OFFICE OF THE GOVERNOR
COMMONWEALTH OF MASSACHUSETTS
STATE HOUSE • BOSTON, MA 02133
(617) 725-4000

CHARLES D. BAKER
GOVERNOR

KARYN E. POLITO
LIEUTENANT GOVERNOR

ORDER AUTHORIZING THE EXECUTIVE OFFICE OF HEALTH AND HUMAN SERVICES TO ADJUST ESSENTIAL PROVIDER RATES DURING THE COVID-19 PUBLIC HEALTH EMERGENCY

COVID-19 Order No. 20

WHEREAS, on March 10, 2020, I, Charles D. Baker, Governor of the Commonwealth of Massachusetts, acting pursuant to the powers provided by Chapter 639 of the Acts of 1950 and Section 2A of Chapter 17 of the General Laws, declared that there now exists in the Commonwealth of Massachusetts a state of emergency due to the outbreak of the 2019 novel Coronavirus ("COVID-19");

WHEREAS, on March 11, the COVID-19 outbreak was characterized as a pandemic by the World Health Organization;

WHEREAS, the number of presumptive positive and confirmed cases of COVID-19 continues to rise in the Commonwealth. As of March 29, 2020, 4,955 cases of COVID-19 were reported by the Department of Public Health, including 48 deaths, with all counties in the Commonwealth affected;

WHEREAS, pursuant to Sections 13C and 13D of Chapter 118E of the General Laws, the Executive Office of Health and Human Services ("EOHHS") establishes and promulgates rates for the payment of health care and social service providers that serve the members and clients of MassHealth and EOHHS agencies;

WHEREAS, the escalating COVID-19 public health emergency is placing extraordinary demands on critical health care providers in the Commonwealth that provide medical care for patients affected by COVID-19, while at the same time the financial stability of these providers is at risk as procedures and appointments that would otherwise provide a supportive revenue stream must be canceled in order to accommodate anticipated COVID-19 demand or due to limitations resulting from social distancing protocols;

WHEREAS, the COVID-19 public health emergency has unexpectedly made the delivery of critical services by health and human service providers more difficult and costly, and whereas these services are necessary to keep vulnerable individuals with needs for behavioral

PRINTED ON RECYCLED PAPER

health and long term services and supports safe in their homes or residences so as not further exacerbate demand on the Commonwealth's hospitals;

WHEREAS, the closure of schools and other programming outside the home in response to the COVID-19 public health emergency has forced certain health and human services day program and habilitation providers to modify both the manner in which they deliver services and the hours and scope of these services, and whereas these modalities are not contemplated by current rate methodologies and structures;

WHEREAS, existing program and service rates do not contemplate the increased costs, changes in utilization patterns, or the need for alternative methods of care delivery resulting from the COVID-19 public health emergency, and the shortage of available direct care workers and providers poses a further challenge to the continued operation of these critically important providers;

WHEREAS, the Executive Office of Health and Human Services as a consequence of these developments will need rapidly and flexibly to adjust the rates it pays to providers of health and human services to ensure that these providers are able to continue to provide critical services to the residents of the Commonwealth during the period of the public health emergency; and

WHEREAS, sections 7, 8, and 8A of Chapter 639 of the Acts of 1950 authorize the Governor, during the effective period of a declared emergency, to exercise any and all authority over persons and property necessary or expedient for meeting a state of emergency, including the authority to regulate the manner and method of purchasing or contracting for services for the Commonwealth and its agencies.

NOW, THEREFORE, I hereby order the following:

The Executive Office of Health and Human Services shall designate, subject to my approval, classes of health and human services providers that EOHHS determines (1) are facing extraordinary demand due to the COVID-19 public health emergency while at the same time suffering disruption to their normal course of operation; (2) are necessary to keep vulnerable individuals safe in their home or residences in order to prevent creating further demands on the Commonwealth's critical health care providers; or (3) are human services providers that have been forced to respond to the unique and unanticipated circumstances of the COVID-19 pandemic by altering modalities of service delivery in ways not contemplated by their current rate structure.

For the designated classes of providers, EOHHS is authorized, subject to the approval of the Secretary of the Executive Office for Administration and Finance, to issue temporary rates and supplemental payments, and to establish new rate and payment methodologies and arrangements to reflect the new modalities through which providers are delivering their services.

Temporary rate adjustments, supplemental payments, or new rate and payment methodologies and arrangements issued under this Order shall be effective upon publication of Administrative Bulletins. EOHHS shall publish such Administrative Bulletins in the Massachusetts Register and on the EOHHS website. Providers, stakeholders, and the general

public shall be afforded the opportunity to provide written comment on the Administrative Bulletins, including by electronic submission. EOHHS shall review all written comments received within 14 days of publication of an Administrative Bulletin and consider whether modifications to the Administrative Bulletin are necessary or appropriate within 30 days of publication. Any such modifications shall be subject to the further approval of the Secretary of the Executive Office for Administration and Finance.

This Order is effective March 30, 2020 and shall remain in effect until rescinded or until the state of emergency is terminated, whichever happens first. Any designations made or temporary rates, supplemental payments, or other rate and payment methodologies and arrangements established pursuant to this Order shall expire when this Order is rescinded or when the state of emergency is terminated, whichever happens first.

Given in Boston at 2:44 PM this 30th day of March, two thousand and twenty

Charles D Baker

CHARLES D. BAKER
GOVERNOR
Commonwealth of Massachusetts