EXECUTIVE ORDER NO. 172

WHEREAS, in light of the dangers posed by Coronavirus disease 2019 ("COVID-19"), I issued Executive Order No. 103 on March 9, 2020, the facts and circumstances of which are adopted by reference herein, which declared both a Public Health Emergency and State of Emergency; and

WHEREAS, through Executive Order Nos. 119, 138, 151, 162, and 171, issued on April 7, 2020, May 6, 2020, June 4, 2020, July 2, 2020, and August 1, 2020, respectively, the facts and circumstances of which are adopted by reference herein, I declared that the COVID-19 Public Health Emergency continued to exist and declared that all Executive Orders and Administrative Orders adopted in whole or in part in response to the COVID-19 Public Health Emergency remained in full force and effect; and

WHEREAS, in accordance with N.J.S.A. App. A:9-34 and -51, I reserved the right to utilize and employ all available resources of State government to protect against the emergency created by COVID-19; and

WHEREAS, pursuant to N.J.S.A. App. A:9-47, the Governor is authorized to, among other things, suspend any regulatory provision of law when its enforcement is detrimental to the public welfare during an emergency; and

WHEREAS, as COVID-19 continued to spread across New Jersey and an increasing number of individuals required medical care or hospitalization, I issued a series of Executive Orders pursuant to my authority under the New Jersey Civilian Defense and Disaster Control Act, N.J.S.A. App. A:9-33 et seq., and the Emergency Health Powers Act, N.J.S.A. 26:13-1 et seq., to protect the public health, safety, and welfare against the emergency created by COVID-19, including Executive Order Nos. 104-133, Nos. 135-138, Nos. 140-166 (2020), and Nos. 168–171 (2020), the facts and circumstances of which are all adopted by reference herein; and

WHEREAS, pursuant to N.J.S.A. 52:14-17.26, N.J.S.A. 52:14-17.31, N.J.A.C. 17:9-2.6 (for State employees and dependents), and N.J.A.C. 17:9-2.7 (for local government employees and dependents), there is a waiting period before a new hire becomes eligible for participation in the State Health Benefits Program ("SHBP"); and

WHEREAS, on April 6, 2020, through Executive Order No. 115, the facts and circumstances of which are adopted by reference herein, I recognized that new employees hired by State departments, agencies, boards, commissions and independent authorities and local municipal and county governments in response to the COVID-19 pandemic will need and desire to have health insurance coverage under the SHBP immediately upon hire, and cannot feasibly complete the waiting period under State law between the date of hire of a new employee and the new employee becoming eligible to participate in the SHBP; and

WHEREAS, workers are commencing employment in, and certain workers are returning from furloughs or other circumstances in which they did not retain health benefits through SHBP or maintain health benefits through COBRA to, positions that allow the workers to participate in the SHBP ("New or Returning Employees"), but these workers are not necessarily hired specifically to respond to the COVID-19 pandemic as required to enroll immediately upon hiring in the SHBP pursuant to Executive Order No. 115 (2020); and

WHEREAS, the statutory scheme described herein could result in new employees not having access to health benefits during a pandemic, when seamless access to health care, including preventive services as well as care relating to COVID-19, is of the utmost importance, and the State needs these employees to promptly seek and receive medical services related to COVID-19; and

WHERAS, the employment of skilled professionals is essential to the State's response to the COVID-19 pandemic and the lack of health benefits coverage for newly hired personnel may serve as a deterrent to attracting and hiring staff with the necessary skills to respond to the pandemic; and

WHEREAS, when employees are hired to work in positions that increase their risk of exposure to COVID-19, there is a compelling reason to ensure that such employees have immediate access to health benefits coverage; and

WHEREAS, a healthy workforce decreases absenteeism, reduces long-term employer costs, increases worker morale, and improves talent acquisition and retention; and

WHEREAS, comprehensive health benefits coverage commencing immediately upon employment will foster a healthy workforce, particularly during an emergency when a pandemic poses health risks for all residents and when the State must be able to rely on stability in its workforce; and

WHEREAS, the Constitution and statutes of the State of New Jersey, particularly the provisions of N.J.S.A. 26:13-1 et seq., N.J.S.A. App. A: 9-33 et seq., N.J.S.A. 38A:3-6.1, and N.J.S.A. 38A:2-4 and all amendments and supplements thereto, confer upon the Governor of the State of New Jersey certain emergency powers, which I have invoked;

NOW, THEREFORE, I, PHILIP D. MURPHY, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby ORDER and DIRECT:

1. For the duration of this Public Health Emergency, any New or Returning Employee who is hired on or after the date of issuance of Executive Order No. 103 (2020) may immediately enroll in the SHBP.

2. The requirement of Paragraph 5 of Executive Order No. 115 (2020) mandating that a person must be hired for the purpose of responding to the COVID-19 pandemic in order to be eligible to enroll immediately upon hiring in the SHBP is hereby superseded.

3. To the degree that they are inconsistent with this Order, the provisions of N.J.S.A. 52:14-17.26, N.J.S.A. 52:14-17.31, N.J.A.C. 17:9-2.6 (for State employees and dependents), and N.J.A.C. 17:9-2.7 (for local government employees and dependents), requiring

a waiting period to become eligible for participation in the SHBP, are suspended for the duration of this Public Health Emergency. Any provisions of these statutes and regulations that are not inconsistent with this Order shall remain in full force and effect.

4. It shall be the duty of every person or entity in this State or doing business in this State and of the members of the governing body and every official, employee, or agent of every political subdivision in this State and of each member of all other governmental bodies, agencies, and authorities in this State of any nature whatsoever, to cooperate fully in all matters concerning this Order, and to cooperate fully with Administrative Orders issued pursuant to this Order.

5. This Order shall take effect immediately and shall remain in effect until revoked or modified by the Governor, who shall consult with the Commissioner of the Department of Health as appropriate.

GIVEN, under my hand and seal this 3rd day of August, Two Thousand and Twenty, and of the Independence of the United States, the Two Hundred and Forty-Fifth.

[seal]

/s/ Philip D. Murphy

Governor

Attest:

/s/ Matthew J. Platkin

Chief Counsel to the Governor