MIKE DEWINE
GOVERNOR
STATE OF OHIO

Executive Order 2020-23D

The Emergency Adoption, Amendment and Rescission of Ohio Administrative Code Rules by the Ohio Department of Medicaid, Ohio Department of Developmental Disabilities, Ohio Department of Aging and 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 amend current administrative rules as a result of the impact of the COVID-19 pandemic; and

WHEREAS, Sections 5160.02, 5162.02, 5164.02, 5164.31, 5164.32, 5165.02, 5165.153, 5165.192, 5166.02, and 5167.02 of the Ohio Revised Code authorize the Ohio Department of Medicaid to promulgate rules as necessary relating to Medicaid Services; and

WHEREAS, Sections 5123.021, 5123.04, 5123.0421, 5123.049, 5123.081, 5123.1611, 5123.19, 5123.35, 5123.45, 5123.46, 5123.612, 5124.03, 5126.046, 5126.05, 5126.08, 5126.311, 5126.313 and 5126.34 of the Ohio Revised Code authorize the Ohio Department of Developmental

Disabilities to promulgate rules as necessary for the administration of programs and services for Ohioans with developmental disabilities; and

WHEREAS, Sections 173.01, 173.02, 173.19, 173.391, 173.392, 173.42, 173.50, 173.52, 173.522, 173.54 and 173.543 of the Ohio Revised Code authorize the Ohio Department of Aging to promulgate rules to carry out the provisions of Chapter 173 of the Revised Code; and

WHEREAS, Section 5119.36 of the Ohio Revised Code authorizes the Ohio Department of Mental Health and Addiction Services to promulgate rules as necessary to establish certification standards for certifiable services and supports that are consistent with nationally recognized applicable standards and facilitate participation in federal assistance programs; 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, the Ohio Department of Medicaid has requested a determination whether an emergency exists that requires the adoption and amendment of rules specified herein on an emergency basis and that would therefore permit the Ohio Department of Medicaid, pursuant to Sections 5160.02, 5162.02, 5164.02, 5164.31, 5164.32, 5165.02, 5165.153, 5165.192, 5166.02, and 5167.02 of the Ohio Revised Code, to make immediate and necessary changes to the rules; and

WHEREAS, the Ohio Department of Developmental Disabilities has requested a determination whether an emergency exists that requires the amendment of rules specified herein on an emergency basis and that would therefore permit the Ohio Department of Developmental Disabilities, pursuant to Sections 5123.021, 5123.04, 5123.0421, 5123.049, 5123.081, 5123.1611, 5123.19, 5123.35, 5123.45, 5123.46, 5123.612, 5124.03, 5126.046, 5126.05, 5126.08, 5126.311, 5126.313 and 5126.34 of the Ohio Revised Code, to make immediate and necessary changes to the rules; and

WHEREAS, the Ohio Department of Aging has requested a determination whether an emergency exists that requires the adoption, rescission and amendment of rules specified herein on an emergency basis and that would therefore permit the Ohio Department of Aging, pursuant to Sections 173.01, 173.02, 173.19, 173.391, 173.392, 173.42, 173.50, 173.52, 173.522, 173.54 and 173.543 of the Ohio Revised Code, to make immediate and necessary changes to the rules; and

WHEREAS, the Ohio Department of Mental Health and Addiction Services has requested a determination whether an emergency exists that requires the amendment of rules specified herein 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 rules.

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 rules 5160-1-21.1 and 5160-3-80 and immediate amendment of rules 5160-1-09, 5160-1-17, 5160-1-17.4, 5160-1-17.8, 5160-1-31, 5160-1-40, 5160-1-60, 5160-2-21.1, 5160-2-40, 5160-3-14, 5160-3-15.1, 5160-3-16.4, 5160-3-18, 5160-3-19, 5160-3-43.3, 5160-5-01, 5160-6-01, 5160-8-05, 5160-8-11, 5160-8-35, 5160-8-51, 5160-9-09, 5160-10-01, 5160-10-16, 5160-11-02, 5160-12-01, 5160-12-02, 5160-12-02.3, 5160-12-03.1, 5160-12-04, 5160-12-05, 5160-12-08, 5160-27-02, 5160-27-04, 5160-27-05, 5160-27-08, 5160-27-09, 5160-27-12, 5160-31-03, 5160-31-06, 5160-33-03, 5160-33-04, 5160-36-03, 5160-36-04, 5160-40-01, 5160-41-17, 5160-42-01, 5160-44-01, 5160-44-11, 5160-44-12, 5160-44-13, 5160-44-14, 5160-44-16, 5160-44-17, 5160-44-22, 5160-44-26, 5160-44-27, 5160-44-31, 5160-45-01, 5160-45-03, 5160-45-04, 5160-45-06, 5160-46-02, 5160-46-04, 5160-56-01, 5160-56-02, 5160-56-04, 5160-56-05, 5160-56-06, 5160-58-01, 5160-58-02.2 and 5160-58-03.2 of the Ohio Administrative Code.

Further, I have determined, upon the request of the Ohio Department of Developmental Disabilities, that an emergency exists requiring the immediate amendment of rules 5123-2-02, 5123-2-04, 5123-8-01, 5123-9-06, 5123-9-07, 5123-9-18, 5123-9-22, 5123-9-31, 5123-9-34, 5123-10-01, 5123-10-02, 5123-10-03, 5123-14-01, 5123-17-02, 5123:1-8-01, 5123:2-2-01, 5123:2-2-06, 5123:2-3-10, 5123:2-6-07, 5123:2-9-01, 5123:2-9-02, 5123:2-9-03, 5123:2-9-11, 5123:2-9-14, 5123:2-9-17, 5123:2-9-33 and 5123:2-9-39 of the Ohio Administrative Code.

Further, I have determined, upon the request of the Ohio Department of Aging, that an emergency exists requiring the immediate adoption of rule 173-14-30, immediate rescission of rule 173-39-02.21, and immediate amendment of rules 173-3-06, 173-3-06.1, 173-3-06.2, 173-3-06.3, 173-3-06.4, 173-3-06.5, 173-3-06.6, 173-4-03, 173-4-04, 173-4-05, 173-4-05.1, 173-4-05.2, 173-4-05.3, 173-4-07, 173-4-09, 173-4-10, 173-4-11, 173-38-03, 173-39-02, 173-39-02.1, 173-39-02.7, 173-39-02.8, 173-39-02.11, 173-39-02.12, 173-39-02.14, 173-39-02.18, 173-39-02.23, 173-39-03, 173-39-03.3, 173-39-03.4, 173-39-04, 173-40-02, 173-42-03, 173-42-06, 173-43-02, 173-43-03, 173-43-04, 173-43-05, 173-50-03 and 173-51-02 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 rules 5122-29-10 and 5122-29-29 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, amendment, and rescission of the specified rules be suspended and that the Ohio Department of Medicaid, Ohio Department of Developmental Disabilities, Ohio Department of Aging and Ohio Department of Mental Health and Addiction Services be permitted to adopt, amend, and rescind 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 Developmental Disabilities, Ohio Department of Aging, 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 June 11, 2020, in Columbus, Ohio, and it will expire one hundred twenty (120) days from the effective date of the emergency rule, or upon the adoption of the rule through the normal JCARR process, whichever is sooner.

Mike DeWine, Governor

ATTEST:

Frank LaRose, Secretary of State