

EXECUTIVE ORDER NO. 377

WHEREAS, access to affordable quality health care is critical to the physical, mental, and economic wellbeing of the residents, families, communities, and businesses in the State; and

WHEREAS, health care and prescription drug cost growth continue to be a challenge nationwide and for New Jersey residents, families, and employers, including the State, and threaten to outpace the growth of the State's economy and residents' wages; and

WHEREAS, the steadily increasing costs of health care and prescription drugs have limited access to quality health care for lower- and middle-income residents and elderly residents alike; and

WHEREAS, planning for improved consumer affordability, health care quality, integration of health care delivery, reform of payment systems to reward value, cost transparency, and taxpayer savings, achieved through coordination among State agencies, is essential to effectively manage costs and improve health care delivery; and

WHEREAS, it is the policy of this State, as a key part of its efforts to improve health care affordability, accessibility, and transparency, that New Jersey must pursue opportunities Administration-wide and across the public and private sectors to improve health outcomes while reducing the rate of growth of health care costs; and

WHEREAS, on May 30, 2018, the State enacted the "New Jersey Health Insurance Premium Security Act," P.L.2018, c.24, establishing a reinsurance program to reimburse insurers for certain high-cost claims in the insurance market, lowering premiums compared to what they would have been without the program; and

WHEREAS, on June 1, 2018, the State enacted the "Out-of-network Consumer Protection, Transparency, Cost Containment and Accountability Act ("the Act")," P.L.2018, c.32, in which the Legislature declared that it is in the public interest "to reform the health care delivery system in New Jersey to enhance consumer protections, create a system to resolve certain health care billing disputes, [and] contain rising costs"; and

WHEREAS, the Act requires providers and insurers to provide detailed disclosures regarding out-of-network charges, restricts the amount a provider may charge in excess of a deductible, copayment, or coinsurance amount applicable to in-network services pursuant to the covered person's health benefits plan, and implements an arbitration process for out-of-network billing disputes between insurance carriers and providers; and

WHEREAS, on June 28, 2019, the State enacted P.L.2019, c.141, authorizing the Commissioner of the Department of Banking and Insurance ("DOBI") to operate a State-Based Health Exchange in New Jersey, through which residents who do not have coverage from an employer or other program may enroll in minimum essential coverage, and to oversee the State-Based Health Exchange "to ensure the best interests of and protection for consumers of the State"; and

WHEREAS, on January 16, 2020, the State enacted a package of bills that codify into State law the basic protections of the Affordable Care Act, which include establishing protections for no-cost preventative care and contraception, prohibiting exclusions for pre-existing conditions, allowing children to stay on their parents' plan until age 26, and incorporating mental health and maternity care as part of essential benefits; and

WHEREAS, on January 21, 2020, the State enacted P.L.2019, c.472, limiting cost sharing for prescription drugs under certain health plans and later enacted P.L.2023, c.105, capping out-of-

pocket costs for insulin products, epinephrine auto-injector devices, and prescription asthma inhalers across insurance providers; and

WHEREAS, on July 31, 2020, the State enacted P.L.2020, c.61, continuing the repealed federal Health Insurance Tax as the New Jersey Health Insurer Assessment, the revenue generated from which is used for the purposes of increasing affordability in the individual market and providing greater access to health insurance to the uninsured; and

WHEREAS, in 2020, the Office of Health Care Affordability and Transparency was formed to help guide my Administration's work on health care affordability and price transparency; and

WHEREAS, the Office of Health Care Affordability and Transparency has worked with the DOBI, the Department of Health ("DOH"), the Department of Human Services ("DHS"), and the Department of the Treasury ("Treasury") to advance affordability, accessibility, and transparency in the health care system; and

WHEREAS, on January 28, 2021, I signed Executive Order No. 217, which created an Interagency Health Care Affordability Working Group ("Working Group") consisting of representatives from the DOBI, the DOH, the DHS, the Treasury, and the Division of Consumer Affairs to advise the State on the development of a health care cost growth benchmark and related activities to ensure access to high-quality, affordable, and equitable health care for all New Jerseyans; and

WHEREAS, the Working Group generated a framework for a health care cost growth benchmark program, which was designed to promote increased transparency and accountability for health care spending and slow the rate of health care spending growth; and

WHEREAS, on December 21, 2021, I signed Executive Order No. 277, which established a program -- now called the Health Care Affordability, Responsibility, and Transparency ("HART") Program -- to mitigate the long-term rate of health care cost growth by setting cost growth benchmarks and analyzing data to better understand cost growth and key cost drivers; and

