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EXECUTIVE REORGANIZATION ORDER NO. 45

Brief

Executive Reorganization Order (ERO) No. 45 will move the State Employee Health Plan (SEHP) and the State Self Insurance Fund (SSIF) from the Department of Health and Environment (KDHE) to the Department of Administration (KDOA). The SEHP administers the Kansas employee health insurance benefit program and supports the Kansas Health Care Commission, which sets rates and programs for state employee health insurance benefits. The SSIF administers workers compensation claims for state employees when they are injured on the job working for the State.

ERO No. 45 will establish the Division of the State Employee Health Benefits Plan within the KDOA, transferring to KDOA all powers, duties, and functions of the KDHE staff currently administering the SEHP and SSIF. The Office of the Governor indicated the reorganization would align those programs with other employee-focused services and provide improved administrative efficiencies and support.

The head of the Division established by ERO No. 45 will be the Director of the State Employee Health Benefits Plan, who is to be appointed by and serve at the pleasure of the Secretary of Administration and be an unclassified employee under the Kansas Civil Service Act. Sec. 1(a) requires the Director's salary be approved by the Governor. All officers and employees currently involved with the administration and support of the SEHP and SSIF will transfer to the KDOA. State employee benefits, including retirement benefits, leave balances, and rights that had accrued, or vested, prior will transfer along with those officers and employees. Transferred employees who were classified will retain their classified status.

ERO No. 45 also will establish the State Workplace Health and Safety Program within the KDOA SSIF program. The Secretary of Administration is to implement, and the Kansas Department of Labor (KDOL) Division of Industrial Health and Safety is to assist with, a program to include but not be limited to these activities: (1) workplace health and safety hazard surveys in all state agencies, including on-site interviews with employees; (2) workplace health and safety hazard prevention services, including inspection and consultation services; (3) procedures for identifying and controlling workplace hazards; (4) development and dissemination of health and safety informational materials, plans, rules, and work procedures; and (5) training for supervisors and employees in healthful and safe work practices.

With respect to related fund and account balances, ERO No. 45 will transfer all relevant funds within the State Treasury to the KDOA for the Division of the State Employee Health Benefits Plan, to be used for the purpose for which the appropriation was originally made. The

Division also succeeds to all relevant property, property rights, contracts, and records, and the Governor will be the final authority in resolving any conflict surrounding this succession. ERO No. 45 also states no lawsuits, proceedings, or criminal actions that have begun or have the potential to begin by or against any state agency or program will be abated by the reorganization taking place under ERO No. 45.

Article 1, § 6 of the *Kansas Constitution* provides that an ERO becomes effective on the July 1 following its transmittal to the Legislature unless, within 60 calendar days and before the adjournment of the Session, either the Senate or the House of Representatives adopts a resolution disapproving the ERO. ERO No. 45 will go into effect on July 1, 2020.

Background

On July 1, 2011, the administrative body governing the SEHP and SSIF, the Kansas Health Policy Authority, was abolished and its functions were transferred to the Division of Health Care Finance within the KDHE, pursuant to ERO No. 38.

On January 19, 2016, the State of Kansas received the Alvarez & Marsal (A&M) Statewide Efficiency Review. The A&M Review found, based on state benchmarks, state health plans are typically structured within the Department of Administration or another state agency that handles human resource functions. A&M also indicated, although the SEHP was running an efficient organization with the lean staff it employs, it can increase administrative efficiencies and reduce duplicative efforts through a realignment of the organization. Accordingly, A&M recommended repositioning the SEHP from KDHE to KDOA. Per the recommendation, an ancillary program within the KDOA would have assumed responsibility of managing the administration of the benefit program available to state employees, allowing for better coordination and communication between the KDOA and the SEHP. This recommendation was not acted upon at the time of proposal.

On January 30, 2020, Governor Laura Kelly submitted ERO No. 45 to the 2020 Legislature for its consideration. ERO No. 45 was subsequently assigned to the House General Government Budget Committee and the Senate Committee on Ways and Means. The associated funding for the functions being moved from KDHE to KDOA was not included in *The FY 2021 Governor's Budget Report*.

On February 10, 2020, the Senate Committee on Ways and Means heard testimony on ERO No. 45. The Secretary of Administration, who also serves as the Chairperson of the Health Care Commission, and the Secretary of Health and Environment both provided testimony about the program's transition from the KDHE to the KDOA, indicating the program would continue without interruption and would transition without any fiscal impact.

On February 13, 2020, the House Committee on General Government Budget heard testimony from the same conferees as the Senate Committee on Ways and Means. The House Committee voted to approve ERO No. 45.

State Employee Health Benefits Plan and State Workers Compensation Self-Insurance Fund

The State Employees' Health Benefits Program administers the **State Employee Health Plan (SEHP)** on behalf of the Health Care Commission (HCC). The HCC was statutorily created in 1984 to design and implement a health care benefits program. Expenditures for this program are off-budget.

Covered members in the SEHP include state employees and their dependents, retired and disabled state employees and their dependents, state employees on leave without pay, elected officials, and blind vending facility operators. There are also non-state groups allowed to participate in the SEHP, including unified school districts, community colleges, technical colleges, and certain other public entities.

The Workers Compensation Program for state employees is called the **State Workers Compensation Self-Insurance Fund (SSIF)**. The SSIF is a self-insured, self-administered program funded by agencies based on an experience rating. The program manages and processes claims for injuries that arise out of and in the course of employment.

State Employee Health Benefits Plan And State Workers Compensation Self-Insurance Fund	Actuals FY 2019	Gov. Rec. FY 2020	Gov. Rec. FY 2021
Salaries and Wages	\$ 2,677,461	\$ 2,908,348	\$ 2,919,683
Contractual Services	14,635,524	18,057,842	18,053,137
Commodities	3,349	199,863	199,863
Capital Outlay	2,823	87,580	87,580
Non-Expense Items	445,567,866	503,658,211	535,555,564
Other Assistance	14,427,195	14,791,000	14,550,000
Total:	\$ 477,314,218	\$ 539,702,844	\$ 571,365,827
FTE	43.0	43.0	43.0

	Actual 2017	Actual 2018	Actual 2019	Estimate 2020	Estimate 2021
Enrollment in the State Employees' Health Plan (by plan year)					
# of employees	32,570	32,540	32,433	32,433	32,433
# of dependents	35,263	39,258	36,254	36,500	36,500
State Employees' Health Plan financial measures (by plan year)					
Cost per capita	\$5,309	\$5,168	\$5,545	\$5,883	\$6,243
Average insurance premium for singles	\$604	\$627	\$676	\$704	\$743
Workers Compensation financial measures					
# of cases processed	2,738	2,961	2,903	2,903	2,903
Claims Cost	\$16,548,774	\$14,885,790	\$14,750,416	\$14,791,000	\$14,550,000