

STATE OF INDIANA

EXECUTIVE DEPARTMENT INDIANAPOLIS

EXECUTIVE ORDER _____
11-08

FOR: CONTINUATION OF THE CURRENT ADMINISTRATIVE STRUCTURE FOR THE OFFICE OF THE SECRETARY OF FAMILY AND SOCIAL SERVICES (FSSA)

TO ALL TO WHOM THESE PRESENTS MAY COME, GREETINGS;

WHEREAS, Public Law 9-1991, effective July 1, 1991, established among other things, the Office of the Secretary of Family and Social Services (FSSA), the Office of Medicaid Policy and Planning (OMPP), and certain family and social services advisory bodies; and

WHEREAS, portions of Public Law 9-1991, now codified at Indiana Code chapters 12-8-1, 12-8-2, 12-8-6 and 12-8-8; and

WHEREAS, other existing statutes that do not expire authorize OMPP to administer the Medicaid program and related programs, e.g., IC 12-15-1-1 ("OMPP shall administer the Medicaid program under 42 USC 1396 et seq."), and IC 12-15-1-10 (authority to adopt procedures and rules "necessary to carry out the Medicaid program and the federal Social Security Act"); and

WHEREAS, the 2011 session of the General Assembly enacted a budget bill (House Enrolled Act 1001) that clearly contemplates the ongoing existence of FSSA and OMPP and expresses the legislature's intent that FSSA and OMPP continue to carry out its mission and services, in that the budget act:

- (a) appropriates approximately \$17 million per year for operating expenses for the "Family and Social Services Administration";
- (b) appropriates approximately \$35 million to the FSSA children's health insurance program from the Tobacco Master Settlement Fund;
- (c) appropriates approximately \$1.8 billion per year for Medicaid current obligations and administration "for the purpose of enabling the office of Medicaid policy and planning to carry out all services as provided in IC 12-8-6";
- (d) provides that all Medicaid money received from the federal government "shall be expended by the Office of Medicaid Policy and Planning"; and

WHEREAS, the 2011 session of the General Assembly enacted other legislation evidencing its intent that the agencies continue to carry out their mission and services, including but not limited to: SEA 4, SEA 67, SEA 88, SEA 262, SEA 331, SEA 461, SEA 590, HEA 1001, HEA 1017, HEA 1047, HEA 1171, HEA 1210, HEA 1221, HEA 1233, and HEA 1502; and

WHEREAS, previous sessions of the General Assembly enacted legislation that remains in effect and grants powers and duties to FSSA; and

WHEREAS, under the state Constitution the executive power of the state is vested in the Governor, and the Governor has the constitutional power and duty to take care that the laws are faithfully executed; and

WHEREAS, in furtherance of his constitutional powers and duties the Governor may create administrative agencies by executive order (see, Executive Order 89-12, Executive Order 91-2; Executive Order 99-08; Executive Order 05-15; see also IC 4-1-7.1-3; and

WHEREAS, pursuant to IC 5-19-1, the Governor is authorized to the full extent of his constitutional powers to take any action that may be necessary to cooperate

with the federal government, receive federal benefits, or effectuate the purposes of any federal law.

NOW, THEREFORE, I Mitchell E. Daniels, Jr., pursuant to the powers vested in me by the Constitution and laws of this state, do hereby order that:

1. The office of the Secretary of Family and Social Services (FSSA) is continued, including its designation as the sole state agency for administering programs concerning vocational rehabilitation under 29 USC 701 et seq.
2. The Office of Medicaid Policy and Planning (OMPP) is continued.
3. FSSA and OMPP are authorized to take all actions necessary to administer existing state and federal programs and services and to execute new laws enacted by the 2011 session of the General Assembly, including but not limited to House Enrolled Act 1001.
4. The current administrative structure of FSSA and its relationships with the OMPP, the Division of Mental Health and Addictions, The Division of Family Resources, the Division of Aging, and the Division of Disability and Rehabilitative Services, shall remain in place. The Governor shall appoint a Secretary of FSSA to coordinate family and social service programs among the divisions.
5. FSSA and OMPP shall continue to administer existing rules and procedures and be authorized to take actions as needed to carry out the Medicaid program pursuant to the authority granted by IC 12-15-1-1 to administer existing rules and procedures pursuant to authority granted under any other applicable laws or rules.
6. This order is intended to enable the executive branch to carry out the wishes of the General Assembly that Medicaid and other vital social services programs must be continued without any disruption of services.
7. FSSA and OMPP shall continue to have and to exercise all powers and duties they possessed as of June 29, 2011, or were granted by legislation that takes effect after June 30, 2011, excepting only those powers and duties (if any) which are beyond the scope of the Governor's executive authority under the Constitution and laws of this state.
8. This order shall take effect on July 1, 2011.
9. This order expires (a) on the effective date of any law enacted by the General Assembly that reestablishes the office of FSSA and OMPP or makes other provisions for administration and performance of the powers, duties and responsibilities of those offices as they existed previously, or (b) on the date of the enactment of such law if the law is made retroactive.



IN TESTIMONY WHEREOF, I,
Mitchell E. Daniels, Jr., have hereunto
set my hand and caused to be affixed the
Great Seal of the State of Indiana on this
7th day of July, 2011.

M E Daniels Jr.

Mitchell E. Daniels, Jr.
Governor of Indiana

ATTEST: Charles P. White
Secretary of State

Charles P. White