

# Emergency Rules

## DECLARATION OF EMERGENCY

### Department of Agriculture and Environmental Sciences Office of Agriculture and Environmental Sciences

#### Aerial Pesticide Applications Malathion Insecticide (LAC 7:XXIII.145)

In accordance with the emergency provisions of the Administrative Procedure Act R.S. 49:953 (B), and under the authority of R.S. 3:3203, the Commissioner of Agriculture and Forestry declares an emergency to exist and adopts by emergency process the attached rules and regulations for the application of an ultra low volume insecticide to be applied to cotton fields infested with plant bugs.

The application of insecticides in accordance with the current concentration regulations has not been sufficient to control plant bugs. Failure to allow the concentrations in ultra low volume (ULV) malathion applications will allow the plant bugs the opportunity to destroy the cotton during the growing season. The destruction of the cotton crop or a substantial portion of the cotton crop will cause irreparable harm to the economy of Northern Louisiana and to Louisiana Agricultural producers thereby creating an imminent peril to the health and safety of Louisiana citizens.

This Emergency Rule becomes effective upon the signature of the Commissioner and shall remain in effect for 30 days.

#### Title 7

### AGRICULTURE AND ANIMALS

#### Part XXIII. Pesticide

#### Chapter 1. Advisory Commission on Pesticides

#### §145. Fixed Wing Aircraft; Standards for Commercial Aerial Pesticide Applications

A. - A.5.b.xxxvi. ...

c. malathion insecticide applied with the following conditions to control plant bugs in cotton.

i. The Commissioner hereby declares that prior to making any aerial application of ULV malathion to cotton, the aerial owner/operator must first register such intent by notifying the Division of Pesticides and Environmental Programs ("DPEP") in writing. Upon notification, LDAF shall inspect the aircraft prior to any ULV applications.

ii. Spray shall be applied, handled, and stored in accordance with all conditions specified by State or Federal regulations, including the strict observance of any buffer zones that may be implied.

iii. Aerial applicators shall strictly comply with any and all restrictions or mitigative factors, in regard to sensitive areas, including occupied buildings (churches, schools, hospitals, and homes), lakes, reservoirs, farm ponds, parks, and recreation areas that may be identified by Commissioner, and such restriction and mitigation are to be strictly complied with and observed by said aerial applicators.

iv. Aerial applicators will adjust flight patterns, to the degree possible, to avoid or minimize flying over sensitive areas. This restriction does not apply to overflight between take-off and the commencement of spray operations, or overflight between termination of spray operations and landing.

v. Aerial applicators shall be alert to all conditions that could cause spray deposit outside field boundaries and use their good faith efforts, including adjustment or termination of operations, to avoid spray deposit outside field boundaries.

vi. There shall be no aerial spraying when wind velocity exceeds 10 m.p.h.

vii. Aerial applicators will terminate application if rainfall is imminent.

viii. Insecticide spray will not be applied in fields where people or animals are present. It is the applicators responsibility to determine if people are present prior to initiating treatment.

ix. Spraying will not be conducted in fields where other aircraft are working.

x. All mixing, loading, and unloading will be in an area where an accidental spill can be contained and will not contaminate a stream or other body of water.

xi. All aerial applications of insecticide shall be at an altitude not to exceed five feet above the cotton canopy. However, in fields that are not near sensitive areas, if infield obstructions make the five foot aerial application height not feasible, then the aerial height may be extended to such height above the cotton canopy as is necessary to clear the obstruction safely.

xii. The aircraft tank and dispersal system must be completely drained and cleaned before loading. All hoses shall be in good condition and shall be of a chemical resistant type.

xiii. Insecticide tank(s) shall be leak-proof and spray booms of corrosion resistant materials, such as stainless steel, aluminum, or fiberglass. Sealants will be tested before use.

xiv. The tank(s) in each aircraft shall be installed so the tank(s) will empty in flight. Sight gauges or other means shall be provided to determine the quantity contained in each tank before reloading.

xv. A drain valve shall be provided at the lowest point of the spray system to facilitate the complete draining of the tanks and system while the aircraft is parked so any unused insecticide can be recovered.

