State of New York

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Department of State
Secretary of State

State of New York

Executive Chamber

No. 78

EXECUTIVE ORDER

TEMPORARY SUSPENSION OF PROVISIONS RELATED TO CHILD AND FAMILY WELFARE, CHILD DAY CARE, JUVENILE JUSTICE, RUNAWAY AND HOMELESS YOUTH, ADULT PROTECTIVE SERVICES, AND RESIDENTIAL AND NON-RESIDENTIAL CARE FOR VICTIMS OF DOMESTIC VIOLENCE

WHEREAS, on October 26, 2012, I issued Executive Order Number 47, declaring a disaster emergency in all 62 counties of the State of New York; and

WHEREAS, on October 30, 2012, the President issued a major disaster declaration for the counties of Bronx, Kings, Nassau, New York, Queens, Richmond and Suffolk, and on November 2, 2012, extended such declaration to include Rockland and Westchester Counties, and on November 12, 2012, extended such declaration to include Orange, Putnam, Sullivan and Ulster Counties; and

WHEREAS, social services districts, youth bureaus, detention administrators, social services agencies, and the children and families served by such entities in the federally declared counties are addressing multiple issues arising out of the emergency situation; and

WHEREAS, Section 29-a of the Executive Law authorizes the suspension, alteration or modification of statutes, local laws, ordinances, orders, rules or regulations, or parts thereof, if compliance with such provisions would prevent, hinder or delay action necessary to cope with a State disaster emergency; and

WHEREAS, in the federally declared counties, the enforcement of certain State statutes and regulations, which the Office of Children and Family Services ("OCFS") has no ability to waive, could adversely affect the ability of some affected parties to address issues concerning the disaster emergency or to provide services to those affected by the disaster emergency;

NOW, THEREFORE, I, ANDREW M. CUOMO, Governor of the State of New York, by virtue of the authority vested in me by Section 29-a of Article 2-B of the Executive Law to temporarily suspend and otherwise alter or modify specific provisions of any statute, local law, ordinance, order, rule or regulation, or parts thereof, of any agency during a State disaster emergency, if compliance with such provisions would prevent, hinder or delay action necessary to cope with the State disaster emergency, hereby suspend or modify, for social services districts, county detention agencies, municipalities, youth bureaus and social services agencies, as applicable, in the federally-declared counties, for the period the disaster emergency was declared pursuant to Executive Order Number 47, issued on October 26, 2012, until further notice, the following laws and regulations under the following conditions:

1. Subdivision (6) of Section 153 and subdivisions (5) through (7) of Section 153-k of the Social Services Law, subdivision (1) of Section 420 and subdivisions (2) and (6) of Section 530 of the Executive Law, associated regulations and relevant appropriation language in Chapter 53 of the Laws of 2012, to the extent social services districts, county detention agencies, municipalities and youth

bureaus are unable, as a result of the disaster emergency, to submit claims and claiming information within the required timeframes to OCFS or the Department of Family Assistance for programs administered by such Office, with the exception of any federally required timeframes, provided that said claims and claiming information are submitted as soon as practicable; and

2. Parts 441, 442, 443, 446, 447, 448, 449 and 451 of Title 18 of the New York Codes, Rules and Regulations ("NYCRR"), to the extent social services districts or agencies are unable, as a result of the disaster emergency, to comply with those provisions of such regulations that establish timeframes relating to: (a) making casework contacts; (b) completing specified services or activities; (c) certifying, approving or renewing certifications or approvals of foster family boarding homes, provided that such activities are completed as soon as practicable; and

3. Part 443 of Title 18 of the NYCRR relating to the certification or approval and operation of foster family boarding homes, to the extent foster families are unable, as a result of the disaster emergency, to continue to comply with the requirements or their foster children had to be relocated or otherwise cared for, in temporary emergency foster homes or other locations to avoid risk to their health and safety provided that compliance with such requirements is re-established as soon as practicable; and

4. Subdivision (b) of Section 532-e of the Executive Law and subdivision (2) of Section 390, subdivision (3) of section 390-a, subdivision (4) of section 459-a and subdivision (2) of section 461-b of the Social Services Law, and associated regulations, to the extent that providers or municipalities, as applicable, are unable, as a result of the disaster emergency, to comply with timeframes for submitting renewal application materials and completing activities required for operating certificates for runaway and homeless youth programs, detention facilities, child day care programs, residential programs for victims of domestic violence, and family type homes for adults, provided that such materials are submitted and activities are completed as soon as practicable; and

