes, heart disease, asthma and kidney disease.

One thing that appears to be different from seasonal influenza is that adults older than 64 years do not yet appear to be at increased risk of 2009 H1N1-related complications thus far. CDC laboratory studies have shown that no children and very few adults younger than 60 years old have existing antibody to 2009 H1N1 flu virus; however, about one-third of adults older than 60 may have antibodies against this virus. It is unknown how much, if any, protection may be afforded against 2009 H1N1 flu by any existing antibody.

How does 2009 H1N1 flu compare to seasonal flu in terms of its severity and infection rates? With seasonal flu, we know that seasons vary in terms of timing, duration and severity. Seasonal influenza can cause mild to severe illness, and at times can lead to death. Each year, in the United States, on average 36,000 people die from flu-related complications and more than 200,000 people are hospitalized from flu-related causes. Of those hospitalized, 20,000 are children younger than 5 years old. Over 90% of deaths and about 60 percent of hospitalizations occur in people older than 65.

When the 2009 H1N1 outbreak was first detected in mid-April 2009, CDC began working with states to collect, compile and analyze information regarding the 2009 H1N1 flu

outbreak, including the numbers of confirmed and probable cases and the ages of these people. The information analyzed by CDC supports the conclusion that 2009 H1N1 flu has caused greater disease burden in people younger than 25 years of age than older people. At this time, there are few cases and few deaths reported in people older than 64 years old, which is unusual when compared with seasonal flu. However, pregnancy and other previously recognized high risk medical conditions from seasonal influenza appear to be associated with increased risk of complications from this 2009 H1N1. These underlying conditions include asthma, diabetes, suppressed immune systems, heart disease, kidney disease, neurocognitive and neuromuscular disorders and pregnancy.

How long can an infected person spread this virus to others? People infected with seasonal and 2009 H1N1 flu shed virus and may be able to infect others from 1 day before getting sick to 5 to 7 days after. This can be longer in some people, especially children and people with weakened immune systems and in people infected with the new H1N1 virus.

Prevention

The CDC has determined that 2009 H1N1 virus is contagious and is spreading from human to human. The 2009 H1N1 virus is believed to spread in the same manner as the seasonal flu. Flu viruses are commonly spread from person to person through coughing or sneezing by people with influenza. People often become infected by touching something – such as a surface or object – with flu viruses on it and then touching their mouth or nose. The CDC recommends that the following precautions be taken to decrease your chances of becoming infected.

- Cover your nose and mouth with a tissue when you cough or sneeze. Throw the tissue in the trash after you use it.
- Wash your hands often with soap and water. If soap and water are not available, use an alcohol-based hand rub.
- Avoid touching your eyes, nose or mouth. Germs spread this way.
- Try to avoid close contact with sick people.
- The 2009 H1N1 vaccination is available. If you have not received the 2009 H1N1 vaccination or the seasonal flu vaccination, you should do so, and encourage other employees in your facility to do the same.

- Common symptoms of the 2009 H1N1 are similar to those of the seasonal flu and include: fever, cough, sore throat, runny or stuffy nose, body aches, headache, chills and fatigue. Some people may have vomiting and diarrhea. If you or one of your staff becomes sick with flu-like illness, the CDC recommends that you stay home for at least 24 hours after your fever is gone except to get medical care or for other necessities. (Your fever should be gone without the use of a fever-reducing medicine.) Keep away from others as much as possible to keep from making others sick.
- Be prepared in case you get sick and need to stay home for a week or so; a supply of over-the-counter medicines, alcohol-based hand rubs * (for when soap and water are not available), tissues and other related items could help you to avoid the need to make trips out in public while you are sick and contagious.
- Follow public health advice regarding school closures, avoiding crowds and other social distancing measures.

Be Prepared -Major Pandemic Outbreak

After Hurricane Katrina, the Mississippi Supreme Court's Emergency Preparedness Committee drafted and distributed to each trial court a copy of the Guidelines to emergency Preparedness Planning. Each trial court should now have a completed emergency preparedness plans. If not, the following are some highlights to aid in preparing for the H1N1 pandemic if an outbreak should reach your community.

1. Continuously monitor current information regarding the spread of the H1N1 in your community and surrounding areas. The Mississippi State Department of Health provides helpful information to keep the public apprised of the H1N1 situation. You may view information specific to H1N1 at the Mississippi State Health Department's web site. http://msdh.ms.gov/msdhsite/_static/14,0,334.html. Additionally, current vital information is available on the CDC web site. <http://www.cdc.gov/h1n1flu>. Local news outlets may also be of assistance.
2. Each court should identify its essential court functions that will be required to continue if an outbreak occurs. Essential court functions include court hearings that cannot be continued indefinitely. Courts should discuss which essential functions are performed daily, weekly, and monthly. Because an H1N1 outbreak will not come and go overnight, it can be expected that the effects of an outbreak will be felt in waves lasting for a period of months.

