



2005-3

EXECUTIVE ORDER TO REORGANIZE AGENCIES BY THE TRANSFER OF CERTAIN HEALTHCARE PROCUREMENT AND ADMINISTRATIVE FUNCTIONS PRIMARILY OF THE DEPARTMENT OF CENTRAL MANAGEMENT SERVICES TO THE NEWLY RENAMED DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

WHEREAS, Article V, Section 11 of the Illinois Constitution authorizes the Governor to reassign functions or reorganize executive agencies that are directly responsible to him by means of executive order; and

WHEREAS, Section 3.2 of the Executive Reorganization Implementation Act, 15 ILCS 15 (the "Act"), provides that "Reorganization" includes, in pertinent part (a) the transfer of the whole or any part of any agency, or of the whole or any part of the functions thereof, to the jurisdiction and control of any other agency, and (b) the consolidation or coordination of the whole or any part of any other agency, or of the whole or any part of the functions thereof, with the whole or any part of any other agency or the functions thereof; and

WHEREAS, Section 4 of the Act provides that any executive order proposing reorganization may change the name of any agency affected by a reorganization; and

WHEREAS, the Department of Central Management Services ("CMS"), the Department of Corrections ("DoC"), the Department of Human Services ("DHS"), the Department of Veterans' Affairs ("DVA") and the Department of Public Aid ("DPA") are all executive agencies directly responsible to the Governor which exercise the rights, powers, duties and responsibilities derived primarily from 20 ILCS 405 et seq., 730 ILCS 5/III et seq., 20 ILCS 1305 et seq., 20 ILCS 2805 et seq. and 20 ILCS 2205 et seq., respectively; and

WHEREAS, streamlining and consolidating certain functions of agencies into other agencies offers the opportunity to eliminate redundancy, simplify the organizational structure of the executive branch, improve accessibility and accountability, provide more efficient use of specialized expertise and facilities, realize savings in administrative costs, promote more effective sharing of best practices and state of the art technology and realize other cost savings, among other things; and

WHEREAS, CMS currently conducts procurement and contract administration functions concerning health care services and employee health insurance for various state agencies, and DoC, DHS and DVA each currently conduct procurement and contract administration functions concerning health care services for individuals resident in facilities operated by such agencies (referred to collectively as "State Healthcare Purchasing"); and

WHEREAS, DPA has developed and maintains substantial institutional knowledge and expertise regarding unique aspects of health care procurement, purchasing and contract administration developed through its extensive work in administering the state's Medicaid program; and

WHEREAS, the aforementioned benefits of transfer and consolidation can be achieved by transferring all State Healthcare Purchasing from CMS, DoC, DHS and DVA to DPA; and

WHEREAS, renaming DPA as the Department of Healthcare and Family Services ("HFS") more accurately reflects the functions, goals and mission of that agency.

THEREFORE, pursuant to the powers vested in me by Article V, Section 11 of the Illinois Constitution, I hereby order:

I. RENAMING

Effective July 1, 2005, DPA shall be renamed the "Department of Healthcare and Family Services". Except as otherwise indicated in this Executive Order, the powers, duties, rights and responsibilities formerly vested in or associated with DPA shall not be affected by the renaming of the agency to HFS.

II. TRANSFER

- A. Effective July 1, 2005 or as soon thereafter as practicable, the respective powers, duties, rights and responsibilities related to State Healthcare Purchasing shall be transferred from CMS, DoC, DHS and DVA to HFS. The statutory powers, duties, rights and responsibilities of CMS, DoC, DHS and DVA associated with State Healthcare Purchasing derive primarily from 5 ILCS 375 et seq., 20 ILCS 405 et seq., Public Act 93-18, Public Act 93-1036, 730 ILCS 5/III et seq., 20 ILCS 1305 et seq. and 20 ILCS 2805 et seq., respectively. The functions associated with State Healthcare Purchasing intended to be transferred hereby include, without limitation, rate development and negotiation with hospitals, physicians and managed care providers; health care procurement development; contract implementation and fiscal monitoring; contract amendments; payment processing; and purchasing aspects of health care plans administered by the state on behalf of (i) state employees, including the quality care health plan, managed care health plan, vision plan, pharmacy benefits plan, dental plan, behavioral health plan, employee assistance plan, utilization management plan, SHIPs and various subrogation arrangements, as well as purchasing and administration of flu shots, hepatitis B vaccinations and tuberculosis tests, (ii) non-state employees, including the retired teachers' health insurance plan, the local government health insurance plan, the community colleges health insurance plan, the Senior Citizen and Disabled Person Pharmacy Drug Discount program and the active teacher prescription program, and (iii) residents of state-operated facilities, including DoC correctional and youth facilities, DHS mental health centers and developmental centers and DVA veterans homes.
- B. Excluded from the functions transferred hereby is the administration and management of employee benefits, such as premium collections, employee services, eligibility review and benefits determinations, member claims analysis, reviews and appeals, and COBRA and the provision of

mental health and developmental services by DHS at its mental health and developmental centers, respectively.

