NORTH Dakota | Governor Doug Burgum

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EXECUTIVE ORDER 2020-29

WHEREAS, on March 13, 2020, President Donald Trump issued a declaration of national emergency due to the growing COVID-19 crisis in the United States; and,

WHEREAS, a state of emergency was declared by Governor Doug Burgum on March 13, 2020, in response to the public health crisis resulting from COVID-19; Executive Order 2020-03 activated the State Emergency Operations Plan (SEOP), implementing appropriate response and recovery actions and future mitigation measures; and,

WHEREAS, the COVID-19 public health emergency has made the delivery of critical services by health and human service providers more challenging and in many cases, more costly; these services are necessary to maintain health services, including long term care services and supports available to allow vulnerable individuals to remain safely at home; and,

WHEREAS, the Department of Human Services serves North Dakotans across the state, providing health care and human service programs, including some of our State's most vulnerable citizens; and,

WHEREAS, existing health services and human service programs are experiencing changes in utilization patterns and the need for alternative methods of care delivery resulting from the COVID-19 public health emergency; the shortage of available direct care workers and providers presents additional challenges to the continuation of these critical services; and,

WHEREAS, the Executive Director of the Department of Human Services has obtained approval from Centers for Medicare and Medicaid for State Plan amendments and waivers to expand service delivery during the COVID-19 declared emergency; and,

WHEREAS, to ensure North Dakota is utilizing all available health care and behavioral health personnel and resources during this public health emergency, to reduce economic hardship and threats to public health and safety, to facilitate the operation of temporary amendments and waivers provided through CMS and to accelerate our active response, recovery and mitigation efforts, a temporary suspension of certain state statutes and administrative rules is necessary.

NOW THEREFORE, Doug Burgum, Governor of North Dakota, by virtue of the authority under Article V, Section 1 of the North Dakota Constitution and North Dakota Century Code 37-17.1, and in consultation with the Executive Director of the Department of Human Services, hereby temporarily suspends the following provisions of North Dakota law:

1. Those provisions under North Dakota Century Code Chapters 50-06.2, 50-11, 50-24.1,50-24.4, 50-24.5, and 50-29 and related sections of the North Dakota Administrative Code, necessary for the operation of the Medicaid State Plan disaster amendments, Appendix

K and the provisions of the 1135 Waiver issued by the Centers for Medicare and Medicaid Services.

The actions set forth in this Order will enhance DHS' ability to render maximum assistance and continue to deliver essential services to citizens during the COVID-19 declared public health emergency, including but not limited to: home and community based care, enrollment fees, premiums, eligibility criteria, prior authorization requirements, provider referral and provider eligibility standards, and provisions related to background history and associated costs.

The Executive Director of the Department of Human Services will establish specific requirements, limitations, or parameters and file State Plan Amendments, Appendix K, and 1135 Waiver with the Centers for Medicare & Medicaid Services to effectively carry out this Executive Order.

This Order is based upon the following authority and issued for the following reasons:

1. The Governor is vested with the executive authority pursuant to Article V, Section 1, of the North Dakota Constitution.

2. The Governor is vested with statutory authority to issue executive orders, to minimize or avert the effects of a disaster or emergency pursuant to Chapter 37-17.1 of the North Dakota Century Code.

3. A coordinated and effective effort of appropriate government departments is required to minimize the impact of emergencies and disasters in this state.

This order will become effective and shall remain in effect for the duration of the declared state of emergency, unless otherwise stated.

Executed at Bismarck, North Dakota, this 17th day of April, 2020.

Doug Burgum, Governor

ATTEST:

Secretary of State