

## EXECUTIVE REORGANIZATION ORDER No. 45

By Governor Laura Kelly

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1 Section 1. (a) There is hereby established, within the department of  
2 administration, the division of the state employee health benefits plan. The  
3 head of the division shall be the director of the state employee health  
4 benefits plan, who shall be appointed by and serve under the direction of  
5 the secretary of administration. The director shall be in the unclassified  
6 service under the Kansas civil service act and shall receive an annual  
7 salary fixed by the secretary of administration and approved by the  
8 governor.

9 (b)(1) The secretary of administration shall appoint, in accordance with  
10 the provisions of the Kansas civil service act, such employees as maybe  
11 needed, in the judgment of the secretary and director, to carry out the  
12 powers and duties of the state employee health benefits plan.

13 (2) All officers and employees of the division of the state employee  
14 health benefits plan shall act for and exercise the powers of the director of  
15 the state employee health benefits plan to the extent that authority to do so  
16 is delegated by the secretary and director. Subject to the provisions of  
17 K.S.A. 75-3702j, and amendments thereto, the secretary and director may  
18 organize the division of the state employee health benefits plan in the  
19 manner deemed most efficient.

20 Sec. 2. All powers, duties and functions of the staff of the division of  
21 health care finance of the department of health and environment  
22 established in K.S.A. 65-1,252 through 65-1,258, and amendments thereto,  
23 K.S.A. 75-7405(c)(7) and (8), and K.S.A. 75-6501 through 75-6523 and  
24 amendments thereto involving the administration of the state employee  
25 health benefits plan are hereby transferred to and imposed upon the  
26 department of administration, under the direction of the secretary of  
27 administration, and its division of the state employee health benefits plan,  
28 under the direction of the director of the state employee health benefits  
29 plan.

30 Sec. 3. (a) The department of administration and the division of the  
31 state employee health benefits plan shall be the successor in every way to  
32 the powers, duties and functions of the division of health care finance of  
33 the department of health and environment involving the administration of  
34 the state employee health benefits plan in which the same were vested  
35 pursuant to K.S.A. 65-1,252 through 65-1,258, and amendments thereto,  
36 and that are transferred pursuant to this order.

1 (b) Every act performed in the exercise of such transferred powers,  
2 duties and functions by or under the authority of the department of  
3 administration and the division of the state employee health benefits plan,  
4 the secretary of administration or the director of the state employee health  
5 benefits plan, involving the administration of the state employee health  
6 benefits plan, shall be deemed to have the same force and effect as if  
7 performed by the division of health care finance of the department of  
8 health and environment in which the same were vested pursuant to K.S.A.  
9 65-1,252 through 65-1,258, and amendments thereto, in which such  
10 powers, duties and functions were vested prior to the effective date of this  
11 order.

12 (c) Whenever the division of health care finance of the department of  
13 health and environment or words of like effect are referred to or designated  
14 by a statute, contract, memorandum of agreement or other document and  
15 such reference is in regard to any of the powers, duties or functions  
16 transferred to the department of administration and its division of the state  
17 employee health benefits plan, such reference or designation shall be  
18 deemed to apply to the department of administration and the division of  
19 the state employee health benefits plan.

20 (d) All rules and regulations, orders and directives of the division of  
21 health care finance of the department of health and environment that relate  
22 to the functions transferred by this order and that are in effect on the  
23 effective date of this order, shall continue to be effective and shall be  
24 deemed to be rules and regulations, orders and directives of the secretary  
25 of administration until revised, amended, repealed or nullified pursuant to  
26 law.

27 Sec. 4. (a) The balances of all funds or accounts thereof appropriated or  
28 re-appropriated for the division of health care finance of the department of  
29 health and environment or any state agency, department, board,  
30 commission or council, relating to the powers, duties and functions  
31 involving the administration of the state employee health benefits plan by  
32 K.S.A. 65-1,252 through 65-1,258, and amendments thereto, are hereby  
33 transferred within the state treasury to the department of administration for  
34 the division of the state employee health benefits plan and shall be used  
35 only for the purpose for which the appropriation was originally made.

