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STATE OF TENNESSEE  
**EXECUTIVE ORDER**  
BY THE GOVERNOR

No. 11

**AN ORDER TRANSFERRING  
CERTAIN FUNCTIONS OF THE DEPARTMENT OF FINANCE AND  
ADMINISTRATION  
(TENNCARE PROGRAM)  
TO THE  
DEPARTMENT OF HEALTH**

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**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**, the operations of State government have been reviewed by the Committee for Practical Government which has recommended consolidation of related programs for greater economy and efficiency, 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 currently in the Department of Finance and Administration should be transferred to the Department of Health;

**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 with the functions of the TennCare and Medicaid Program created and established in Tennessee Code Annotated Title 71, Chapter 5, Part 1 and the TennCare waiver approved pursuant to 42 U.S.C. 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 Finance and Administration be and are hereby transferred to be made a part of the Department of Health effective January 3, 1997, and that from and after January 3, 1997, 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. § 1315; and all functions of the Medicaid program under Title 71, Chapter 5, Part 1 which were not replaced by the TennCare program under the federal TennCare waiver, shall be administered by and shall be under the control of the Commissioner of the Department of Health. This does not affect the assignment of certain TennCare related functions to the Department of Commerce and Insurance by Paragraphs 10 and 11 of Executive Order Number 1 of January 26, 1995. This does not affect the statutory assignment of eligibility-related duties to the Department of Human Services in Title 71, Chapter 5, Part 1.
2. That from and after January 3, 1997, the Commissioner of the Department of Health shall perform all such duties and shall have the same authority and responsibility with regard to the TennCare programs and functions denominated in Paragraph 1 of this Executive Order as the Commissioner has with other divisions of the Department of Health. The Commissioner of the Department of Health shall also perform all duties related to, and shall have responsibility for, these programs and the administration of all statutory functions transferred under the provisions of paragraph 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 Health in cooperation with the Commissioner of Finance and Administration, and with the assistance and approval of the Department of Personnel; the Commissioner of Health shall cause to be transferred to the Department of Health any filled or unfilled, authorized and funded positions assigned to the transferred programs or directly or indirectly performing functions relating to the programs transferred. The Commissioner of Health shall, on or before January 3, 1997,

begin the process of transferring the aforesaid positions and employees and shall complete the process in due time.

4. In accordance with the schedule for transferring positions and employees, the 1996-1997 fiscal year appropriations to the Department of Finance and Administration for the operation of the transferred programs and for the administration of the statutory functions transferred under the provisions of paragraph 1 of this executive order and the rules and regulations, orders and policies effectuated thereunder shall be transferred to the Department of Health, and the Department of Finance and Administration shall revise the present work programs as well as future budgets of the affected Departments to reflect the effect of this executive order.

5. That all personal property, equipment and other materials made available to the Department of Finance and Administration 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 Health.

6. That on or after January 3, 1997 , the Department of Health, 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 transferred programs or their functions.

7. That all contracts or leases entered into prior to January 3, 1997 , by the Department of Finance and Administration 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 January 3, 1997, 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 Health unless and until such contracts or leases are amended or modified by the parties thereto.

8. That all current rules, regulations, orders, decisions and policies heretofore issued or promulgated by the Department of Finance and Administration pursuant to the provisions of those statutes whose functions have been transferred under the provisions of paragraph 1 of this executive order shall remain in full force and effect and shall hereafter be administered

and enforced by the Department of Health. To this end, the Department of Health, 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.

9. That the Commissioner of the Department of Health has authority to hear all administrative law cases currently pending before the Commissioner of Finance and Administration with respect to the responsibilities, functions, and programs which have been transferred pursuant to paragraph 1 of this order. The Commissioner of Health has the authority to enforce any rights and obligations owed to the Department of Finance and Administration relating to the programs or functions transferred.

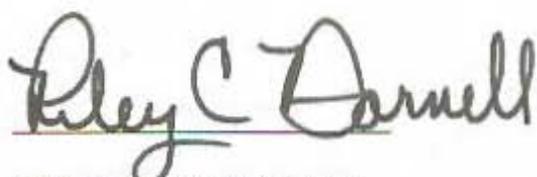
10. That it is my intent to transfer all statutory and related functions to the Department of Health that may be necessary for implementation and continued administration of the programs and functions set forth in paragraph 1 of this Order.

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.

IN WITNESS WHEREOF, I have subscribed my signature and caused the Great Seal of the State of Tennessee to be affixed this the 3rd day of January, 1997.

  
GOVERNOR

ATTEST:

  
SECRETARY OF STATE