xvi. A pump that will provide the required flow rate at not less than 40 pounds per square inch (psi) during spraying operation to assure uniform flow and proper functioning of the nozzles. Gear, centrifugal or other rotary types, will be acceptable on aircraft with a working speed above 150 miles per hour.

xvii. ULV spraying systems with a pumping capacity that exceeds the discharge calibration rate shall have the bypass flow return to the tank bottom in a manner

that prevents aeration and/or foaming of the spray formulation. Pumps utilizing hydraulic drive or other variable speed drives are not required to have this bypass, provided the pump speed is set to provide only the required pressure and the system three-way valve is used for on/off control at full throw position. Any bypass normally used to circulate materials other than the ULV will be closed for ULV spraying.

xviii. Spray booms will be equipped with the quantity and type of spray nozzles specified by the Boll Weevil Eradication Program. The outermost nozzles (left and right sides) shall be equal distance from the aircraft centerline and the distance between the two must not exceed three-fourths of the overall wing span measurement. For helicopters, the outermost nozzles must not exceed three-fourths of the rotorspan. For both fixed wing and helicopters, the program will accept the outermost nozzles between 60 percent and 75 percent of the wingspan/rotorspan. Longer spray booms are acceptable provided modifications are made to prevent the entrapment of air in the portion beyond the outermost nozzle. Fixed wing aircraft not equipped with a drop type spray boom may require drop nozzles in the center section that will position the spray tips into smoother air to deliver the desired droplet size and prevent spray from contacting the tail wheel assembly and horizontal stabilizer. Most helicopters will be required to position the center nozzles behind the fuselage and dropped into smooth air in order to achieve the desired droplet size.

xix. Nozzles, diaphragms, gaskets, etc. will be inspected regularly and replaced when there is evidence of wear, swelling, or other distortion in order to assure optimum pesticide flow and droplet size. Increasing pressure to compensate for restricted flow is unacceptable. A positive on/off system that will prevent dribble from the nozzles is required.

xx. A positive emergency shut-off valve between the tank and the pump, as close to the tank as possible. This valve shall be controllable from the cockpit and supplemented by check valves and flight crew training which will minimize inadvertent loss of insecticide due to broken lines or other spray system malfunction.

xxi. Bleed lines in any point that may trap air on the pressure side of the spraying system.

xxii. An operational pressure gauge with a minimum operating range of 0 to 60 psi and a maximum of 0 to 100 psi visible to the pilot for monitoring boom pressure.

xxiii. A 50 mesh in-line screen between the pump and the boom and nozzle screens as specified by the nozzle manufacturer.

xxiv. Aircraft equipped so nozzle direction can be changed from 45 degrees down and back to straight back when it is necessary to change droplet size.

xxv. All nozzles not in use must be removed and the openings plugged.

xxvi. Nozzle tips for all insecticides shall be made of stainless steel.

xxvii. Aircraft shall have an operational Differentially Corrected Global Positioning System (DGPS) and flight data logging software that will log and display the date and time of the entire flight from take-off to landing and differentiate between spray-on and spray-off.

xxviii. Aircraft shall have a DGPS with software designed for parallel offset in increments equal to the assigned swath width of the application aircraft. Differential correction may be provided by fixed towers, portable stations, satellite, Coast Guard, or other acceptable methods. However, the differential signal must cover the entire project area. In fringe areas from the generated signal, an approved repeater may be used. The system shall be sufficiently sensitive to provide immediate deviation indications and sufficiently accurate to keep the aircraft on the desired flight path with an error no greater than 3 feet. Systems that do not provide course deviation updates at one-second intervals or less will not be accepted.

xxix. A course deviation indicator (CDI) or a course deviation light bar (also CDI) must be installed on the aircraft and in a location that will allow the pilot to view the indicator with direct or peripheral vision without looking down. The CDI must be capable of pilot selected adjustments for course deviation indication with the first indication three feet or less.

xxx. The DGPS must display to the pilot a warning when differential correction is lost, the current swath number, and cross-track error. The swath advance may be set manually or automatically. If automatic is selected, the pilot must be able to override the advance mode to allow respraying of single or multiple swaths.