Some examples of what are considered to be essential functions include:

- Initial appearances in criminal matters. *See Miss. Code Ann. § 97-3-17* and **URCCC 6.03**.
- Habeas Corpus in Preconviction and Extradition Matters. *See URCCC 2.07*.
- Ability of the court clerks to accept time sensitive filings such as Notices of Appeal and emergency filings.
- Child related matters and other hearings that could be considered an emergency such as restraining orders or injunctions.

The essential functions for the courts in Mississippi vary by court. The examples above are but a few. Additionally, there may be administrative functions deemed essential as well as those that may be placed on hold for a period of time. Because the court should do everything within its power to assure the rights of individuals, the courts should invest time in identifying essential functions ahead of the need to activate an emergency preparedness plan.

In the event a serious outbreak occurs in your community, courts should also consider the safety of the public, judicial officers, and court personnel when identifying and performing essential functions. Large numbers of possibly infected people should be avoided, making civil jury trials an unlikely essential function. Additionally, a largely infected community may make it difficult to seat a jury, let alone trying to maintain the good health of the jurors and others in the court facility.

3. Identify, in advance, all key court personnel required to perform each essential function. The court may be required to reduce the number of staff reporting for duty. Not all judges and staff can stay home if the court's essential functions are to continue. However, isolation is important in preventing the spread of H1N1 so infected employees and those who are caring for the ill will need to and should stay home. It is also helpful to identify alternates for key personnel in case a key employee becomes ill.

4. Contact information should be maintained on all key court personnel and their respective alternates. This information may include home and cell phone numbers as well as e-mail addresses. This information should be updated on a regular basis. Also maintain the numbers of key judicial stakeholders.

5. Consider the possibility of maintaining some essential court functions by use of remote work capabilities. It may be possible for some staff to work from home. Again, isolation will help prevent the spread of H1N1. Hearings may be able to be conducted telephonically or via teleconferencing. Timekeeping issues should be settled in advance.

6. Discuss with local law enforcement, county administrators and other emergency management who will have the authority to close a court facility if closure becomes necessary. Advance discussion will prevent disputes that may arise from closing a court facility without the consent of a court official.

7. Closing of the court facility or limiting services will require notice to be given to the public and members of the bar. Plans should be made for communicating such events with the local bar, public officials, and the Mississippi Supreme Court. Contact may be made with local media outlets to report closings and limited services.

Role of the Court During a Public Health Emergency

During a public health emergency such as an outbreak of the H1N1 influenza, it is likely that the largest task will be maintaining essential court functions while operating with limited staff. However, it is possible that the court will be called upon to issue temporary restraining orders or injunctions to enforce measures put in place to prevent the spread of the virus. The Mississippi State Department of Health has the authority “[t]o direct and control sanitary and quarantine measures for dealing with all diseases within the state possible to suppress same and prevent their spread.” Miss. Code Ann. § 41-3-15(4)(c). It is foreseeable that the court may hear matters involving an individual’s refusal to comply with the control measures. Such matters will require a court to focus on striking the proper balance between protecting the public health and the individual’s liberty rights.

Implementing Preparedness Plans

In the event of a pandemic outbreak in your community, the court’s Emergency Coordinating Officer (ECO) should decide whether implementing the pandemic preparedness plan is required. Consulting other key justice stakeholders should be included in the decision. If it is decided that the plan will be implemented, courts should minimize staffing to avoid unnecessary transmission of the virus and perform only those essential functions identified in the 0-30 day time frame. Any telecommuting, teleconferencing, and videoconferencing steps should be implemented. Courts should also immediately implement a communication strategy with the public and bar as identified above.

For those courts that have produced an emergency preparedness plan, it is vital to update all information that has a tendency to change, such as contact information for key personnel, etc. If it has not already been done, designate a staff member to periodically update the plan.

For the courts that have not begun or have not completed an emergency preparedness plan, it is imperative that you do so. A copy of the “Guidelines for Emergency Preparedness Planning” issued to Mississippi courts by the Mississippi Supreme Court’s Emergency Preparedness Committee may be acquired by contacting Court Administration at the Mississippi Supreme Court. (601-359-2183).