EXECUTIVE DEPARTMENT
STATE OF CALIFORNIA

EXECUTIVE ORDER N-55-20

WHEREAS on March 4, 2020, I proclaimed a State of Emergency to exist in California as a result of the threat of COVID-19; and

WHEREAS despite sustained efforts, the virus remains a threat, and further efforts to control the spread of the virus to reduce and minimize the risk of infection and otherwise mitigate the effects of COVID-19 are needed; and

WHEREAS the Department of Health Care Services (DHCS) and Medi-Cal providers require flexibility to meet the challenges posed by the COVID-19 pandemic; and

WHEREAS under the provisions of Government Code section 8571, I find that strict compliance with various statutes and regulations specified in this order would prevent, hinder, or delay appropriate actions to prevent and mitigate the effects of the COVID-19 pandemic.

NOW, THEREFORE, I, GAVIN NEWSOM, Governor of the State of California, in accordance with the authority vested in me by the State Constitution and statutes of the State of California, and in particular, Government Code sections 8567 and 8571, do hereby issue the following order to become effective immediately:

IT IS HEREBY ORDERED THAT:

1) Notwithstanding Welfare and Institutions Code sections 14132.100, 14132.101, 14132.107, 14170 and 14087.325(e)(2), the deadlines for providers to submit, and for DHCS to review, a cost report, change in scope of service request, or reconciliation request are each extended for an additional 90 days beyond the date on which such action would otherwise be due.

2) The time limitations in Welfare and Institutions Code section 14171, subdivisions (e) and (f), and the provision of subdivision (d) making those time limitations mandatory, are suspended. DHCS may conduct administrative hearings and issue final decisions related to the administration or services of Medi-Cal or DHCS notwithstanding the time limitations set forth in section 14171, subdivisions (e) and (f). Notwithstanding the foregoing, DHCS is encouraged to adhere to the timelines set forth in those subdivisions, to the extent reasonably possible. To the extent DHCS delays a matter under this paragraph, Welfare and Institutions Code section 14171 subdivision (h) is suspended, and interest on an unrecovered overpayment shall not accrue during the delay.

3) Notwithstanding any contrary provision of California Code of Regulations (CCR), Title 22, sections 42131 et seq., 42140 et seq., 42180 et seq., and 42700, DHCS is authorized to hold the fair hearing process

for California Children's Services grievances and appeals by phone or video conference.

4) The requirement that in-person signatures and printed names be collected in connection with certain deliveries of certain Medi-Cal-covered drugs, as set forth in Welfare and Institutions Code section 14043.341, is suspended. Notwithstanding any provision of state law, deliveries to which section 14043.341 otherwise applies may be conducted using any form of delivery-service tracking or electronically documented proof of delivery.

5) Notwithstanding the uncodified provisions of section 77 of AB 1762 (Chapter 230, Statutes of 2003), use of the Laboratory Services Reservation System shall not be required in connection with COVID-19 testing.

6) Notwithstanding Welfare and Institutions Code section 14043.75 or any other provision of law (including, but not limited to, the Administrative Procedure Act, Government Code section 11340 et seq.) DHCS may, for the purpose of responding to the effects of COVID-19, issue bulletins or guidance related to provider enrollment without advance notice or public hearing.

7) Notwithstanding Health and Safety Code section 11834.10(a) and California Code of Regulations, Title 9, sections 10513, concerning licensed substance abuse disorder services residential treatment facilities, DHCS may authorize a licensee otherwise subject to those sections to operate beyond the conditions and limitations otherwise imposed on that licensee, for the purpose of ensuring sufficient bed capacity amongst such licensees. Any such authorization shall be individualized to a particular facility, and each such authorization shall be in writing and posted on DHCS' website. Additionally, California Code of Regulations, Title 9, 10522(a)(2) is suspended to the extent it requires a physical site visit in connection with an application for a license to operate any substance abuse disorder services residential treatment facility.

