

EXECUTIVE ORDERS

Executive Order No. 113.102: Temporary Suspension of Provisions Relating to Out-of-State Law Enforcement Officers Serving as Railroad Police Officers.

WHEREAS, on September 11, 2001, I issued Executive Order Number 113 declaring a disaster emergency in the State of New York;

WHEREAS, the attacks of September 11, 2001 have demonstrated that there are terrorists at home and abroad that seek to do us harm;

WHEREAS, no State has done more than New York since September 11, 2001 to ensure the safety and security of the people within its borders and its critical infrastructure;

WHEREAS, we must be vigilant in our efforts to protect against terrorist attacks;

WHEREAS, the States of Connecticut and New Jersey have agreed to deploy police officers from their states to provide increased security on commuter trains going to and from New York State;

WHEREAS, to fully utilize the police resources provided by our sister states, we must confer police officer powers on such officers while they are within the geographic jurisdiction of New York State;

WHEREAS, Railroad Law § 88 authorizes the Superintendent of State Police to appoint any person as a railroad police officer only under prescribed circumstances and subject to certain limitations;

WHEREAS, such circumstances and limitations should not be applied to sworn police officers from our sister states serving as railroad police officers and would prevent, hinder and delay action necessary to cope with the aftermath of the September 11, 2001 attacks and the heightened risk of terrorist attacks; and

WHEREAS, Executive Law § 29-a authorizes the suspension, alteration and 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 disaster emergency;

NOW, THEREFORE, I, GEORGE E. PATAKI, Governor of the State of New York, by virtue of the authority vested in me by the Constitution and Laws of the State of New York, do hereby continue Executive Order Number 113, dated September 11, 2001, except that such Executive Order is amended by adding the following provisions:

FURTHER, pursuant to the authority vested in me by Section 29-a of Article 2-B of the Executive Law to temporarily suspend and 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 disaster, I hereby temporarily suspend and modify, for the period from the date of this Executive Order until further notice, the following laws for purposes of appointment of sworn police officers of the State of Connecticut or sworn police officers of any county or municipality in the State of Connecticut, or sworn police officers of the State of New Jersey or sworn police officers of any county or municipality in the State of New Jersey as Railroad Police:

Subdivision 1 of Section 88 of the Railroad Law, is suspended insofar as it requires the Superintendent of the New York State Police to appoint railroad police officers only upon the application of a corporation, express company, or steamboat company, and is modified to the extent

necessary to include all rail facilities owned or operated by the Port Authority of New York and New Jersey or its subsidiaries, the Metropolitan Transit Authority or its subsidiaries, New Jersey Transit or its subsidiaries, and ferries certified to carry passengers to and from New York State;

Subdivisions 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 15 and 16 of Section 88 of the Railroad Law; and

Subdivision 17 of Section 88 of the Railroad Law, insofar as it relates to the filing requirements by the Superintendent of the New York State Police and the mailing of notice of suspension or revocation of appointments made pursuant to Section 88 of the Railroad Law and is modified so as to require the Superintendent of the New York State Police to mail notice of suspension or revocation of any such appointments to the Superintendent of the State Police of either New Jersey or Connecticut, whichever is appropriate.

(L.S.)

GIVEN under my hand and the Privy Seal of the State in the City of Albany, this fourth day of August in the year two thousand five.

BY THE GOVERNOR

/S/ George E. Pataki

/s/ John C. Cahill

Secretary to the Governor

Executive Order No. 140: Establishing the Position of Medicaid Inspector General.

WHEREAS, the State has a continuing responsibility to ensure that funds expended under the Medicaid program are used appropriately and efficiently to promote public health;

WHEREAS, fraud, waste and abuse by providers and recipients in the Medicaid program reduces the ability of the State to properly fund the program and results in harm to the health of the State's citizens;

WHEREAS, controlling fraud, waste and abuse in the Medicaid program includes preventing, detecting, and investigating such fraud, waste and abuse, and referring such fraud, waste and abuse for civil or criminal action where appropriate;

WHEREAS, the system by which New York State currently controls Medicaid fraud, waste and abuse was created in response to the exposure of widespread and shocking abuses in the State's nursing home industry by the Temporary State Commission on Living Costs and the Economy in late 1974;

WHEREAS, the current system is based largely on formal and informal agreements among the State Department of Health, the Medicaid Fraud Control Unit of the State Department of Law, the Office of the State Comptroller and other local, State, and federal agencies whose clients are served by the Medicaid program, or who are otherwise responsible for the control of Medicaid fraud, waste and abuse;

WHEREAS, New York State's current efforts to control Medicaid fraud, waste and abuse range from investigating providers before they enroll in the Medicaid program, to removing providers from the program when it is determined that there are clear patient safety issues, and to

identifying fraud, waste and abuse on the part of both providers and recipients;

WHEREAS, as a result of these activities, and due to tremendous investments in detection systems upgrades and improvements, the Department of Health has recouped, withheld or avoided the unnecessary spending of approximately \$9.3 billion in the Medicaid program from 1999 through 2004;

WHEREAS, we must nonetheless continue to expand and build upon current efforts to control fraud, waste and abuse in the Medicaid program;

WHEREAS, changes in federal and state laws, as well as in the health care industry and in available technology, suggest that it is time for a comprehensive review of the State's fraud, waste and abuse control infrastructure;

