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### **No. 23 An order transferring the TennCare program and its related functions and administrative support from the Department of Health to the Department of Finance and Administration**

Don Sundquist

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STATE OF TENNESSEE

# EXECUTIVE ORDER

BY THE GOVERNOR

No. 23

## AN ORDER TRANSFERRING THE TENNCARE PROGRAM AND ITS RELATED FUNCTIONS AND ADMINISTRATIVE SUPPORT FROM THE DEPARTMENT OF HEALTH TO THE DEPARTMENT OF FINANCE AND ADMINISTRATION

**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 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

**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 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. Section 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 October 19, 1999, and that from and after October 19, 1999, 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. Section 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 October 19, 1999, 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 Executive Order Number One dated January 26, 1995; 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. Pursuant to said implementation plan developed by the Commissioner of Finance and Administration said Commissioner, in consultation with the Commissioner of the Department of Health and with the assistance and approval of the Department of Personnel, shall cause to be transferred to the Department of Finance and Administration additional positions/personnel of the Department of Health which either directly or indirectly perform functions relating to the operation of the TennCare Program or administrative support thereof. The Commissioner of Finance and Administration shall, on or before July 1, 2000, begin the process of transferring the aforesaid positions and employees and shall complete the process in due time.

4. Notwithstanding paragraph 3 above, where it is in the interest of a more economical and efficient state service, reducing administrative duplication and streamlining the operation of state government, the Commissioner of the Department of Finance and Administration shall have the discretion to determine the individual positions assigned to the Bureau of TennCare which will not be transferred by operation of this Executive Order and which shall remain in the Department of Health.

5. In accordance with the schedule for transferring positions and employees, the 1999-2000 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. The Commissioner of Finance and Administration shall, on or before July 1, 2000, begin the process transferring the aforesaid appropriations and shall complete the process in due time.

6. That on or after October 19, 1999, 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.

7. That on or after October 19, 1999, 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.

8. That all contracts or leases entered into prior to October 19, 1999, 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 October 19, 1999, 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.

9. 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 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.

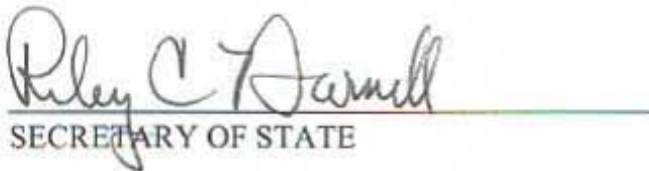
10. That it is my intent to transfer all statutory and related functions to the Department of Finance and Administration that may be necessary for implementation and continued administration of the TennCare Program.

11. This order supersedes all previous executive orders to the extent that those orders are inconsistent. This order does not affect the transfer of certain TennCare functions to the Department of Commerce and Insurance by Executive Order Number One, dated January 26, 1995.

**IN WITNESS WHEREOF**, I have subscribed my signature and caused the Great Seal of the State of Tennessee to be affixed this the 19<sup>th</sup> day of October, 1999.

  
GOVERNOR

ATTEST:

  
SECRETARY OF STATE