8) Welfare and Institutions Code sections 4080(d), 4096.5(d) and 5675(b); California Code of Regulations, Title 9, sections 531, 532(a), 534(d), and 1918-1938; California Code of Regulations, Title 22, sections 72443-72475 and 77012; and the Interim Short-Term Residential Treatment Program (STRTP) Regulations, Version II, sections 17(d) and (e), and 20(d), 24(a) and (b) are suspended to the extent they would restrict DHCS from granting Short Term Residential Treatment Programs, Special Treatment Programs, Psychiatric Health Facilities, Mental Health Rehabilitation Centers, Community Treatment Facilities, Community Residential Treatment Systems/Social Rehabilitation Programs and Psychiatric Health Facilities flexibility related to staffing requirements, and to the extent they would restrict DHCS from suspending on-site program reviews. DHCS shall implement this paragraph in consultation with the Department of Social Services; shall issue an Information Notice prior to any administrative implementation of this paragraph; and shall post on its website information about the implementation of this paragraph, which shall include the letter of approval (as to each

particular facility) of any flexibility related to staffing requirements that DHCS grants to a facility.

9) Notwithstanding Welfare and Institutions Code section 14711(c), DHCS may reimburse county behavioral health departments for administrative costs related to specialty mental health services up to 30 percent of the total actual cost of direct client services.

10) Health and Safety Code sections 11836.12 and 11837.3(a)(1), and California Code of Regulations, Title 9, section 9876.5(b) are suspended to the extent they would prevent DUI educational programs from receiving grant or other funding in lieu of raising fees, to the extent they would prevent DHCS from suspending on-site inspections in connection with any application for a license to conduct such a program (including, but not limited to, an initial application or a renewal of a license), and to the extent they would prevent blanket leaves-of-absence for participants in such programs if that program's operations are suspended.

11) California Code of Regulations, Title 9, section 852 is suspended to the extent it prevents a patient from receiving psychiatric medication without the patient's physical signature.

12) California Code of Regulations, Title 9, section 13035(f)(1) is suspended to the extent it would prevent DHCS from providing Alcohol or Other Drug (AOD) counselors an extension of time to complete their certification if their efforts to become certified are impacted by the COVID-19 emergency.

13) Notwithstanding Health and Safety Code sections 1342.8 and 1380.3, as well as Welfare and Institutions Code sections 14182(b)(9), 14456, and 14459.5, DHCS may temporarily delay or suspend—and may permit Medi-Cal managed care plans to temporarily delay or suspend—annual medical audits, surveys of physician offices, facility site reviews, plan and county data collection from providers, and similar audit or review activities.

14) The timeframes in Welfare and Institutions Code section 14182(c)(12)(A) are suspended. DHCS may allow Medi-Cal managed care plans to conduct beneficiary risk assessments according to any timeframe approved by DHCS not to exceed an additional 90 days after the timeframes in section 14182(c)(12)(A). Additionally, to the extent section 14182(c)(12)(A) would impose any limitation on the performance of such assessments by phone or video conference, any such limitation is suspended.

15) Health and Safety Code sections 123950 and 123870(b) and California Code of Regulation, Title 2, section 60330 are suspended to the extent they would prevent the California Children's Services Medical Therapy Program from offering physical and occupational therapy services in non-school settings.

16) California Code of Regulations (CCR), Title 22, section 53887(a)(2)(B)(1) is suspended to the extent it would prevent DHCS

from extending the deadline for fee-for-service providers to submit information required for a Medical Exemption Request. Such extensions shall not exceed 90 days after the timeframes in section 53887(a)(2)(B)(1).

17) Regulatory action taken by DHCS to implement or interpret this Order shall be exempt from the Administrative Procedure Act, Government Code section 11340 et seq., and may be taken by means of all-plan letters, all-county letters, provider bulletins or other similar instructions.

18) This Order shall be construed to maintain consistency between state law and federal law. Nothing in this Order shall be construed to create any conflict with any provision of federal law, including but not limited to any provision of federal law with which the State has agreed to comply, or with which the State is otherwise expected to comply, in connection with the receipt of federal funds. Additionally, to the extent necessary to implement any waiver of any applicable federal-law requirement approved by the federal Centers for Medicare and Medicaid Services in connection with COVID-19, any provision of state law is suspended to the extent it imposes any requirement equivalent to the waived federal-law requirement.

IT IS FURTHER ORDERED that as soon as hereafter possible, this Order be filed in the Office of the Secretary of State and that widespread publicity and notice be given of this Order.

This Order is not intended to, and does not, create any rights or benefits, substantive or procedural, enforceable at law or in equity, against the State of California, its agencies, departments, entities, officers, employees, or any other person.

IN WITNESS WHEREOF I have hereunto set my hand and caused the Great Seal of the State of California to be affixed this 22nd day of April 2020.

GAVIN NEWSOM
Governor of California

ATTEST:

ALEX PADILLA
Secretary of State