36 (b) Liability for all accrued compensation or salaries of officers and  
37 employees who are transferred to the department of administration and the  
38 division of the state employee health benefits plan pursuant to this order  
39 shall be assumed and paid by the division of the state employee health  
40 benefits plan of the department of administration.

41 Sec. 5. (a) When any conflict arises as to the disposition of any  
42 property, power, duty or function or the unexpended balance of any  
43 appropriation as a result of any abolition or transfer made by or under this

1 order, such conflict shall be resolved by the governor, whose decision shall  
2 be final.

3 (b) The division of the state employee health benefits plan in the  
4 department of administration shall succeed to all property, property rights,  
5 contracts and records that were used for or pertain to the performance of  
6 powers, duties and functions involving the administration of the state  
7 employee health benefits plan that were transferred to the division of  
8 health care finance in the department of health and environment pursuant  
9 to K.S.A. 65-1,252 through 65-1,258, and amendments thereto. Any  
10 conflict as to the proper disposition of property, personnel or records  
11 arising under the provisions of this order, shall be determined by the  
12 governor, whose decision shall be final.

13 Sec. 6. (a) No suit, action or other proceeding, judicial or  
14 administrative, lawfully commenced, or that could have been commenced,  
15 by or against any state agency or program mentioned in K.S.A. 65-1,252  
16 through 65-1,258, and amendments thereto, or by or against any officer of  
17 the state in such officer's official duties, shall abate by reason of the  
18 governmental reorganization effected under the provisions of this order.  
19 The court may allow any such suit, action or other proceeding to be  
20 maintained by or against the successor of any such state agency or any  
21 officer affected.

22 (b) No criminal action commenced or that could have been commenced  
23 by the state shall abate by the taking effect of this order.

24 Sec. 7. (a) All officers and employees of the division of health care  
25 finance of the department of health and environment who, immediately  
26 prior to the effective date of this order, are engaged in the exercise and  
27 performance of the powers, duties and functions involving the  
28 administration of the state employee health benefits plan and transferred  
29 by this order, as well as all officers and employees of the department of  
30 health and environment who are determined by the secretary of  
31 administration to be engaged in providing administrative, technical or  
32 other support services that are essential to the exercise and performance of  
33 the powers, duties and functions transferred by this order, are hereby  
34 transferred to the division of the state employee health benefits plan of the  
35 department of administration. All classified officers and employees so  
36 transferred shall retain their status as classified employees.

37 (b) Officers and employees of the division of health care finance of the  
38 department of health and environment transferred by this order shall retain  
39 all retirement benefits and leave balances and rights that had accrued or  
40 vested prior to the date of transfer. The service of each such officer  
41 employee so transferred shall be deemed to have been continuous. Any  
42 subsequent transfers, layoffs or abolition of classified service positions  
43 under the Kansas civil service act shall be made in accordance with the

1 civil service laws and any rules and regulations adopted thereunder.  
2 Nothing in this order shall affect the classified status of any transferred  
3 person employed by the division of health care finance of the department  
4 of health and environment prior to the date of transfer.

5 (c) Notwithstanding the effective date of this order, the provisions of  
6 this order prescribing the transfer of officers and employees from the  
7 division of health care finance of the department of health and  
8 environment to the division of the state employee health benefits plan of  
9 the department of administration shall commence at the start of a payroll  
10 period.

11 Sec. 8. (a) All powers, duties and functions of the staff of the  
12 department of health and environment established in K.S.A. 44-575  
13 through 44-580, and amendments thereto, involving the administration of  
14 the state workers compensation self-insurance fund are hereby transferred  
15 to and imposed upon the department of administration, under the direction  
16 of the secretary of administration, and its division of the state employee  
17 health benefits plan, under the direction of the director of the state  
18 employee health benefits plan.

