MIKE DEWINE
GOVERNOR
STATE OF OHIO

Executive Order 2020-29D

The Emergency Adoption of Rule 5160-1-18 of the Ohio Administrative Code by the Ohio Department of Medicaid and the Emergency Amendment of Rule 5122-29-31 of the Ohio Administrative Code by the Ohio Department of Mental Health and Addiction Services

WHEREAS, COVID-19 is a respiratory disease that can result in serious illness or death, is caused by the SARS-CoV-2 virus, which is a new strain of coronavirus that had not been previously identified in humans and can easily spread from person to person. The virus is spread between individuals who are in close contact with each other (within about six feet) through respiratory droplets produced when an infected person coughs or sneezes. It may be possible that individuals can get COVID-19 by touching a surface or object that has the virus on it and then touching their own mouth, nose or eyes; and

WHEREAS, on January 31, 2020, Health and Human Services Secretary, Alex M. Azar II, declared a public health emergency for the United States to aid the nation's healthcare community in responding to COVID-19; and

WHEREAS, on March 9, 2020, testing by the Department of Health confirmed that three (3) patients were positive for COVID-19 in the State of Ohio. This confirmed the presence of a potentially dangerous condition which may affect the health, safety and welfare of citizens of Ohio; and

WHEREAS, on March 9, 2020, I declared a State of Emergency in Executive Order 2020-01D; and

WHEREAS, there exists a need to relax current administrative rules regarding healthcare providers' ability to render services through telehealth during this time in which isolation and social distancing are paramount to minimizing the impact of a global pandemic; and

WHEREAS, the failure to temporarily relax these regulations would be severely detrimental to the capacity of vital healthcare services and to Ohioans seeking access to those services during this state of emergency; and

WHEREAS, Section 5164.02 of the Ohio Revised Code authorizes the Ohio Department of Medicaid to promulgate rules relating to Medicaid services; and

WHEREAS, Section 5119.36 of the Ohio Revised Code authorizes the Ohio Department of Mental Health and Addiction Services to promulgate rules relating to the establishment of certification standards for certifiable services and supports; and

WHEREAS, Section 119.03 (G) of the Ohio Revised Code authorizes the Governor, on the request of a State agency, to suspend the normal rule making procedures with respect to specific rules when an emergency exists necessitating the immediate adoption, amendment or rescission of such rules. When such a determination is made, the agency may immediately adopt, amend or rescind such rules, but the rules are only valid for one hundred and twenty (120) days; and

WHEREAS, on March 19, 2020, I approved through Executive Order 2020-5D the emergency filing of certain emergency rules of both of these departments related to telehealth services; and

WHEREAS, since that time, needs for telehealth services during this pandemic have continued to evolve, requiring different needs, procedures, and requirements in the provision of telehealth services; and

WHEREAS, the Ohio Department of Medicaid has requested a determination whether an emergency exists that requires the adoption of rule 5160-1-18 on an emergency basis and that would therefore permit the Ohio Department of Medicaid, pursuant to Section 5164.02 of the Ohio Revised Code, to make an immediate and necessary adoption of the rule; and

WHEREAS, the Ohio Department of Mental Health and Addiction Services has requested a determination whether an emergency exists that requires the amendment of rule 5122-29-31 on an emergency basis and that would therefore permit the Ohio Department of Mental Health and Addiction Services, pursuant to Section 5119.36 of the Ohio Revised Code, to make immediate and necessary changes to the rule.

NOW THEREFORE, I, Mike DeWine, Governor of the State of Ohio, have determined, upon the request of the Ohio Department of Medicaid, that an emergency exists requiring the immediate adoption of the new rule 5160-1-18 of the Ohio Administrative Code. Further, I have determined, upon the request of the Ohio Department of Mental Health and Addiction Services, that an emergency exists requiring the immediate amendment of the new rule 5122-29-31 of the Ohio Administrative Code.

I hereby order that the procedures prescribed by section 119.03 of the Ohio Revised Code with respect to the adoption or amendment of the specified rules be suspended and that the Ohio Department of Medicaid and Ohio Department of Mental Health and Addiction Services be permitted to adopt and amend the rules immediately by filing them electronically with the Secretary of State, the Director of the Legislative Service Commission, and the Joint Committee on Agency Rule Review ("JCARR").

Furthermore, I hereby order that this Executive Order be filed in electronic form with the Ohio Department of Medicaid, Ohio Department of Mental Health and Addiction Services, the Secretary of State, the Director of the Legislative Service Commission and JCARR.

I signed this Executive Order on July 16, 2020, in Columbus, Ohio, and it will expire one hundred twenty days (120) from the effective date of the emergency rules, or upon the adoption of the rules through the normal JCARR process, whichever is sooner.

Mike DeWine

Mike DeWine, Governor

ATTEST:

Frank LaRose, Secretary of State