



State of North Carolina

ROY COOPER
GOVERNOR

October 9, 2024

EXECUTIVE ORDER NO. 319

MEETING NORTH CAROLINA'S HEALTH AND HUMAN SERVICES NEEDS IN SUPPORT OF HURRICANE HELENE RELIEF EFFORTS

WHEREAS, Hurricane Helene ("Helene") entered the State of North Carolina on September 26, 2024 as a tropical storm; and

WHEREAS, Helene has inflicted significant damage on public and private property; and

WHEREAS, impacts from Helene constitute a State of Emergency, as defined in N.C. Gen. Stat. § 166A-19.3(19); and

WHEREAS, on September 25, 2024, the undersigned issued Executive Order No. 315, which declares a State of Emergency and provides for the health, safety, and welfare of residents and visitors located in North Carolina ("Declaration of a State of Emergency"); and

WHEREAS, Executive Order No. 315 invokes the Emergency Management Act, and authorizes the Governor to exercise the powers and duties set forth therein to direct and aid in the response to, recovery from, and mitigation against emergencies; and

WHEREAS, on September 26, 2024, the President of the United States issued an emergency declaration, FEMA-3617-EM, for the State of North Carolina, providing, in part, for Public Assistance-Category B, including direct federal assistance to the State; and

WHEREAS, on September 28, 2024, the President of the United States approved an Expedited Major Disaster Declaration, FEMA-4827-DR, for the State of North Carolina; and

WHEREAS, in the coming days and weeks, decisions will require real-time decision-making and will need to be made in a timeframe that cannot accommodate even emergency rule-making; and

WHEREAS, to enable rapid decision-making, the undersigned has determined that it is in the best interest of the people of North Carolina to provide the Secretary of the North Carolina Department of Health & Human Services ("Secretary") with authority to waive the enforcement of certain legal and regulatory constraints in order to expand capacity and save lives; and

WHEREAS, child care is an essential service to ensure our work force who remain on the job during this State of Emergency; and

WHEREAS, many child care facilities have been damaged, destroyed or closed as a result of Helene, and it may be difficult or impossible for child care facilities to re-open or remain open without changes in regulatory requirements; and

WHEREAS, to meet these critical child care needs, the undersigned has determined that the Secretary requires authority to modify or waive enforcement of regulatory requirements as necessary; and

WHEREAS, immunizations are an integral part of the state's public health strategy and N.C. Gen. Stat. §§ 130A-152 to 130A-157 require immunizations of children and students in accordance with rules adopted by the Commission for Public Health (the "Commission"), and the Commission's rules, at 10A N.C. Admin. Code 41A .0401(c), specify that the State Health Director may temporarily suspend these immunization requirements due to emergency conditions; and

WHEREAS, in a written memorandum dated October 8, 2024, the State Health Director utilized the authority granted to her by the Commission under 10A N.C. Admin. Code 41A .0401(c) to temporarily suspend, until October 31, 2024, the immunization requirements of 10A N.C. Admin. Code 41A .0401(a) and (b) (the "Immunization Extension"); and

WHEREAS, the effect of the Immunization Extension will be to provide families with several additional weeks to obtain the immunizations that are required for students under the Commission's rules; and

WHEREAS, since the time to obtain these immunizations has been extended, the deadlines for reporting on immunizations and for completing health assessments, which include immunization records, should also be extended; and

WHEREAS, notwithstanding the Immunization Extension, families are strongly encouraged, should their unique circumstances permit, to obtain the required immunizations for their children on a timely basis; and

WHEREAS, local health departments play a critical role in recovery and response efforts, including serving individuals who are displaced across the state due to Helene; and

WHEREAS, to support local health departments impacted by Helene or assisting in recovery or response efforts, the undersigned has determined that the Secretary should be authorized to modify or waive certain local health department regulations regarding local health department mandated services and public health nurse training; and

