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Immigration

Increased Travel Restrictions in Response to ‘Omicron’

Legal Update

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By Immigration Group

This article was prepared with the assistance of ABIL, the Alliance of Business Immigration Lawyers, of which Loan Huynh, Fredrikson Immigration Department Chair, is a member.

Last week, in response to concerns and unknowns about a new coronavirus variant, Omicron, President Biden said that most travelers (excluding U.S. citizens and lawful permanent residents) who had been in any of eight countries in southern Africa for the prior 14 days would be barred from entry into the United States. The countries include South Africa, Botswana, Eswatini, Lesotho, Malawi, Mozambique, Namibia and Zimbabwe. Since then, the new variant has spread to at least 23 countries, including the United States, and more are likely, according to the World Health Organization. The Biden administration subsequently announced additional measures, effective December 6, 2021, including a requirement that inbound international passengers take a COVID-19 viral test within a day of their departure, regardless of their vaccination status, and an extension of a mask requirement on domestic flights and public transportation—including buses, trains, planes, bus terminals and airports—through March 18, 2021. Fines for noncompliance with the mask requirement range from \$500 for a first offense to \$3,000 for repeat violations.

For the testing requirement, the CDC rules state that those who recently recovered from COVID-19 may instead travel with documentation of recovery (i.e., a positive COVID-19 viral test result on a sample taken no more than 90 days before the flight's departure from a foreign country and a letter from a licensed healthcare provider or a public health official stating that the passenger was cleared to travel).

Regarding the one-day requirement for testing, the CDC explained:

The one-day period is one day before the flight's departure. The Order uses a one-day time frame instead of 24 hours to provide more flexibility to the air passenger and aircraft operator. By using a one-day window, test acceptability does not depend on the time of the flight or the time of day that the test sample was taken.

For example, if your flight is at 1 p.m. on a Friday, you could board with a negative test that was taken any time on the prior Thursday.

The Biden administration indicated that more countries could be added to the restricted list if warranted. As this is a rapidly developing situation, travelers should check the latest updates before departure.