JARED POLIS
GOVERNOR

136 STATE CAPITOL
DENVER, COLORADO 80203

TEL 303-866-2471
FAX 303-866-2003

D 2020 054

EXECUTIVE ORDER

Ordering the Suspension of Certain Statutes and Directing the Department of Health Care Policy and Financing to Provide Additional Funds to Nursing Homes and Other Congregate Care Facilities Due to the Presence of COVID-19

Pursuant to the authority vested in the Governor of the State of Colorado and, in particular, pursuant to Article IV, Section 2 of the Colorado Constitution and the relevant portions of the Colorado Disaster Emergency Act, C.R.S. § 24-33.5-701, *et seq.*, I, Jared Polis, Governor of the State of Colorado, hereby issue this Executive Order suspending certain statutes and directing the Colorado Department of Health Care Policy and Financing (HCPF) to provide additional funds to nursing homes and other congregate care facilities that care for vulnerable older and disabled populations due to the presence of coronavirus disease 2019 (COVID-19) in Colorado.

I. Background and Purpose

On March 5, 2020, the Colorado Department of Public Health and Environment's (CDPHE) public health laboratory confirmed the first presumptive positive COVID-19 test result in Colorado. Since then, the number of confirmed cases has continued to climb, and we have evidence of widespread community spread throughout the State. I verbally declared a disaster emergency on March 10, 2020, and on March 11, 2020, I issued the corresponding Executive Order D 2020 003, as amended by Executive Orders D 2020 018 and D 2020 032. On March 25, 2020, I requested that the President of the United States declare a Major Disaster for the State of Colorado, pursuant to the Stafford Act. The President approved that request on March 28, 2020.

My administration, along with other State, local, and federal authorities, has undertaken a broad array of actions to respond to and mitigate the effects of the pandemic, prevent further spread, preserve our health care resources, and provide needed flexibility to address the collateral consequences of the pandemic. Approximately half of the deaths from COVID-19 in Colorado have occurred in nursing homes and other congregate care facilities that serve older Coloradans and people living with disabilities.

This Executive Order directs the Executive Director of HCPF to increase payments to nursing facilities and other provider-owned residential settings. This Executive Order ensures that Coloradans have access to a safe environment and adequate health care facilities and facilities serving the elderly and disabled have the resources necessary to protect their residents from contracting COVID-19.

II. Directives

A. I temporarily suspend the requirements of C.R.S. § 25.5-6-202(5) that establish the mechanism for determining the amount of supplemental payments for Medicaid-certified nursing facilities.

B. I temporarily suspend the requirements of C.R.S. §§ 25.5-6-204(1)(a), (1)(b), and (2)(a) that establish the rate for reimbursement under the Medicaid program for intermediate care facilities to increase reimbursement rates for certified intermediate care facilities.

C. I direct HCPF to promulgate and issue temporary emergency rules through the Medical Services Board to increase supplemental payments from HCPF to Medicaid-certified nursing facilities, as defined in C.R.S. § 25.5-6-202, and intermediate nursing facilities as defined in C.R.S. § 25.5-6-204, to protect such facilities' residents from COVID-19. HCPF must direct the funds to be used by the facilities to provide services that result in better care and higher quality of life for their residents during the COVID-19 emergency.

III. Duration

This Executive Order shall expire thirty (30) days from April 30, 2020, unless extended further by Executive Order.

GIVEN under my hand and the Executive Seal of the State of Colorado, this thirtieth day of April, 2020

Jared Polis
Governor