



EXECUTIVE ORDER

12-01

EXECUTIVE ORDER TO REORGANIZE AGENCIES BY THE TRANSFER OF CERTAIN FUNCTIONS OF THE DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES TO THE DEPARTMENT OF CENTRAL MANAGEMENT SERVICES, THE DEPARTMENT OF CORRECTIONS, THE DEPARTMENT OF JUVENILE JUSTICE, THE DEPARTMENT OF HUMAN SERVICES AND THE DEPARTMENT OF VETERANS' AFFAIRS

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 15/3.2, 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, the Department of Central Management Services (CMS), the Department of Corrections (DoC), the Department of Juvenile Justice (DJJ), the Department of Human Services (DHS), the Department of Veterans' Affairs (DVA), collectively the "Receiving Agencies," and the Department of Healthcare and Family Services (HFS), the "Transferring Agency," are executive agencies directly responsible to the Governor and exercise the rights, powers, duties and responsibilities derived from 20 ILCS 405 et seq., 730 ILCS 5/1-1-1 et seq., 730 ILCS 5/3-2.5-1 et seq., 20 ILCS 1305 et seq., 20 ILCS 2805 et seq., and 20 ILCS 2205 et seq., respectively; and

WHEREAS, on April 1, 2005, the Governor issued Executive Order Number 3 (Executive Order Number 3 (2005)); and

WHEREAS, changes in the provision of healthcare at a state and federal level have diluted the similarities in purchasing which were set forth in Executive Order Number 3 (2005); and

WHEREAS, certain functions and persons purported to be transferred under Executive Order Number 3 (2005) still remain at DOC, DJJ, DHS and DVA; and

WHEREAS, the return of the healthcare purchasing functions to the Receiving Agencies offers the opportunity to simplify the organizational structure of the Executive Branch, improve accessibility and accountability with respect to the functions, provide more efficient use of specialized expertise and facilities, and promote more effective sharing of best practices and state of the art technology, among others things; and

WHEREAS, in light of these concerns, it would be appropriate to rescind Executive Order Number 3 (2005) in part; and

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

I. TRANSFER

- A. Effective sixty calendar days after the date on which this Executive Order is delivered to the General Assembly, or as soon thereafter as practicable, the respective powers, duties, rights and responsibilities related to State Healthcare Purchasing which were transferred pursuant to Executive Order Number 3 (2005) shall be returned to the agencies from which they were transferred. The statutory powers, duties, rights and responsibilities of CMS, DOC, DJJ, DHS, and DVA that are

associated with State Healthcare Purchasing derive primarily from 5 ILCS 375 et seq., 20 ILCS 405 et seq., 320 ILCS 55/1 et seq., 105 ILCS 55/5, 730 ILCS 5/1-1-1 et seq., 730 ILCS 5/3-2.5-1 et seq., 20 ILCS 1305 et seq., and 20 ILCS 2805 et seq., respectively. The functions associated with State Healthcare Purchasing (Programs) 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 active teacher prescription program, and the Illinois Prescription Drug Discount Program, and (iii) residents of state-operated facilities, including DoC and DJJ correctional and youth facilities, DHS mental health centers and developmental centers and DVA veterans homes.

- B. Whenever any provision of this Executive Order or any statute or section thereof transferred by this Executive Order provides for membership of the Director of the Transferring Agency on any council, commission, board or other entity relating to the Programs, the Director of the Receiving Agencies or his designee(s) shall serve in the place of the Transferring Agency only as related to the Programs of the Receiving Agencies. 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 the Receiving Agencies shall so serve. In addition, any statutory mandate which provides for action on the part of the Director of the Transferring Agency relating to the Programs shall become the responsibility of the Directors of the Receiving Agencies responsible for the Programs.

II. REVOCATION

On September 30, 2012, or upon written agreement by both the Director of HFS and the Director of CMS that the transfer of the respective powers, duties, rights and responsibilities related to State Healthcare Purchasing from the Transferring Agency to the Receiving Agencies has been completed as contemplated hereunder, whichever is sooner, Executive Order Number 3 (2005) shall be hereby revoked and rescinded with the exception of Section I (renaming the Department of Public Aid as the Department of Healthcare and Family Services) which shall remain in effect.