19 (b) The secretary of administration shall administer the state workers  
20 compensation self-insurance fund and all payments from such fund shall  
21 be upon warrants of the director of accounts and reports issued pursuant to  
22 vouchers approved by the secretary of administration or a person or  
23 persons designated by the secretary. The director of accounts and reports  
24 may issue warrants pursuant to vouchers approved by the secretary for  
25 payments from the state workers compensation self-insurance fund not-  
26 withstanding the fact that claims for such payments were not submitted or  
27 processed for payment from money appropriated for the fiscal year in  
28 which the state workers compensation self-insurance fund first became  
29 liable to make such payments.

30 (c) The secretary of administration shall remit all moneys received by  
31 or for the secretary in the capacity as administrator of the state workers  
32 compensation self-insurance fund, to the state treasurer in accordance with  
33 the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt  
34 of each such remittance, the state treasurer shall deposit the entire amount  
35 in the state treasury to the credit of the state workers compensation self-  
36 insurance fund.

37 (d) The balances of all funds or accounts thereof appropriated or re-  
38 appropriated for the division of health care finance of the department of  
39 health and environment or any state agency, department, board,  
40 commission or council, relating to the powers, duties and functions  
41 involving the administration of the state workers compensation self-  
42 insurance fund are hereby transferred within the state treasury to the  
43 department of administration for the division of the state employee health

1 benefits plan and shall be used only for the purpose for which the  
2 appropriation was originally made. Liability for all accrued compensation  
3 or salaries of officers and employees who are transferred to the department  
4 of administration and the division of the state employee health benefits  
5 plan pursuant to this order shall be assumed and paid by the division of the  
6 state employee health benefits plan of the department of administration.

7 (e) There is hereby established the state workplace health and safety  
8 program within the state workers compensation self-insurance program of  
9 the department of administration. The secretary of administration shall  
10 implement and the division of industrial health and safety of the Kansas  
11 department of labor shall assist in administering the state workplace health  
12 and safety program for state agencies. The state workplace health and  
13 safety program shall include, but not be limited to:

14 (1) Workplace health and safety hazard surveys in all state agencies,  
15 including onsite interviews with employees;

16 (2) workplace health and safety hazard prevention services, including  
17 inspection and consultation services;

18 (3) procedures for identifying and controlling workplace hazards;

19 (4) development and dissemination of health and safety informational  
20 materials, plans, rules and work procedures; and

21 (5) training for supervisors and employees in healthful and safe work  
22 practices.

23 (f) Except as provided in this order, the secretary of administration shall  
24 be the successor in every way to the powers, duties and functions of the  
25 secretary of health and environment that relate to the state workers  
26 compensation self-insurance fund, in which the same were vested prior to  
27 the effective date of this order.

28 (g) All orders and directives of the secretary of health and environment  
29 that relate to the state workers compensation self-insurance fund in  
30 existence immediately prior to the effective date of this order shall  
31 continue to be effective and shall be deemed to be the orders or directives  
32 of the secretary of administration, until revised, amended, repealed or  
33 nullified pursuant to law.

34 (h) The secretary of administration shall succeed to all property,  
35 property rights, contracts and records that were used for or pertain to the  
36 performance of the powers, duties and functions transferred to the  
37 secretary of administration from the division of the state workers  
38 compensation self-insurance fund of the department of health and  
39 environment pursuant to this order. Any conflicts as to the proper  
40 disposition of property, property rights, contracts and records arising under  
41 this section shall be resolved by the governor, whose decision shall be  
42 final.

43 (i) All officers and employees of the division of the state workers

1 compensation self-insurance fund of the department of health and  
2 environment who, immediately prior to the effective date of this order, are  
3 engaged in the exercise and performance of the powers, duties and  
4 functions involving the administration of the state workers compensation  
5 self-insurance fund and transferred by this order, as well as all officers and  
6 employees of the department of health and environment who are  
7 determined by the secretary of administration to be engaged in providing  
8 administrative, technical or other support services that are essential to the  
9 exercise and performance of the powers, duties and functions transferred  
10 by this order, are hereby transferred to the department of administration,  
11 under the direction of the secretary of administration, and its division of  
12 the state employee health benefits plan. All classified officers and  
13 employees so transferred shall retain their status as classified employees.

