MIKE DEWINE
GOVERNOR OF OHIO

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Honorable Donald J. Trump, President of the United States, and
Honorable Mike Pence, Vice President of the United States
The White House
1600 Pennsylvania Avenue, N.W.
Washington, D.C., 20500

March 13, 2020

President Trump and Vice President Pence,

Thank you for your leadership during this difficult national crisis.

In the face of the COVID-19 pandemic, Ohio and the nation's governors are taking unprecedented steps to control the spread of this disease. The medical experts have advised that Ohio take immediate and aggressive steps to limit person-to-person contact to avoid community spread. As of today, Ohio has at least 13 confirmed cases of infection and we know that number will significantly increase.

Consistent with medical advice and the declared State of Emergency in Ohio, we have asked our agencies to take the necessary precautions to limit any nonessential person-to-person contact. This will impact our ability to timely inspect, regulate, and process paperwork in compliance with federal and state regulations. Our Department of Health has issued orders limiting mass gatherings and visitation in nursing homes and will be closing kindergarten through twelfth grade schools for three weeks.

In order to address the unprecedented crisis facing our state, we intend to use the emergency power vested in the Governor to suspend implementation of compliance with state regulations and plan to ask our legislators for expanded discretion over the coming months. We ask that you take similar measures at the federal level with your emergency authority or ask the Congress to grant you the authority, if needed, to fulfill that request.

This request is not unique to Ohio and granting it will be of benefit to all 50 states. Below are highlights of the federal regulatory challenges and requirements facing Ohio in the immediate future. As conditions on the ground evolve, Ohio will continually assess opportunities for federal assistance and communicate those needs to your administration on an ongoing basis. Any relief you can offer would be greatly appreciated by Ohioans.

1. Strategic National Stockpile Personal Protective Equipment
    a. Last week Ohio submitted a request to the Health and Human Services Office of the Assistant Secretary for Preparedness and Response (ASPR) for critical personal protection equipment including surgical or procedural masks, N-95 respirators, gowns and gloves, face shields or goggles. As we continue to coordinate with the medical community, law enforcement and first responders, we would appreciate additional supplies and expedited process for accessing these critical materials

2. Flexible Federal Funding for Ohio
    a. This public health emergency has impacted not only Ohio's healthcare resources but has already had a dramatic influence on the financial wellbeing of our citizens. The economic consequences of this crisis have yet to fully develop. We anticipate the need for increased and additional flexible funding for rental assistance, healthcare staffing shortages, Housing Choice and VASH vouchers, Social Services Block Grants, Community Services Block Grants, Older Americans Act, and other state administered programs.

3. Access to Meals for Students, Families and Older Adults
    a. The USDA recently granted a waiver to Ohio to allow the provision of meals to students during school closure. Thank you for the swift approval of this waiver, and we ask that any others that follow be granted quickly and without delay. We plan to request the ability to provide meals through additional locations and will continue to seek flexibilities that will provide service to Ohio's children. Also, with your forthcoming federal emergency declaration, the ability for schools to distribute commodity food to local food banks would be invaluable in assisting low-income students and their families.

4. Flexibility in Administering Social and Health Services
    a. Ohio needs the ability to respond to the constantly changing environment of this health crisis in administering a wide range of social and health service programs. These would include Temporary Assistance for Needy Families (TANF), Women, Infants, and Children (WIC), the Supplemental Nutrition Assistance Program (SNAP), and Free and Reduced-Price School Meals. We urge you to loosen the requirements for these programs in order to provide much needed assistance to Ohio without delay.

5. Disadvantaged Business Enterprise (DBE) and Commercial Useful Function (CUF) compliance
    a. Flexibility is needed in the requirements for Ohio's Department of Transportation to inspect for Disadvantaged Business Enterprise (DBE) compliance as well as Commercial Useful Function (CUF) compliance. We have a limited number of inspectors who must be permitted to focus on mission critical inspection elements pertaining to the integrity and safety of the transportation system during this public health emergency.

6. Federal Aviation Administration (FAA) Regulations for Drone Deployment
    a. We ask that you remove current FAA barriers temporarily to allow for rapid deployment of drones in low level airspace to assist in pandemic relief. This technology could be used to assist in transportation of small medical supplies to critically infected areas of the country as well as allowing for inspection of infected areas from the air without human contamination.

7. Temporary Assistance for Needy Families
    a. The All Family Work requirement, contained in 45 CFR 261.31(a), requires a family with a work-eligible individual to be engaged in at least 20 hours per week in a "core" activity. The core activities are: unsubsidized employment; subsidized private-sector employment;

subsidized public-sector employment; work experience; on-the-job training; job search and job readiness assistance; community service programs; vocational educational training; and providing child care services to an individual who is participating in a community service program. This requirement is both impractical and likely impossible to comply with during a public health crisis.

b. The Two Parent Work requirement, contained in 45 CFR 261.32(a), requires a family with two work-eligible individuals to be engaged in at least 30 hours per week in a "core" activity in order to be determined as being engaged in work for the two-parent rate. The core activities are: unsubsidized employment; subsidized private-sector employment; subsidized public-sector employment; work experience; on-the-job training; job search and job readiness assistance; community service programs; vocational educational training; and providing child care services to an individual who is participating in a community service program. This requirement is both impractical and likely impossible to comply with during a public health crisis.

