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Don Sundquist

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STATE OF TENNESSEE
EXECUTIVE ORDER
BY THE GOVERNOR

No. 1

**AN ORDER TRANSFERRING THE TENNCARE PROGRAM
AND ITS RELATED FUNCTIONS
FROM THE DEPARTMENT OF HEALTH TO THE DEPARTMENT OF
FINANCE AND ADMINISTRATION
AND ASSIGNING CERTAIN OVERSIGHT
RESPONSIBILITIES TO THE
DEPARTMENT OF COMMERCE AND INSURANCE**

WHEREAS, it is in the interest of a more economical and efficient state service to reduce administrative duplication and to streamline the operation of state government; and

WHEREAS, it is in the interest of a more economical, effective and efficient state service to combine related service delivery programs and to combine related regulatory programs, thereby facilitating the operation of these programs; and

WHEREAS, it is in the interest of a more effective and efficient state service to fully utilize existing procedures and expertise; and

WHEREAS, it has been determined that in the interest of economy, efficiency and better coordination of the functions of state government that the functions related to the TennCare Program in the Department of Health should be transferred to the Department of Finance and Administration and that the financial responsibility oversight functions related to all TennCare managed case organizations should be performed by the Department of Commerce and Insurance; and

WHEREAS, the Department of Health was created and established in Tennessee Code Annotated, Section 4-3-1801; the Department of Finance and Administration was created and established in Tennessee Code Annotated, Section 4-3-1001; the Department of Commerce and Insurance was created and established by Tennessee Code Annotated, Section 4-3-1301 and that the functions related to the TennCare Program were created and established in Tennessee Code Annotated, Title 71, Chapter 5, Part 1, and the federal TennCare waiver pursuant to 42 U.S.C. § 1315;

NOW THEREFORE, I, Don Sundquist, Governor of the State of Tennessee, by virtue of the power and authority vested in me by the Tennessee Constitution and by Tennessee Code Annotated, Section 4-4-102 and Section 4-4-117 do hereby direct the following:

1. That the functions related to the TennCare Program in the Department of Health be and are hereby transferred to be made a part of the Department of Finance and Administration effective January 26, 1995, and that from and after January 26, 1995, all functions related to the TennCare Program, as established, inter alia, in Tennessee Code Annotated, Title 71, Chapter 5, Part 1, and the federal TennCare

waiver pursuant to 42 U.S.C. § 1315, shall be administered by and shall be under the control of the Commissioner of the Department of Finance and Administration.

2. That from and after January 26, 1995, the Commissioner of the Department of Finance and Administration shall perform all such duties and shall have the same authority and responsibility with regard to the TennCare Program as the Commissioner has with other divisions of the Department of Finance and Administration. Except to the extent modified by Paragraph 10 of this Executive Order, the Commissioner of the Department of Finance and Administration shall also perform all duties related to, and shall have responsibility for, the TennCare Program and the administration of all statutory functions transferred under the provisions of section 1 of this executive order as well as any rules and regulations, orders and policies developed thereunder.

3. That based upon an implementation plan developed by the Commissioner of Finance and Administration, said Commissioner, with the assistance and approval of the Department of Personnel, shall cause to be transferred to the Department of Finance and Administration any filled or unfilled, authorized and funded positions assigned to the Bureau of TennCare or directly or indirectly performing functions relating to the TennCare Program. The Commissioner of Finance and Administration shall, on or before January 26, 1995, begin the process of transferring the aforesaid positions and employees and shall complete the process in due time.

4. In accordance with the schedule for transferring positions and employees, the 1994-1995 fiscal year appropriations to the Department of Health for the operation of the TennCare Program and for the administration of those statutory functions transferred under the provisions of section 1 of this executive order and the rules and regulations, orders and policies effectuated thereunder shall be transferred to the Department of Finance and Administration, and the Department of Finance and Administration shall revise the present work programs as well as future budgets of the Department of Health and the Department of Finance and Administration to reflect the effect of this executive order. This shall include Title XIX federal funding directly or indirectly related to the TennCare Program.