xxxi. The DGPS must be equipped with a software for flight data logging that has a system memory capable of storing a minimum of three hours of continuous flight log data with the logging rate set at one second intervals. The DGPS shall automatically select and log spray on/off at one-second intervals while ferry and turnaround time can be two second intervals. The full logging record will include position, time, date, altitude, speed in M.P.H., cross-track error, spray on/off, aircraft number, pilot, job name or number, and differential correction status. The flight data log software shall be compatible with DOS compatible PC computers, dot matrix, laser, or ink jet printers and plotters. The system must compensate for the lag in logging spray on/off. The system will display spray on/off at the field boundary without a sawtooth effect. Must be capable to end log files, rename, and start a new log in flight.

xxxii. The software must generate the map of the entire flight within a reasonable time. Systems that require five minutes or more to generate the map for a three-hour flight on a PC (minimum a 386 microprocessor with 4 MB of memory) will not be accepted. When viewed on the monitor or the printed hard copy, the flight path will clearly differentiate between spray on and off. The software must be capable of replaying the entire flight in slow motion and stop and restart the replay at any point during the flight. Must be able to zoom to any portion of the flight for viewing in greater detail and print the entire flight or the zoomed-in portion. Must have a measure feature that will measure distance in feet between swaths or any portion of the screen. Must be able to determine the exact latitude/longitude at any point on the monitor.

xxxiii. Flight information software provided by the applicator must have the capability to interface with MapInfo (version 3.0 or 4.0). The interface process must be "user friendly", as personnel will be responsible to operate the system in order to access the information.

xxxiv. Application of ULV malathion shall be at an application rate of 12 oz. per acre with no dilutions or tank mixes.

xxxv. Applications of ULV malathion shall not be made prior to sunrise on June 29, 2001 and shall not be made after sunset on July 28, 2001.

xxxvi. Applications of ULV malathion shall be restricted to seven day intervals.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3203.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 18:953 (September 1992), amended LR 21:927 (September 1995), LR 26:1964 (September 2000), LR 27:

Signed and attested to this third day of July 2000.

Bob Odom  
Commissioner

0107#006

## DECLARATION OF EMERGENCY

### Department of Agriculture and Environmental Sciences Office of Agriculture and Environmental Sciences

#### Restrictions on Application of Certain Pesticides (LAC 7:XXIII.143)

In accordance with the Administrative Procedure Act R.S. 49:95(B) and R.S. 3:3202(A), the Commissioner of Agriculture and Forestry is exercising the emergency provisions of the Administrative Procedure Act in amending the following Rule for the implementation of regulations governing the use of the pesticide 2, 4-D and products containing 2, 4-D.

The applications of 2, 4-D in certain parishes, in accordance with the current regulations and labels have not been sufficient to control drift onto non-target areas. Failure to prevent the drift onto non-target areas will adversely affect other crops particularly cotton. The adverse effects to the cotton crop and other non-target crops will cause irreparable harm to the economy of Central Louisiana and to Louisiana Agricultural producers.

The Department has, therefore, determined that these emergency rules implementing further restrictions on the application of 2, 4-D and products containing 2, 4-D during the current crop year, are necessary in order to alleviate these perils. Information will be gathered to determine the effectiveness of these restrictions on preventing 2, 4-D drift onto non-target areas.

These rules become effective upon signature and will remain in effect 120 days. Signed and attested to this 22<sup>nd</sup> day of June 2001.