8. Supplemental Nutrition Assistance Program
    a. April 1, 2020 is the deadline for the rule implementation of 7 CFR 273.23(h) which sets forth the Able-Bodied Adults Without Dependents time limit, twenty-hour work requirement and the new 6 percent floor. In addition, the rule limits the carryover of Able-Bodied Adults Without Dependents discretionary exemptions. Again, this requirement is both impractical and likely impossible to comply with during a public health crisis.
    b. CFR 273.2 requires Supplemental Nutrition Assistance Program (SNAP) applications to be accepted in person or by telephone. During this critical period, it only makes sense for applications to be accepted by mail, online and by telephone. We ask that this requirement be modified for the duration of this crisis.

9. Food and Nutrition Service
    a. Current requirements through the Food and Nutrition Service necessitate face-to-face interviews. We ask that those requirements be waived for the remainder of this crisis so Ohioans can continue receiving needed food assistance while also reducing person-to-person interactions that contribute to the spread of COVID-19.

10. Federal Matching Funds (FMAP) for Medicaid-funded services
    a. Enhanced federal matching funds (FMAP) for Medicaid-funded services are a necessity for the duration of the COVID-19 State of Emergency. This crisis will place an extraordinary strain on state and local resources, which will diminish the pool of available medical and service support providers, as well as our own staffing availability. We also request additional flexibility in the way the enhanced funding will be spent. This would include scope of services, rate of payment to ensure provider network adequacy, and enhanced funding to ensure the maintenance of essential staffing resources at the state and local levels.

11. Administration for Community Living and the Centers for Medicare and Medicaid Services

a. Older adults have been identified as a high-risk population, with increased susceptibility to COVID-19. Relaxation of select clinical and service requirements for a period, put forth by the U.S. Department of Health and Human Services can assist us in reducing the spread while maintaining vital services. Specifically, those managed by the Administration for Community Living and the Centers for Medicare and Medicaid Services. Assistance in this area would be of great benefit to our older citizens.

12. Federal Low-Income Housing Tax Credit and HOME Programs
    a. Ohio is required to conduct on-site inspections of projects built that include those sources of these tax credits and funds. Those inspections require Ohio employees go into apartments and single-family homes in all counties of the state per a formula based on section 42 of the Internal Revenue Code. The IRS requirements are stringent and time sensitive. It would be in the interest of public health for these requirements to be extended

13. Home Weatherization Assistance Program (HWAP)
    a. Annual production goal requirement: The Department of Energy will issue a finding against Ohio if we are unable to meet the required weatherization minimum by June 30, 2020. Accordingly, a waiver of this requirement is needed during the duration of this emergency.
    b. Monitoring requirements: Ohio is required to monitor a minimum of 5% of all completed units and have the monitoring report returned to grantees within 30 days. A waiver on this requirement has been submitted to the Department of Energy, but no additional guidance has been received at this time.
    c. Ohio's HWAP plan is due April 30, 2020 to the Department of Energy and there is a public hearing requirement in order to submit the state plan. A waiver for both the public hearing and the due date is requested.

14. Department of Housing and Urban Development Community Development Block Grant – Disaster Relief
    a. Certification submission to support Ohio's ability to administer the $12.3 million in CDBG-Disaster Relief is currently due April 3, 2020. An extension on the CDBG-DR timeline requirements, for an additional 60 days, is requested.

15. Department of Housing and Urban Development 5-year Consolidated Plan and Annual Action Plan
    a. The current consolidated plan ideally would be approved 45 days before July 1, 2020, and a public hearing is required as part of the plan process. An accelerated review and waiving the public hearing requirements would assist Ohio greatly.

16. Department of Housing and Urban Development Expenditure and Commitment Deadlines
    a. HUD's expenditure requirements in its programs will need to be extended. Delays in money going to grantees (due to lack of construction throughout the nation and Ohio, processing delays, etc.) will cause the funds to expire.

17. Survey and Certification of Health Care Facilities

a. Facilities that provide care to elderly and medically fragile individuals are taking aggressive efforts to limit visitors and increase infection control and cleaning efforts. To support their focus on these interventions, we ask that you provide regulatory relief by suspending statutorily required recertification surveys for skilled nursing homes, home health agencies, hospice agencies, and intermediate care facilities for individuals with intellectual disabilities, contained in 42 CFR Parts § 484.1, 418.3, 482.4. Additionally, we ask to maintain the health and safety of residents and patients continue to allow 2-day complaints and any complaints related to abuse, neglect and infection control for all long-term care providers and non-long-term care providers.

If we can provide further clarity on any of these requests, please have your team contact us for additional detail.

We are grateful for your ongoing leadership, even in the face of this crisis. We support your plan to offer economic stimulus and will undergo our own efforts in Ohio to support economic stability.

Sincerely,

Mike DeWine
Governor of Ohio

Jon Husted
Lt. Governor of Ohio

cc: Ohio Congressional Delegation