5. Subdivision (6) of Section 398 and subdivision (1) of Section 398-a of the Social Services Law and associated regulations, and subdivision (6) of Section 355.3, subdivision (f) of Section 756-a, subdivision (a) of Section 1087 and subdivision (d) of Section 1089 of the Family Court Act, to the extent such provisions limit the maximum age that youth may remain in foster care and preclude social services districts from reimbursing authorized agencies for caring for such youth or OCFS from reimbursing social services districts for the costs of caring for such youth under the foster care block grant where such youths' safe and appropriate discharge from foster care is impeded by the disaster emergency or circumstances arising thereunder; and

6. Sections 532-a, 532-b and 532-d of the Executive Law and associated regulations, to the extent such provisions limit the maximum age or a maximum length of time a youth may stay in a residential runaway or homeless youth program, and Section 459-b of the Social Services Law and Sections 408.6, 452.9, 454.5 and 455.4 of Title 18 of the NYCRR, to the extent such provisions limit the maximum length of time victims of domestic violence and their families may stay in residential programs for victims of domestic violence, where their safe and appropriate release is impeded by the disaster emergency or circumstances arising thereunder; and

7. Sections 408.7, 427.1, 427.7 and 427.9 of Title 18 of the NYCRR to the extent authorized agencies or residential programs for victims of domestic violence are unable, due to the disaster emergency, to comply with the provisions requiring the submission of standards of payment information, or requests for good cause exemptions by the dates specified in such regulations, provided that such information or requests are submitted as soon as practicable; and

8. Sections 420 and 530 of the Executive Law and associated regulations, to the extent that such provisions preclude State reimbursement to a municipality from the municipality's annual distribution of funds for detention services or runaway and homeless youth services for costs that were necessary to house youth evacuated or displaced from detention programs and runaway and homeless youth programs due to the disaster emergency; and

9. Paragraph (a) of subdivision (2) of Section 153-k and Section 398 of the Social Services Law and associated regulations, to the extent such provisions would preclude social services districts from making foster care payments to authorized agencies and preclude State reimbursement to a social services district for such costs from the district's foster care block grant for the days foster children were evacuated or displaced from regulated foster homes or congregate foster care facilities as a result of the disaster emergency; and

10. Sections 409-e and 409-f of the Social Services Law and associated regulations, to the extent social services districts or agencies are unable, due to the disaster emergency, to comply with those provisions of such regulations that establish timeframes for completion of documents in uniform case records and family and child assessments and service plans, provided such activities are completed as soon as practicable; and

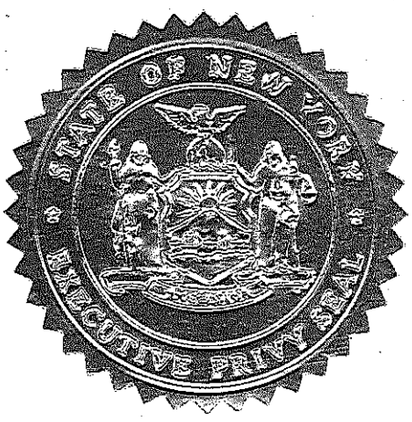
11. Paragraph (p) of subdivision (6) of Section 398 and subdivisions (1), (5) and (7) of Section 409-a of the Social Services Law and paragraph (16) of subdivision (b) of Section 423.2, subdivision (b) of Section 423.4, subdivisions (c) through (j) of Section 430.9 and Section 435.5 of Title 18 of the NYCRR, to the extent a social services district determines that, as a result of the disaster emergency, the limits on the length of time for the provision of preventive services or respite care and services, the limits on the maximum amounts of housing subsidy payments, or the limits on the location where respite care and services may be provided impede the social services district's ability to prevent a child's placement into foster care or to release a child sooner from foster care; provided, however, that the social services district may determine the maximum amount of housing subsidy payments it will pay above the limits set forth in such regulations; and

12. Part 404 of Title 18 of the NYCRR, to the extent social services districts are unable, as a result of the disaster emergency, to comply with timeframes for making eligibility and service authorization determinations and redeterminations for social services, provided such determinations and redeterminations are made as soon as practicable; and

13. Part 404 of Title 18 of the NYCRR, to the extent that such provisions would impede individuals from documenting eligibility because, as a result of the disaster emergency, they lost or are unable to access the documents necessary for them or their families to document their eligibility, provided such persons attest to their eligibility, in writing, and the social services district takes reasonable steps to verify such eligibility as soon as practicable; and

14. Part 405 of Title 18 of the NYCRR, to the extent such provisions limit the method by which social services districts may purchase items or services necessary to respond to the disaster emergency; and

15. Part 421 of Title 18 of the NYCRR, to the extent social services districts and adoption agencies are unable, as a result of the disaster emergency, to comply with the timeframes for contact with prospective adoptive parents and completion of home studies concerning prospective adoptive parents, provided such activities are completed as soon as practicable.



GIVEN under my hand and the Privy Seal of the State in the City of Albany this twentieth day of November in the year two thousand twelve.

BY THE GOVERNOR

Secretary to the Governor