- C. Whenever any provision of an executive order or any statute or section thereof transferred by this Executive Order provides for membership of the respective Director of any of CMS, DoC, DHS or DVA on any council, commission, board or other entity relating to State Healthcare Purchasing, the Director of HFS or his or her designee(s) shall serve in that place. If more than one such person is required by law to serve on any council, commission, board or other entity, an equivalent number of representatives of HFS shall so serve.

II. EFFECT OF TRANSFER

The powers, duties, rights and responsibilities vested in or associated with State Healthcare Purchasing shall not be affected by this Executive Order, except that all management and staff support or other resources necessary to the operations of State Healthcare Purchasing shall be provided by HFS.

- A. Unless otherwise provided pursuant to Section III.G below, CMS, DoC, DHS and DVA personnel serving under the Personnel Code who are engaged in the performance of State Healthcare Purchasing shall continue their service within HFS, and the status and rights of employees of CMS, DoC, DHS and DVA employees engaged in the performance of the functions of State Healthcare Purchasing shall not be affected by the transfer. The rights of employees, the State of Illinois and its agencies under the Personnel Code and applicable collective bargaining agreements or under any pension, retirement or annuity plan shall not be affected by this Executive Order.
- B. All books, records, papers, documents, property (real and personal), contracts, and pending business pertaining to the powers, duties, rights and responsibilities related to State Healthcare Purchasing and transferred by this Executive Order to HFS, including without limitation material in electronic or magnetic format and necessary computer hardware and software, shall be delivered to HFS; provided, however,

that the delivery of such information shall not violate any applicable confidentiality constraints.

- C. All unexpended appropriations and balances and other funds available for use in connection with State Healthcare Purchasing shall be transferred for use by HFS for State Healthcare Purchasing pursuant to the direction of the Governor. Unexpended balances so transferred shall be expended only for the purpose for which the appropriation was originally made.

III. SAVINGS CLAUSE

- A. The powers, duties, rights and responsibilities related to State Healthcare Purchasing and transferred from CMS, DoC, DHS and DVA by this Executive Order shall be vested in and shall be exercised by HFS. Each act done in exercise of such powers, duties, rights and responsibilities shall have the same legal effect as if done by the relevant transferring agency or its divisions, officers or employees.
- B. Every person or entity shall be subject to the same obligations and duties and any penalties, civil or criminal, arising therefrom, and shall have the same rights arising from the exercise of such powers, duties, rights and responsibilities as had been exercised by the relevant transferring agency or its divisions, officers or employees.
- C. Every officer of HFS shall, for any offense, be subject to the same penalty or penalties, civil or criminal, as are prescribed by existing law for the same offense by any officer whose powers or duties were transferred under this Executive Order.
- D. Whenever reports or notices are now required to be made or given or papers or documents furnished or served by any person to or upon CMS, DoC, DHS or DVA in connection with any of the functions of State Healthcare Purchasing transferred by this Executive Order, the same shall be made, given, furnished or served in the same manner to or upon HFS.
- E. This Executive Order shall not affect any act done, ratified or canceled or any right occurring or established or any action or proceeding had or

commenced in an administrative, civil or criminal cause regarding State Healthcare Purchasing before this Executive Order takes effect; such actions or proceedings may be defended, prosecuted and continued by HFS.

- F. Any rules of CMS, DoC, DHS or DVA that relate to the State Healthcare Purchasing which are in full force on the effective date of this Executive Order and have been duly adopted by any such agency shall become the rules of HFS for State Healthcare Purchasing. This Executive Order shall not affect the legality of any such rules in the Illinois Administrative Code. Any proposed rulings filed with the Secretary of State by CMS, DoC, DHS or DVA that are pending in the rulemaking process on the effective date of this Executive Order and pertain to the functions transferred, shall be deemed to have been filed by HFS. As soon as practicable hereafter, to the extent necessary or prudent, HFS shall revise and clarify the rules transferred to it under this Executive Order to reflect the reorganization of rights, powers and duties affected by this Executive Order, using the procedures for recodification of rules available under the Illinois Administrative Procedures Act, except that existing title, part, and section numbering for the affected rules may be retained. HFS may propose and adopt under the Illinois Administrative Act such other rules of the reorganized agencies that will now be administered by HFS.
- G. To the extent necessary or prudent to fully implement the intent of this Executive Order, CMS, DoC, DHS and DVA and HFS may enter into one or more interagency agreements to ensure the full and appropriate transfer of all features of State Healthcare Purchasing transferred pursuant to this Executive Order.

IV. SEVERABILITY

If any provision of this Executive Order or its application to any person or circumstance is held invalid by any court of competent jurisdiction, this invalidity does not affect any other provision or application of this Executive Order which can be given

effect without the invalid provision or application. To achieve this purpose, the provisions of this Executive Order are declared to be severable.

Rod R. Blagojevich, Governor

Issued by Governor: April 1, 2005
Filed with Secretary of State: April 1, 2005