WHEREAS, there is a need to ensure the continuation of critical benefits and services for individuals in the North Carolina Medicaid program ("NC Medicaid Program") affected by the aftermath of Helene; and

WHEREAS, due to circumstances in the aftermath of Helene, many regulatory requirements for the NC Medicaid Program cannot be met including timely notice requirements due to displacement and the closing of critical facilities such as Division of Social Services ("DSS") county offices and post offices; and

WHEREAS, due to circumstances in the aftermath of Helene, many regulatory requirements for the NC Medicaid Program cannot be met including those regarding mediations and or hearings for the termination or reductions of services or eligibility which may need to be continued or rescheduled to ensure due process rights are met; and

WHEREAS, many family foster homes and residential facilities have been damaged, destroyed or closed as a result of Helene, and it may be difficult or impossible for homes or facilities to re-open or remain open without changes in regulatory requirements; and

WHEREAS, to meet these critical child placement needs, the undersigned has determined that the Secretary requires authority to modify or waive enforcement of regulatory requirements as necessary; and

WHEREAS, there is a need to ensure the continuation of critical benefits and services for elderly individuals through the Division of Aging who have been affected by the aftermath of Helene; and

WHEREAS, due to circumstances in the aftermath of Helene, many regulatory requirements for programs for the elderly cannot be met including the Congregant Nutrition Program, Home Delivered Meals, In-Home Aide services, and the Special Assistance program; and

WHEREAS, the undersigned has determined that the Secretary requires authority to modify or waive enforcement of regulatory requirements so that elderly individuals can continue to receive Aging Program services; and

WHEREAS, there is a need to ensure the continuation of needed benefits and services for individuals in the Vocational Rehabilitation Program affected by the aftermath of Helene; and

WHEREAS, due to circumstances in the aftermath of Helene, many regulatory requirements for the Vocational Rehabilitation Program cannot be met including processing referrals, financial needs testing, counseling, restoration, maintenance, transportation, services to family members, telecommunications services, recruitment, placement, tools and equipment, and engineering services; and

WHEREAS, N.C. Gen. Stat. § 166A-19.10(b) authorizes and empowers the undersigned to make and amend orders, rules, and regulations within the limits of the authority conferred upon him in the North Carolina Emergency Management Act; and

WHEREAS, N.C. Gen. Stat. § 166A-19.30(b)(4) authorizes the undersigned, with the concurrence of the Council of State, to waive a provision of any regulation or ordinance of a State agency or a political subdivision which restricts the immediate relief of human suffering; and

WHEREAS, the execution of the undersigned's emergency powers under N.C. Gen Stat. § 166A-19.30 is appropriate to ensure the public safety of residents and visitors located in North Carolina during the State of Emergency; and

NOW, THEREFORE, by the authority vested in me as Governor by the Constitution and the laws of the State of North Carolina, **IT IS ORDERED**:

Section 1. Child Care Facilities

For the reasons and pursuant to the authority set forth above, the undersigned orders as follows:

Waiver of enforcement of regulations. The undersigned delegates to the Secretary of the North Carolina Department of Health and Human Services authority:

1. To waive or modify enforcement of child care requirements related to activities, records, orientation, continuing education, nutrition, attendance, staff qualifications, training, and sanitation, including without limitation 10A N.C. Admin. Code 09 .0201, .0204, .0302, .0304, .0508, .0509, .0510, .0514, .0605, .0701, .0703, .0704, .0710, .0713, .0714, .0901, .1101, .1102, .1103, .1104, .1106, .1401, .1402, .1702, .1703, .1706, .1709, .1715, .1718, .1721, .1725, .2201, .2318, .2411, .2504, .2508, .2510, .2903, .3002, .3003, .3005, .3006, .3011, and .3014.
2. To waive or modify enforcement of subsidized child care requirements, including without limitation 10A N.C. Admin. Code 10 .0307, .0602(j), .1007(a) and (b).