WHEREAS, toward that end, I have appointed an outside expert to conduct such a review and recommend any fundamental, long-term structural changes necessary to further improve the State's Medicaid fraud, waste and abuse control efforts;

WHEREAS, while we examine and prepare to implement such fundamental, long-term structural changes, the immediate coordination of the State's efforts to control Medicaid fraud, waste and abuse at all levels of government is essential;

NOW, THEREFORE, I, GEORGE E. PATAKI, Governor of the State of New York, by virtue of the authority vested in me by the Constitution and the Laws of the State of New York, do hereby direct by Executive Order, the following:

1. There is hereby established in the Executive Department the position of Medicaid Inspector General of the State of New York, who shall be appointed by, and serve at the pleasure of, the Governor. The responsibilities of the Medicaid Inspector General shall include:

- a. Coordinating the Medicaid fraud, waste and abuse control activities of State executive agencies whose clients are served by Medicaid, including the Department of Health, the Office of Mental Health, the Office of Mental Retardation and Developmental Disabilities, the Office of Alcoholism and Substance Abuse Services, the Office of Children and Family Services and the State Education Department;
- b. Developing multi-agency investigation teams to work in concert with the Office of the Attorney General, the Office of the State Comptroller, the Office of the Welfare Inspector General and county law enforcement officials;
- c. Reporting directly to the Secretary to the Governor on progress and accomplishments;
- d. Recommending legislative, policy and structural changes needed to strengthen the integrity of the Medicaid program;
- e. Focusing attention and State resources on efforts to control Medicaid fraud, waste and abuse;
- f. Ensuring continual improvement in the coordination and effectiveness of agency performance;
- g. Periodically consulting with the Medicaid Fraud Control Advisory Council established herein concerning its recommendations regarding Medicaid fraud, waste and abuse control;
- h. Jointly developing, implementing and integrating new technologies for assisting in the control of Medicaid fraud, waste and abuse; and
- i. Identifying the staff in each participating agency who are primarily accountable for specific Medicaid fraud, waste and abuse control outcomes, and recommending the structural changes and logistical support necessary to ensure such accountability.

2. Pursuant to section six of the Executive Law and other applicable laws, the Medicaid Inspector General shall have the power to:

- a. subpoena and enforce the attendance of witnesses;
- b. administer oaths or affirmations and examine witnesses under oath;
- c. require the production of any books and records deemed relevant or material to any investigation, examination or review;
- d. examine and copy or remove documents or records of any kind prepared, maintained or held by any agency whose clients are served by the Medicaid program, or who are otherwise responsible for the control of Medicaid fraud, waste and abuse;
- e. monitor the implementation by agencies whose clients are served by the Medicaid Program, or who are otherwise responsible for the control of Medicaid fraud, waste and abuses, of any recommendations made by Medicaid inspector general;
- f. perform any other functions that are necessary or appropriate to fulfill the duties and responsibilities of office.

3. There is hereby established in the Executive Department a Medicaid Fraud Control Advisory Council. The members of the Medicaid Fraud Control Advisory Council shall be appointed by, and serve at the pleasure of, the Governor. The Governor shall designate the chair from among the members. The Advisory Council shall be comprised of at least seventeen members, including: a representative from the New York State Association of Counties; a representative from the District Attorney's Association of the State of New York; and a representative from each of the following state agencies:

- a. State-Department of Health;
- b. Medicaid Fraud Control Unit of the State Department of Law;
- c. Office of the State Comptroller;
- d. State Commission on Quality of Care & Advocacy for the Disabled;
- e. State Department of Insurance;
- f. State Office of Temporary and Disability Assistance;
- g. State Office of Mental Health;
- h. State Office of Mental Retardation and Developmental Disabilities;
- i. State Office of Alcoholism and Substance Abuse Services;
- j. State Office of Children and Family Services;
- k. State Division of the Budget;
- l. State Office of Welfare Inspector General;
- m. State Education Department;
- n. State Division of Criminal Justice Services; and
- o. State Office for Technology.

4. The Advisory Council shall advise the Medicaid Inspector General and other State agencies in regard to efforts to control Medicaid fraud, waste and abuse. In this regard, the Advisory Council shall receive the cooperation of all State agencies and shall, in conjunction with the Medicaid Inspector General:

- a. Develop recommendations for improved coordination among those agencies responsible for controlling Medicaid fraud, waste and abuse;
- b. Develop recommendations and proposed legislation for additional Medicaid fraud, waste and abuse control activities;
- c. Identify Medicaid fraud, waste and abuse control activities in other states and at the federal level to determine their applicability for New York; and
- d. Evaluate new technologies to be used to control Medicaid fraud, waste and abuse.

5. The State Medicaid Fraud Control Advisory Council shall prepare an annual report for the Governor, Temporary President of the State Senate and Speaker of the State Assembly. This report shall provide an overview of the State's efforts to control Medicaid fraud, waste and abuse during the previous state fiscal

year and shall include recommendations for legislation and other initiatives. The report shall be issued on October 1, 2006 and annually thereafter.

(L.S.) GIVEN under my hand and the Privy Seal of the State in the City of Albany, this fifth day of August in the year two thousand five.

BY THE GOVERNOR
/S/ George E. Pataki
/s/ John C. Cahill
Secretary to the Governor