OFFICE OF
THE GOVERNOR

NO. 22 FY 19/20
DATE March 26, 2020

AN ORDER INCREASING FLEXIBILITY IN SCHEDULING PHYSICAL EXAMS FOR CHILDREN ORDERED INTO THE CUSTODY OF DHHS FOR THEIR PROTECTION AND CONTAINMENT OF COVID-19

WHEREAS, the spread of the novel coronavirus disease referred to as COVID-19 has created a public health emergency; and

WHEREAS, COVID-19 is a highly contagious and sometimes fatal disease that has already infected over 44,180 persons and caused over 540 deaths in the United States; and

WHEREAS, the spread and identification of additional cases of COVID-19 in Maine is likely to continue, and therefore, taking proactive steps to prevent a substantial risk to public health and safety is paramount; and

WHEREAS, currently the Department of Health and Human Services ("DHHS") is required by 22 M.R.S. § 4063-A(1) to ensure that any child who enters into its custody receives a medical exam by a physician or nurse practitioner within ten working days after custody of the child begins; and

WHEREAS, in the face of the spread of COVID-19 and shortages of personal protective equipment for health care providers and others, prioritizing treatment of individuals who are currently ill maximizes provider capacity and aids containment of the virus; and

WHEREAS, the health of both children and foster parents will be better protected if their visits to the office of a physician or nurse practitioner are made, in accordance with guidance issued by the Office of Children and Families, at times when a child shows signs of being ill, the resource family has concerns to bring to the child's primary care provider, or visits are recommended by a medical provider to address specific medical issues, and taking into account that telehealth services are strongly encouraged during the COVID-19 emergency, all so that each child's health care needs are fully addressed; and

WHEREAS, under these circumstances suspending enforcement of the requirement for a physical exam within ten working days of a child's entering DHHS custody imposed by 22 M.R.S. § 4063-A(1) is warranted in order to meet the critical need to focus the services of health care providers on those who are ill and to reduce exposure of children and their resource families to COVID-19; and

WHEREAS, 37-B M.R.S.§ 742(1)(C)(1) and (13)(a) expressly authorize the Governor during a state of emergency to suspend enforcement of any statute prescribing procedures for the conduct of state business and to reasonably adjust time frames and deadlines imposed by law for state government if strict compliance with such requirements would in any way prevent, hinder or delay necessary action in dealing with the emergency; and

WHEREAS, pursuant to this authority and the general emergency management powers of the Governor under law, the temporary suspension of the enforcement of selected state laws and rules is necessary to facilitate the response to the current public health situation;

NOW, THEREFORE, I, Janet T. Mills, Governor of the State of Maine, pursuant to 37-B M.R.S. Ch. 13, including but not limited to 37-B M.R.S.§ 742(1)(C)(1) and (13)(a), do hereby Order the following:

I. ORDER

Enforcement of the requirement of Maine Revised Statutes, Title 22, Section 4063-A(1) that the Department of Health and Human Services ensure that any child who enters into its custody receives a medical exam by a physician or nurse practitioner within ten working days after custody of the child begins is hereby suspended unless the child shows symptoms of illness, the child's resource family has concerns to bring to the child's primary care provider, or visits are recommended by a medical provider to address specific medical issues.

The Office of Child and Family Services and the Department of Health and Human Services are directed to issue forthwith guidance to implement the provisions of this Order, including a clear explanation that this Order does not affect the expectation that each child's health care needs are to be fully and timely addressed and such care should be encouraged to be delivered through telehealth means during the COVID-19 public health emergency.

II. EFFECTIVE DATE

This Order is effective March 26, 2020 and shall remain in effect until rescinded or until the State of Civil Emergency to Protect Public Health is terminated, whichever occurs first.

Janet T. Mills
Governor