Section 2. Public Health Flexibilities

A. Required Immunizations, Immunization Certificates, and School Health Assessments.

1. The North Carolina Department of Health and Human Services ("NCDHHS") shall provide additional time for families, students, and children to complete required immunizations by implementing the Immunization Extension from the State Health Director. Notwithstanding the Immunization Extension, families are strongly encouraged to obtain all required immunizations for their children on a timely basis, should their unique circumstances permit. The Division of Emergency Management

shall make any necessary temporary revisions to the Emergency Operations Plan to reflect this temporary change in immunization procedures.

2. To cope with the emergency, and to create immunization reports that will be most beneficial to maintaining public health, NCDHHS is directed to align deadlines with the Immunization Extension. This will include, without limitation, the following:
 - i. The time period from the first day of attendance or date of first registration through October 31, 2024, inclusive, will not count towards the thirty (30) calendar day grace period for submission of a certificate of immunization under N.C. Gen. Stat. §§ 130A-155(a) or 130A-155.1(a).
 - ii. Schools and child care facilities will have until January 15, 2025, to submit immunization reports to NCDHHS under N.C. Gen. Stat. §§ 130A-155(c).
 - iii. The time period from the first day of attendance through October 31, 2024, inclusive, will not count towards the thirty (30) calendar day period for submission of a health assessment transmittal form under N.C. Gen. Stat. §§ 130A-440(a).
 - iv. Principals will have until January 15, 2025, to submit health assessment status reports to NCDHHS under N.C. Gen. Stat. § 130A-441(c).
3. There will be no penalties for submissions that are made in accordance with the extensions of time listed above.

B. Waive or Modify Enforcement of Local Health Department Regulations.

1. To meet the goal of protecting the public health during the recovery from Helene, the undersigned delegates to the Secretary the authority, upon finding that a waiver or modification of enforcement will provide necessary relief to local health departments impacted by Helene and assisting in recovery from Helene, to (a) waive or modify enforcement of local health department mandated services requirements under 10A N.C. Admin. Code 46 .0200 and (b) extend the time period for public health nurses to complete training sponsored by the NCDHHS under 10A N.C. Admin. Code 46 .0301(2)(b).
2. Waivers, modifications, and extensions made under this Subsection 2(B)(1) may remain in place for up to sixty (60) days following the end of this State of Emergency.

Section 3. North Carolina Medicaid

A. Clinical Coverage Policy.

1. For reasons and pursuant to the authority set forth above, and in order to provide the immediate relief of human suffering, I hereby authorize the Secretary to temporarily waive regulatory requirements and suspend the enforcement of other legal constraints for modifications of Medicaid Clinical Coverage Policy.
2. I order NCDHHS, Division of Health Benefits to create coverage policies necessary for Medicaid beneficiaries to receive necessary services and to create coverage policies or modify existing policies that will allow beneficiaries to continue to receive necessary services without disruption during the State of Emergency.

B. Regulatory Flexibility.

1. The Secretary may, upon finding that the waiver will provide necessary relief to Medicaid beneficiaries affected by the State of Emergency, and will not endanger the public health, welfare, or safety, waive the effect and enforcement of any or all of the provisions within the following regulations:

- i. Chapters 21, 22, or 23 of Title 10A of the North Carolina Administrative Code.

Section 4. Social Services Programs and Licensure

A. Foster Care Licensure.

For the reasons and pursuant to the authority set forth above, the undersigned orders as follows:

Waiver of enforcement of regulations. The undersigned delegates to the Secretary authority:

1. To waive or modify enforcement of foster care licensing requirements related to compliance visits, re-licensure, room arrangements, exterior settings, including without limitation 10A N.C. Admin. Code 70E .0703, .074, .0707, .1106, 1108, 1109, .1110, .1111, .1112, .1113.
2. To waive or modify enforcement of licensing requirements related to family services agreements, person-centered plans, and reporting of critical incidents, including without limitation 10A Admin. Code 70G .0504, .0505, .0513.
3. To waive or modify enforcement of licensing requirements related to corrective action, personnel, files, admissions, records, recreation, incident reports, including without limitation 10A Admin. Code 70I .0203, .0502, .0506, .0609, .0614.
4. To waive or modify enforcement of licensing requirements related to personnel, buildings, admission procedures and criteria, including without limitation 10A Admin. Code 70J .0202, .0203.

