STATE OF CONNECTICUT

BY HIS EXCELLENCY

NED LAMONT

EXECUTIVE ORDER NO. 7EE

PROTECTION OF PUBLIC HEALTH AND SAFETY DURING COVID-19 PANDEMIC AND RESPONSE – MANDATORY REPORTING FOR NURSING HOMES AND ASSISTED LIVING FACILITIES, MEDICAID ADMINISTRATIVE WAIVERS

WHEREAS, on March 10, 2020, I issued a declaration of public health and civil preparedness emergencies, proclaiming a state of emergency throughout the State of Connecticut as a result of the coronavirus disease 2019 (COVID-19) outbreak in the United States and confirmed spread in Connecticut; and

WHEREAS, pursuant to such declaration, I have issued thirty-one (31) executive orders to suspend or modify statutes and to take other actions necessary to protect public health and safety and to mitigate the effects of the COVID-19 pandemic; and

WHEREAS, COVID-19 is a respiratory disease that spreads easily from person to person and may result in serious illness or death; and

WHEREAS, the World Health Organization has declared the COVID-19 outbreak a pandemic; and

WHEREAS, the risk of severe illness and death from COVID-19 is higher for individuals who are 60 or older and for those who have chronic health conditions; and

WHEREAS, to reduce the spread of COVID-19, the United States Centers for Disease Control and Prevention and the Connecticut Department of Public Health (DPH) recommend implementation of community mitigation strategies to increase containment of the virus and to slow transmission of the virus, including cancellation of gatherings of ten people or more and social distancing in smaller gatherings; and

WHEREAS, there is an increased risk of rapid spread of COVID-19 among persons living in long-term care facilities and managed residential communities, and most residents of long-term care facilities and managed residential communities are at increased risk for severe COVID-19; and

WHEREAS, the Connecticut Hospital and Long-Term Care Mutual Aid Plan (LTC MAP) collects and provides critical data each day to DPH regarding the current operating status of most nursing homes in Connecticut; and

WHEREAS, such data is critical to DPH's ability to allocate resources to protect the health and safety of residents of managed residential communities, limit the transmission of COVID-19 among residents and staff of such communities, and otherwise respond effectively and efficiently to the COVID-19 pandemic; and

WHEREAS, Section 17b-239b of the Connecticut General Statutes and certain sections of the Regulations of Connecticut State Agencies and the Medical Services Policy Manual of the Department of Social Services (DSS) require that certain health care providers first obtain authorization or other utilization review approvals before billing and receiving payment from Medicaid for services; and

WHEREAS, waiving, suspending, or modifying prior authorization and other utilization review requirements will maximize availability of hospital beds on shorter notice and accelerate access to services to respond to the COVID-19 pandemic; and

WHEREAS, Section 17b-278 of the Connecticut General Statutes and section 17b-262-307 of the Regulations of Connecticut State Agencies authorize Medicaid payment to Intermediate Care Facilities for Individuals with Intellectual Disabilities (ICF/IIDs) for beds reserved by ICF/IIDs for residents while on home leave and other leave for a maximum of thirty-six (36) days in a calendar year; and

WHEREAS, waiving, suspending, or modifying home leave and other bed reserve requirements for ICF/IIDs will allow DSS and healthcare providers to provide residents with longer home leave or hospitalization and minimize the risk of infection from COVID-19; and

WHEREAS, certain Regulations of Connecticut State Agencies require a provider of Medical Equipment, Devices and Supplies to obtain a delivery receipt signed by the Medicaid member receiving the equipment, device, or supplies as a condition for Medicaid payment; and

WHEREAS, waiving, suspending, or modifying delivery receipt requirements can reduce in-person contact and thereby reduce the risk of COVID-19 transmission among Medicaid members and providers;

NOW, THEREFORE, I, NED LAMONT, Governor of the State of Connecticut, by virtue of the authority vested in me by the Constitution and the laws of the State of Connecticut, do hereby **ORDER AND DIRECT:**

1. **Mandatory Reporting by Managed Residential Communities.** Section 19a-694 of the Connecticut General Statutes is modified by adding the requirement that (1) all managed residential communities operating in the state shall participate in and provide daily status reports in the form and manner requested by the Connecticut Hospital and Long Term Care Mutual Aid Plan (LTC MAP), and (2) that a managed residential community that fails to comply with the foregoing requirement shall be subject to a civil penalty of not more than five thousand dollars per violation, said penalty to be imposed in accordance with the process provided in Section 19a-525.

2. **Mandatory Reporting by Nursing Homes.** Section 19a-521e of the Connecticut General Statutes is modified by adding the requirement that all nursing homes, as defined in Section 19a-490, operating in the state shall participate in and provide daily status reports in the form and manner requested by the LTC MAP.

3. **Civil Penalties for Failure to Comply With Mandatory Reporting.** Sections 19a-524 and 19a-527 of the Connecticut General Statutes are modified to provide that the failure of a nursing home to comply with the requirements of Section 2 of this order shall be classified as and constitute a Class A violation subject to a civil penalty of not more than five thousand dollars per violation without adoption by regulation in accordance with Chapter 54 of the Connecticut General Statutes.

4. **Waiving Certain Medicaid Prior Authorization Requirements.** Sections 17b-239b and 17b-262 of the Connecticut General Statutes and any implementing regulations, policies, rules or other directives related to the Connecticut Medical Assistance Program, whether or not specifically adopted pursuant to said statutes, are modified to authorize the Commissioner of Social Services to temporarily waive, suspend, or modify, to the extent the Commissioner deems necessary, any prior authorization and other utilization review requirements contained therein. The Commissioner may issue any order and take other action that she deems necessary to implement this order.

5. **Waiving Medicaid Bed Reserve Day Requirements for Residents on Leave from Intermediate Care Facilities for Individuals with Intellectual Disabilities (ICF/IIDs).** Sections 17b-262 and 17b-278 of the Connecticut General Statutes and any implementing regulations, policies, rules or other directives related to the Connecticut Medical Assistance Program, whether or not specifically adopted pursuant to said statutes, are modified to authorize the Commissioner of Social Services to temporarily waive, suspend, or modify, to the extent the Commissioner deems necessary, requirements contained therein related to payments to ICF/IIDs for individuals residing in the ICF/IID who are on home leave or hospitalized and related requirements for ICF/IIDs with individuals on home leave or hospitalized, including, but not limited to, waiving the maximum day limit for the length of such home leave or hospitalization. The Commissioner may issue any order and take other action that she deems necessary to implement this order.

6. **Waiving Requirements for Signed Delivery Receipt for Medical Equipment, Devices, and Supplies.** Section 17b-262 of the Connecticut General Statutes and any implementing regulations, policies, rules or other directives related to the Connecticut Medical Assistance Program, whether or not specifically adopted pursuant to said statutes, are modified to authorize the Commissioner of Social Services to temporarily waive, suspend, or modify, to the extent the Commissioner

deems necessary, requirements contained therein for providers of medical equipment, devices, and supplies to obtain a signed delivery receipt from the Medicaid member as a condition of payment. The Commissioner may issue any order and take other action that she deems necessary to implement this order.

Unless otherwise specified herein, this order shall take effect immediately and remain in effect for the duration of the public health and civil preparedness emergency, unless earlier modified, extended or terminated.

Dated at Hartford, Connecticut, this 23rd day of April, 2020.

Ned Lamont
Governor

By His Excellency's Command

Denise W. Merrill
Secretary of the State