5. That all personal property, equipment and other materials made available to the TennCare Program in the Department of Health in performing related functions in accordance with those statutory functions transferred under the provision of section 1 of this executive order and the rules and regulations, orders and policies promulgated thereunder shall be transferred to the custody and control of the Department of Finance and Administration.

6. That on or after January 26, 1995, the Department of Finance and Administration, through its Commissioner, shall have the authority to receive, administer and supervise any and all grants and funds from whatever sources, including, but not limited to the federal, state, county and municipal governments, with respect to the TennCare Program or its functions.

7. That all contracts or leases entered into prior to January 26, 1995, by the Department of Health or the TennCare or Medicaid Bureaus with respect to any program or function transferred herein with any entity, corporation, agency, enterprise or person shall continue in full force and effect as to all essential provisions in accordance with the terms and conditions of the contracts in existence on January 26, 1995, to the same extent as if such contracts had originally been entered into by and between such entity, corporation, agency, enterprise or person and the Department of Finance and Administration unless and until such contracts or leases are amended or modified by the parties thereto.

8. That all current rules, regulations, orders, decisions and policies heretofore issued or promulgated by the Department of Health or the TennCare or Medicaid Bureaus pursuant to the provisions of those statutes whose functions have been

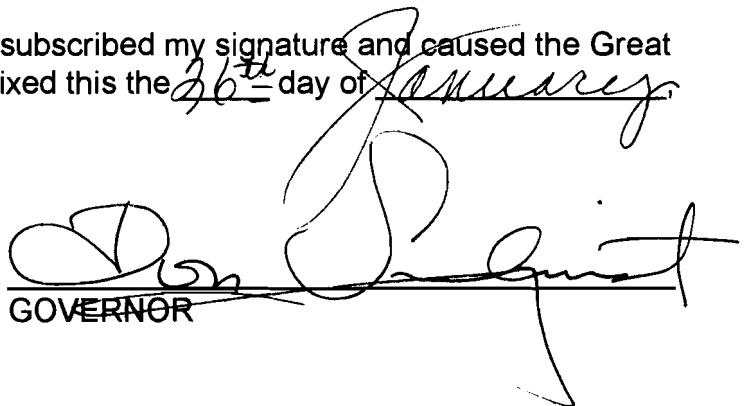
transferred under the provisions of section 1 of this executive order shall remain in full force and effect and shall hereafter be administered and enforced by the Department of Finance and Administration. To this end, the Department of Finance and Administration, through its Commissioner, shall have the authority, consistent with the statutes and regulations pertaining to the programs and functions transferred herein, to modify or rescind orders, rules and regulations, decisions or policies heretofore issued and to adopt, issue or promulgate new orders, rules and regulations, decisions or policies as may be necessary for the administration of the programs or functions herein transferred.

9. That it is my intent to transfer all statutory and related functions to the Department of Finance and Administration that may be necessary for implementation and continued administration of the TennCare Program.

10. That the duties relating to oversight, examination and monitoring for compliance with requirements relating to the financial responsibility, stability and integrity and management operations of managed care organizations contracting with the State to provide TennCare services shall be performed by the Department of Commerce and Insurance. It is my intention that the Department of Commerce and Insurance shall exercise the responsibility to determine and insure that all managed care organizations contracting with the State to provide TennCare services are financially responsible and may reasonably be expected to meet their obligations to enrollees and prospective enrollees. Such responsibility, duties and procedures shall be exercised in a manner, to the extent practicable, consistent with those exercised by the Department under Tennessee Code Annotated Section 56-32-204. The Commissioner of Finance and Administration, in consultation with the Commissioner of Commerce and Insurance, shall prepare a plan of implementation to accomplish this directive.

11. The Department of Commerce and Insurance, through its Commissioner, shall have the authority, consistent with the statutes and regulations pertaining to the TennCare program, to promulgate new or additional rules and regulations, orders or policies as may be necessary to perform the oversight, examination, and compliance monitoring functions regarding managed care organizations contracting with the State to perform TennCare services assigned herein to that Department.

IN WITNESS WHEREOF, I have subscribed my signature and caused the Great Seal of the State of Tennessee to be affixed this the 26th day of January, 1995.


GOVERNOR

ATTEST:


SECRETARY OF STATE