#### Title 7

### AGRICULTURE AND ANIMALS

#### Part XXIII. Pesticide

#### Chapter 1. Advisory Commission on Pesticides

#### Subchapter I. Regulations Governing Application of Pesticides

#### §143. Restrictions on Application of Certain Pesticides

A. - P.2 ...

3. 2, 4-D or Products Containing 2, 4-D Application Restrictions

a. Aerial application of 2, 4-D or products containing 2, 4-D is limited to only permitted applications annually between April 1<sup>st</sup> and September 15<sup>th</sup> in the following parishes: Allen (east of U.S. Highway 165 and south of U.S. Highway 190), Evangeline (south of U.S. Highway 190), Pointe Coupee (south of U.S. Highway 190), and St. Landry (south of U.S. Highway 190).

b. 2, 4-D, or products containing 2, 4-D, shall not be applied by commercial or private applicators between June 22, 2001 and September 15, 2001 in the following parishes: Allen (east of U.S. Highway 165 and north of U.S. Highway 190), Avoyelles, Evangeline (north of U.S. Highway 190), Rapides, and St. Landry (north of U.S. Highway 190).

P.4. - P.6.a.iv. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3202.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Advisory Commission on Pesticides, LR 9:169 (April 1983), amended LR 10:193 (March 1984), LR 11:219 (March 1985), LR 11:942 (October 1985), amended by the Department of Agriculture and Forestry, Office Agricultural and Environmental Sciences, LR 18:953 (September 1992), LR 19:791 (September 1993), LR 21:668 (July 1993), LR 21:668 (July 1995), LR 24:281 (February 1998), LR 24:2076 (November 1998), LR 26:1428 (July 2000), LR 26:1966 (September 2000), LR 27:279 (March 2001), LR 27:

Bob Odom  
Commissioner

0107#007

## DECLARATION OF EMERGENCY

### Student Financial Assistance Commission Office of Student Financial Assistance

#### Tuition Opportunity Program for Students (TOPS)C Definitions and Exceptional Circumstances (LAC 28:IV.301 and 2103)

The Louisiana Student Financial Assistance Commission (LASFAC) is exercising the emergency provisions of the Administrative Procedure Act [R.S. 49:953(B)] to amend rules of the Scholarship/Grant programs (R.S. 17:3021-3026, R.S. 3041.10-3041.15, and R.S. 17:3042.1, R.S. 17:3048.1).

This Emergency Rule is necessary to implement changes to the Scholarship/Grant programs to allow the Louisiana Office of Student Financial Assistance and state educational institutions to effectively administer these programs. A delay in promulgating rules would have an adverse impact on the financial welfare of the eligible students and the financial condition of their families. The commission has, therefore, determined that these emergency rules are necessary in order to prevent imminent financial peril to the welfare of the affected students.

This declaration of emergency is effective June 7, 2001, and shall remain in effect for the maximum period allowed under the Administrative Procedure Act.

**Title 28**  
**EDUCATION**

**Part IV. Student Financial Assistance**  
**Education Scholarship and Grant Programs**

**Chapter 3. Definitions**

**§301. Definitions**

\* \* \*

*First-Time Freshman* A student who is awarded TOPS Opportunity, Performance, or Honors and enrolls for the first-time as a full-time freshman in an academic program in a postsecondary school subsequent to high school graduation, and continues to be enrolled full-time at the end of the fourteenth class day (ninth class day for Louisiana Tech) or enrolls for the first time, full-time in a Louisiana public community or technical college that offers a vocational or technical education certificate or diploma program or a non-academic undergraduate degree to pursue a skill, occupational training, or technical training subsequent to high school graduation. A student who is awarded TOPS Opportunity, Performance, or Honors and begins in an academic program in a postsecondary college or university in a summer session will be considered a *first-time freshman* for the immediately succeeding fall term. A student who is awarded TOPS Opportunity, Performance, or Honors and begins in a non-academic program in a postsecondary school in a summer term will be considered a *first-time freshman* at the time of such enrollment. The fact that a student enrolls in a postsecondary school prior to graduation from high school and/or enrolls less than full time in a postsecondary school prior to the required date for full time enrollment shall not preclude the student from being a *first-time freshman*.