14 (j) Officers and employees of the division of the state workers  
15 compensation self-insurance fund of the department of health and  
16 environment transferred by this order shall retain all retirement benefits  
17 and leave balances and rights that had accrued or vested prior to the date  
18 of transfer. The service of each such officer or employee so transferred  
19 shall be deemed to have been continuous. Any subsequent transfers,  
20 layoffs or abolition of classified service positions under the Kansas civil  
21 service act shall be made in accordance with the civil service laws and any  
22 rules and regulations adopted thereunder. Nothing in this order shall affect  
23 the classified status of any transferred person employed by the division of  
24 the state workers compensation self-insurance fund of the department of  
25 health and environment prior to the date of transfer.

26 Sec. 9. (a) All claims for compensation under the workers  
27 compensation act against any state agency for claims arising on and after  
28 July 1, 1974, and claims for compensation remaining from the self-  
29 insurance program which existed prior to July 1, 1974, for institutional  
30 employees of the commission of community services and programs of the  
31 Kansas department for aging and disability services shall be made against  
32 the state workers compensation self-insurance fund. Such claims shall be  
33 served upon the secretary of administration in the secretary's capacity as  
34 administrator of the state workers compensation self-insurance fund in the  
35 manner provided for claims against other employers under the workers  
36 compensation act. The chief attorney for the department administration, or  
37 another attorney of the department of administration designated by the  
38 chief attorney, shall represent and defend the state workers compensation  
39 self-insurance fund in all proceedings under the workers compensation act.

40 (b) The secretary of administration shall investigate, or cause to be  
41 investigated, each claim for compensation against the state workers  
42 compensation self-insurance fund. For the purposes of such investigations,  
43 the secretary of administration is authorized to obtain expert medical

1 advice regarding the injuries, occupational diseases and disabilities  
 2 involved in such claims. If ,based upon such investigation and any other  
 3 available information, the secretary of administration finds that there is no  
 4 material dispute as to any issue involved in the claim, that the claim is  
 5 valid and that the claim should be settled by agreement, the secretary of  
 6 administration may proceed to enter into such an agreement with the  
 7 claimant, for the state workers compensation self-insurance fund. Any  
 8 such agreement may provide for lump-sum settlements subject to approval  
 9 by the director and all such agreements shall be filed in the office of the  
 10 director for approval as provided in K.S.A. 44-527, and amendments  
 11 thereto. All other claims for compensation against such fund shall be paid  
 12 in accordance with the workers compensation act pursuant to final awards  
 13 or orders of an administrative law judge or the board or pursuant to orders  
 14 and findings of the director under the workers compensation act.

15 (c) For purposes of the workers compensation act, a volunteer member  
 16 of a regional emergency medical response team as provided in K.S.A. 48-  
 17 928, and amendments thereto, shall be considered a person in the service  
 18 of the state in connection with authorized training and upon activation for  
 19 emergency response, except when such duties arise in the course of  
 20 employment or as a volunteer for an employer other than the state.

21 Sec. 10. The secretary of administration may adopt rules and  
 22 regulations necessary for the administration of the state workers  
 23 compensation self-insurance fund, including the processing and settling of  
 24 claims for compensation made against such fund.

25 Sec. 11. All provisions of this order shall take effect and have force of  
 26 general law on July 1, 2020, unless disapproved by either house of the  
 27 Kansas legislature as provided by subsection (c) of section 6 of article 1 of  
 28 the constitution of Kansas, and unless so disapproved, this order is to be  
 29 published as and with the acts of the legislature and statutes of this state.

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DONE AT the Capitol in Topeka  
 Under the Great Seal of the State  
 of Kansas this \_\_\_\_\_ day  
 of \_\_\_\_\_ 2020.

BY THE GOVERNOR:

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 Laura Kelly

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 Secretary of State of Kansas

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 Asst. Secretary of State of Kansas