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CHARLES D. BAKER
GOVERNOR

KARYN E. POLITO
LIEUTENANT GOVERNOR

ORDER EXPANDING ACCESS TO INPATIENT SERVICES

COVID-19 Order No. 25

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, 2020, 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 dramatically in the Commonwealth. As of April 8, 2020, the Department of Public Health had reported 16,790 cases of COVID-19, including 433 deaths, with all counties in the Commonwealth affected;

WHEREAS, the escalating COVID-19 public health emergency is placing extraordinary demands on the Commonwealth's health care system that require increased flexibility in payment and insurance coverage arrangements in order to maximize the availability of health care services in response to the spread of COVID-19;

WHEREAS, as a result of these extraordinary demands on the Commonwealth's health care system, patients who contract COVID-19 may be required to receive treatment from out-of-network providers in order to access medically necessary emergency department and inpatient treatment related to COVID-19;

WHEREAS, the cost of accessing medically necessary emergency department and inpatient treatment related to COVID-19 should not pose a barrier to patients in Massachusetts seeking such care during this state of 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 but not limited to regulation of the business of insurance and protection of the interests of the holders of insurance policies and contracts and of beneficiaries thereunder and of the interest of the

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public in connection therewith; regulation of the manner and method of purchasing services for the Commonwealth or any of its agencies or political subdivisions; and variance of the terms and conditions of licenses, permits or certificates of registration issued by the Commonwealth or any of its agencies or political subdivisions;

NOW, THEREFORE, I hereby order the following:

To protect the health and welfare of the public and to provide for unimpeded patient access to health care services in response to the spread of COVID-19, the Group Insurance Commission ("GIC"), all Commercial Health Insurers, Blue Cross Blue Shield of Massachusetts, Inc., and Health Maintenance Organizations ("Carriers") regulated by the Division of Insurance ("Division"), are hereby required to cover all medically necessary emergency department and inpatient services, including all professional, diagnostic and laboratory services, related to COVID-19 at both in-network and out-of-network providers. The GIC and all Carriers shall provide such coverage without any requirement of cost sharing by the insured, whether by co-payments, deductibles, coinsurance, or similar charges.

The GIC and all Carriers shall reimburse acute care hospital providers with whom they contract, but who do not participate in a member's health plan, at the contracted rate for such medically necessary emergency department and inpatient services, as applicable, including all professional, diagnostic and laboratory services. Such payment shall constitute payment in full and no health care provider as defined in G.L. c. 111, § 1 shall be permitted to balance bill the insured for any amount above the reimbursement paid by the Carrier.

The GIC and all Carriers shall reimburse acute care hospital providers with whom they do not contract at a rate equal to 135% of the reimbursement rate paid by Medicare in the provider's geographic region for such medically necessary emergency department or inpatient services, as applicable, including all professional, diagnostic and laboratory services, unless a Carrier is directed otherwise by the Division. Such payment shall constitute payment in full and no health care provider as defined in G.L. c. 111, § 1 shall be permitted to balance bill the insured for any amount above the reimbursement paid by the Carrier.

The Commissioner of Insurance is directed to issue guidance, subject to my approval, to implement the terms of this Order. Any violation of the terms of the Commissioner's guidance shall be considered a violation of the terms of this Order. The Division and the Department of Public Health shall enforce the terms of this Order and the Commissioner's guidance.

This Order is effective immediately and shall remain in effect until rescinded or until the state of emergency is terminated, whichever happens first.

Given in Boston at 12:51 PM this 9th day of April, two thousand and twenty

CHARLES D. BAKER
GOVERNOR
Commonwealth of Massachusetts