\* \* \*

*Full-Time Student*

a. a student enrolled in an institution of higher education who is carrying a full-time academic workload as determined by the school under the standards applicable to all students enrolled;

b. for continuation purposes, a student must be enrolled full-time at the end of the fourteenth class day (ninth class day for Louisiana Tech or Louisiana Technical College);

c. for continuation purposes, a student is considered to have met the full-time requirement if by the completion of the academic year he has earned at least 24 hours of total credit as reported by the institution for the fall and spring semesters at institutions defining 12 semester hours as the minimum for standing as a full-time undergraduate or as reported by the institution for the fall, winter and spring quarters at institutions defining 8 quarter hours as the minimum for standing as a full-time undergraduate. For purposes of TOPS and except where specified otherwise within these rules, a student shall be credited for hours earned as reported by the institution that the student attends in accordance with that institution's published policies. Students should be aware that these policies may differ depending on the school the student attends. (see §§705.A.7, 705.D, 805.A.7, and 907.A.2 for more expanded TOPS requirements);

d. for programs which permit graduate study, a graduate student must have earned at least 18 hours of total credit during the fall, winter and spring terms;

e. a workload of at least 30 clock hours per week is the full-time equivalent at a technical college;

f. a student enrolled in two or more institutions of higher education when such multiple enrollment is necessary for the student to gain access to the courses required for completion of the degree in the chosen discipline and where the total number of hours earned at all institutions during the academic year is the equivalent of carrying a full-time academic workload as determined by the institution which will award the degree.

\* \* \*

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036, R.S. 17:3042.1 and R.S. 17:3048.1.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance 24:632 (April 1998), amended LR 24:1898 (October 1998), LR 24:2237 (December 1998), LR 25:256 (February 1999), LR 25:654 (April 1999), LR 25:1458, 1460 (August 1999), LR 25:1794 (October 1999), LR 26:65 (January 2000), LR 26:688 (April 2000), LR 26:1262 (June 2000), LR 26:1601 (July 2000), LR 26:1993, 1999 (September 2000), LR 26:2268 (October 2000), LR 26: 2752 (December 2000), LR 27:36 (January 2001), LR 27:284 (March 2001), LR 27:

**Chapter 21. Miscellaneous Provisions and Exceptions**

**§2103. Circumstances Warranting Exception to the Initial and Continuous Enrollment Requirements**

A. - E.11.a.i.(a). - (i). ...

(j). an involuntary drop, suspension, or withdrawal from enrollment because of academics, scholastics, or failure to attend classes or to comply with institutional regulations;

(k). a suspension or expulsion for misconduct;

(l). an inability to register because of failure to satisfy financial obligations.

E.11.a.ii - E.11.c. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036, R.S. 17:3042.1 and R.S. 17:3048.1.

HISTORICAL NOTE: Promulgated LR 24:647 (April 1998), amended LR 24:1919 (October 1998), LR 26:1017 (May 2000), LR 26:2004 (September 2000), LR 27:36 (January 2001), LR 27:

Mark S. Riley  
Assistant Executive Director

0107#010

**DECLARATION OF EMERGENCY**

**Office of the Governor**  
**Commission on Law Enforcement and**  
**Administration of Criminal Justice**

Peace Officers Standards and Training  
(LAC 22:III.4703)

The following amendment is published in accordance with the emergency provision of R.S. 49:953(B), the Administrative Procedure Act, and R.S.40:2401 et seq., the Peace Officer Standards and Training Act, which allows the Council on Peace Officer Standards and Training (POST) to promulgate rules necessary to carry out its business or the provision of Chapter 47. This rule will replace the current rule and includes the following change: Correctional peace officers must meet certain firearms requirements for annual requalification.

**Title 22**  
**CORRECTIONS, CRIMINAL JUSTICE AND LAW**  
**ENFORCEMENT**

**Part III. Commission on Law Enforcement and**  
**Administration of Criminal Justice**

**Subpart 4. Peace Officers**

**Chapter 47. Standards and Training**

**§4703. Basic Certification**

A. All full-time peace officers, as defined in R.S. 40:2402, shall complete a basic training course as prescribed and certified by the Council on Peace Officers Standards and Training (POST Council). Reserve or part-time officers or military police officers stationed in Louisiana may be eligible for certification if they successfully complete a basic training course prescribed for full-time peace officers and pass the POST statewide examination. There are three levels of POST certification.