III. EFFECT OF TRANSFER

- A. The powers, duties, rights and responsibilities vested in the Programs shall not be affected by this Executive Order, except that all management and staff support or other resources necessary to the operations of the Programs shall be provided by the Receiving Agencies.
- B. Personnel and positions of CMS Programs under the Transferring Agency affected by this Executive Order shall be transferred to and continue their service within CMS. The status and rights of such employees under the Personnel Code shall not be affected by the reorganization. Personnel and positions of DOC, DJJ, DHS, and DVA were not transferred under Executive Order 3 (2005) and, thus, are not affected by this Executive Order.
- C. All books, records, papers, documents, correspondence, property (real and personal), contracts, and pending business pertaining to the powers, duties, rights and responsibilities related to the Programs and transferred by this Executive Order from the Transferring Agency to the Receiving Agencies, including but not limited to material in electronic or magnetic format and necessary computer hardware and software, shall be delivered to the Receiving Agencies responsible for the Programs; provided, however, that the delivery of such information shall not violate any applicable confidentiality constraints. The access by personnel of the Receiving Agencies to databases and electronic health information which are currently maintained by the Transferring Agency and which contain data and information necessary to the performance of the functions of the Programs shall continue in the same manner and level of access as prior to this Executive Order. Staff of the Receiving Agencies are authorized to work with staff at the Transferring Agency to add new information relevant to the Programs.
- D. All unexpended appropriations and balances and other funds available for use in connection with any of the Programs shall be transferred for use by CMS 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. Appropriations of DOC, DJJ, DHS, and DVA were not transferred under Executive Order 3 (2005) and, thus, are not affected by this Executive Order.

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IV. SAVINGS CLAUSE


- A. The powers, duties, rights and responsibilities related to the Programs transferred from the Transferring Agency by this Executive Order shall be vested in and shall be exercised by the Receiving Agencies responsible for the Programs. Each act done in exercise of such powers, duties, rights and responsibilities shall have the same legal effect as if done by the Transferring Agency or its divisions, officers or employees.
- B. Any rules of the Illinois Prescription Drug Discount Program, or any other function or program transferred to CMS by this Executive Order, in full force on the effective date of this Executive Order and that have been duly adopted by HFS shall become the rules of CMS. 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 HFS as they pertain to the Illinois Prescription Drug Discount Program, or any other function or program transferred to CMS by this Executive Order, that are pending in the rulemaking process on the effective date of this Executive Order shall be deemed to have been filed by CMS. CMS may propose and adopt under the Illinois Administrative Act such other rules of the Illinois Prescription Drug Discount Program, or any other function or program transferred to CMS by this Executive Order, subsequent to the effective date of this Executive Order.
- C. 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 Transferring Agency or its divisions, officers or employees.
- D. Every officer of the Receiving Agencies shall, for every 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.
- E. 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 the Transferring Agency in connection with any of the functions of the Programs transferred by this Executive Order, the same shall be made, given, furnished or served in the same manner to or upon the Receiving Agencies responsible for the Programs.
- F. To the extent necessary or prudent to fully implement the intent of this Executive Order, CMS, DOC, DHS, DJJ, 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.
- G. 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 the Programs before this Executive Order takes effect; such actions or proceedings may be defended, prosecuted and continued by the Receiving Agencies responsible for the Programs.

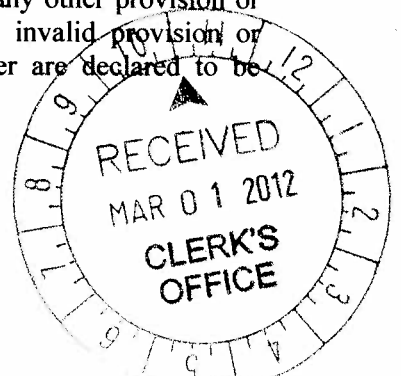
V. SEVERABILITY

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.

VI. EFFECTIVE DATE

This Executive Order shall be effective upon filing with the Secretary of State.


Pat Quinn, Governor



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INDEX DEPARTMENT

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IN THE OFFICE OF
SECRETARY OF STATE

Issued by the Governor: March 1, 2012
Filed with the Secretary of State : March 1, 2012