WHEREAS, Executive Order No. 277 (2021) also established the Benchmark Implementation Advisory Group, consisting of State officials and public members who advise the Working Group and the DOBI on implementation of the health care cost growth benchmark program; and

WHEREAS, the HART Program has been jointly administered by the Office of Health Care Affordability and Transparency and the DOBI, in consultation with the Benchmark Implementation Advisory Group; and

WHEREAS, in December 2021, stakeholders from across New Jersey came together and signed a Compact to Reduce the Rate of Health Care Spending Growth in New Jersey, publicly committing to work together to make health care more affordable in the State and to support the HART Program as a health care affordability strategy that will also promote transparency of health care spending and understanding of the drivers of spending growth; and

WHEREAS, in March 2022, my Administration released a blueprint for the HART Program, detailing plans to ensure that health care costs do not grow faster than our State's economy or the median family income; and

WHEREAS, three reports commissioned by the HART Program were released in September 2024, including the first annual cost growth benchmark report, covering the period of 2018 through 2019; a report on health care spending trends for New Jersey residents with commercial insurance, covering the period of 2016 through

2021; and a health care landscape report summarizing New Jersey's performance on a select set of measures of quality, access, and affordability; and

WHEREAS, the HART Program relies upon data to which the Commissioner of DOBI has access under various provisions of law, including but not limited to N.J.S.A. 17B:30-30, N.J.S.A. 17B:30-31, N.J.A.C. 11:24-3.8, and N.J.A.C. 11:23-3.2; and

WHEREAS, pursuant to the Health Care Facilities Planning Act, N.J.S.A. 26:2H-1 et seq., the DOH is authorized to license, regulate, and oversee health care facilities in New Jersey, including hospitals; and

WHEREAS, the DOH plays a central role in improving the health and well-being of all New Jerseyans and supporting public health planning and efforts to address health disparities through data-driven initiatives; and

WHEREAS, utilizing such authority, as well as the authority granted by N.J.S.A. 26:2H-5.1b, the DOH requires all licensed New Jersey hospitals to comply with certain financial reporting requirements, and supports increased transparency through public reporting and posting of hospital financial data in order to monitor the overall financial health and wellness of hospitals as part of broader work related to health care costs and affordability; and

WHEREAS, centralizing oversight of the HART Program and the Office of Health Care Affordability and Transparency in a single department will increase government efficiency and promote sustainability of the Administration's efforts to ensure health care affordability and transparency;

NOW, THEREFORE, I, PHILIP D. MURPHY, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby ORDER and DIRECT:

1. The Office of Health Care Affordability and Transparency shall be continued and reestablished within the DOH.

2. The Interagency Health Care Affordability Working Group established in Executive Order No. 217 (2021) shall be chaired by the Commissioner of the DOH, or designee, replacing the Director of the Office of Health Care Affordability and Transparency as chair.

3. Executive Order No. 217 (2021) shall remain in full force and effect except insofar as it is superseded by Paragraph 7 of Executive Order No. 277 (2021) and Paragraphs 1 and 2 of this Order.

4. The functions and duties assigned to the DOBI in Executive Order No. 277 (2021) are hereby reassigned to the DOH, except insofar as they are statutorily assigned to the DOBI. The DOH and the DOBI shall coordinate with each other to ensure the effective transition of functions and duties and the effective implementation of the HART Program once the transition is complete.

5. Executive Order No. 277 (2021) shall remain in full force and effect except insofar as it is superseded by Paragraph 4 of this Order.

6. The departments, offices, divisions, or agencies of this State shall take all necessary actions consistent with applicable law to implement this Order, including but not limited to assignment or amendment of relevant contracts, memorandums of understanding, and other agreements, and reallocation of personnel.

7. Each department, office, division, or agency of this State is hereby required, to the extent not inconsistent with law, to cooperate fully with the DOH, within the limits of its statutory authority, and to furnish it with such data as is required to assess performance against the health care cost growth benchmark.

8. This Order shall take effect immediately.

GIVEN, under my hand and seal this
17th day of January,
Two Thousand and Twenty-Five,
and of the Independence of
the United States, the Two
Hundred and Forty-Ninth.

[seal]

/s/ Philip D. Murphy

Governor

Attest:

/s/ Kate E. McDonnell

Chief Counsel to the Governor