Inspections. The undersigned delegates to the Secretary authority to waive or modify enforcement of the requirements of 10A N.C. Admin. Code 70E .0704 and 10A N.C. Admin. Code 70E .1108 requiring a fire and building safety inspection prior to re-licensure, so long as the foster home has had a satisfactory fire and building inspection completed within the previous thirty (30) months and can attest to the standards set forth in 10A N.C. Admin. Code 70E .1108(b). Any foster home relicensed pursuant to this waiver shall obtain such required inspections within sixty (60) days of the date this Executive Order terminates, or such license shall immediately expire.

B. Aging Programs.

For the reasons and pursuant to the authority set forth above, the undersigned orders as follows:

Waiver of enforcement of regulations. The undersigned delegates to the Secretary authority:

1. To waive or modify enforcement of requirements related to the Congregant Nutrition Program, Home Delivered Meals, and In-Home Aide services, including without limitation 10A N.C. Admin. Code 06A .0302, 0307, and 10A N.C. Admin. Code 06K .0101, .0203, .0205.
2. To waive or modify enforcement of requirements related to the Special Assistance program, including without limitation 10A N.C. Admin. Code 71P .0601 and .0701.

C. Temporary Assistance for Needy Families (TANF) Program.

For the reasons and pursuant to the authority set forth above, the undersigned orders as follows:

Waiver of enforcement of regulations. The undersigned delegates to the Secretary authority:

1. To waive or modify enforcement of requirements related to verification, timely reporting, and emergency assistance, including without limitation 10A N.C. Admin. Code 71W .0302, .0404, .0410, and .0704.

Section 5. Vocational Rehabilitation Services

For the reasons and pursuant to the authority set forth above, the undersigned orders as follows:

Waiver of enforcement of regulations. The undersigned delegates to the Secretary authority:

To waive or modify enforcement of requirements related to processing referrals, financial needs test, counseling, restoration, maintenance, transportation, services to family members, telecommunications services, recruitment, placement, tools and equipment, and engineering services, including without limitation 10A N.C. Admin. Code 89C .0202, .0206, .0302, .0303, .0305, .0306, .0307, .0310, .0311, .0312, .0314, and .0315.

Section 4. Temporary and Limited Nature of Waivers

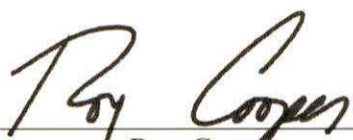
Waivers and modifications under authority of this Executive Order are temporary and shall be in place only for the time required to meet the need, subject to Section 5 of this Executive Order. The undersigned delegates to the Secretary the authority to reimpose any regulations, policies, or guidance for which the Secretary has waived or modified enforcement under this Executive Order.

To the extent possible, the Secretary shall only waive or modify any regulation herein for those North Carolina counties named in the September 28, 2024, Federal Major Disaster Declaration, FEMA-4827-DR, or subsequently added, and within the boundary of the Eastern Band of Cherokee Indians.

Section 5. Effect and Duration


This Executive Order is effective immediately and shall remain in effect until rescinded or superseded by another applicable Executive Order. An Executive Order rescinding the Declaration of a State of Emergency will automatically rescind this Executive Order, with the exception of those provisions which by their terms survive the expiration of the State of Emergency

IN WITNESS WHEREOF, I have hereunto signed my name and affixed the Great Seal of the State of North Carolina at the Capitol in the City of Raleigh, this 9th day of October in the year of our Lord two thousand and twenty-four.



Roy Cooper
Governor

ATTEST:



Rodney S. Maddox
Chief Deputy Secretary of State