1. ...
2. Level 2 Certification for Basic Correctional Peace Officer
  - a. The student will complete a training course with a minimum of 218 hours and is limited to those peace officers whose duties are the care, custody, and control of inmates. The training course consists of the ACA core curriculum plus a sufficient number of hours to obtain POST certification. POST Firearm certification for Level 2 students is required (effective 3/26/01).

- b. Correctional peace officers with Level 2 certification must meet the POST firearms requirements for annual requalification as outlined in §4721.B and §4721.C.

A.3. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 13:434 (August 1987), amended LR 25:663 (April 1999), LR 27:49 (January 2001), LR 27:

Michael A. Ranatza  
Executive Director

0107#015

**DECLARATION OF EMERGENCY**

**Office of the Governor**  
**Division of Administration**  
**Board of the Trustees of the**  
**State Employees Group Benefits Program**

EPO Plan of Benefits CPrescription Drug Benefits  
(LAC 32:V.325 and 701)

Pursuant to the authority granted by R.S. 42:871(C) and 874(B)(2), vesting the Board of Trustees with the responsibility for administration of the State Employees Group Benefits Program and granting the power to adopt and promulgate rules with respect thereto, the Board of Trustees, hereby invokes the Emergency Rule provisions of R.S. 49:953(B).

The Board finds that it is necessary to revise and amend provisions of the EPO Plan Document relative to prescription drug benefits. Failure to adopt this rule on an emergency basis may result in disruption of prescription

drug therapy for covered employees, retirees, and their dependents, adversely affecting the health and welfare of the public workforce responsible for delivery of vital services to the citizens of the state.

Accordingly, the following Emergency Rule, revising and amending the EPO Plan of Benefits relative to prescription drug benefits, is effective July 1, 2001, and shall remain in effect for a maximum of 120 days, or until the final rule is promulgated, which ever occurs first.

**Title 32**

**EMPLOYEE BENEFITS**

**Part V. Exclusive Provider (EPO) Plan of Benefits**

**Chapter 3. Medical Benefits**

**§325. Prescription Drug Benefits**

A. This Plan allows benefits for drugs and medicines approved by the Food and Drug Administration or its successor, requiring a prescription, and dispensed by a licensed pharmacist or pharmaceutical company, but which are not administered to a Covered Person as an inpatient Hospital patient or an outpatient Hospital patient, including insulin, Retin-A dispensed for Covered Persons under the age of 26, Vitamin B12 injections, prescription Potassium Chloride, and over-the-counter diabetic supplies including, but not limited to, strips, lancets and swabs.

B. The following drugs, medicines, and related services are not covered:

- 1.-10. ...
11. drugs for Treatment of impotence, except following surgical removal of the prostate gland; and
12. glucometers.

C. ...

1. Upon presentation of the Group Benefits Program health benefits identification card at a network pharmacy, the plan member will be responsible for payment of 50 percent of the cost of the drug, up to a maximum of \$40 per prescription dispensed. The plan will pay the balance of the eligible expense for prescription drugs dispensed at a network pharmacy. There is a \$1000 per person per calendar year out-of-pocket threshold for eligible prescription drug expenses. Once this threshold is reached, that is, the plan member has paid \$1000 of co-insurance/co-payments for eligible prescription drug expenses, the Plan Member will be responsible for a \$15 co-pay for brand name drugs, with no co-pay for generic drugs. The plan will pay the balance of the eligible expense for prescription drugs dispensed at a network pharmacy.

Note: For the period July 1, 2001 through December 31, 2001, the out-of-pocket threshold will be \$500 per person. On January 1, the threshold will be re-set to \$1000 for calendar year 2002 and each subsequent year.

2. ...
3. If the plan member obtains a prescription drug from a non-network pharmacy in state, reimbursement will be limited to 50 percent of the amount that would have been paid if the drug had been dispensed at a network pharmacy. If the plan member obtains a prescription drug from a non-network pharmacy out of state, benefits will be limited to 80 percent of the amount that would have been paid if the drug had been dispensed at a network pharmacy.

4. Regardless of where the prescription drug is obtained, eligible expenses for brand name drugs will be limited to the prescription benefits manager's maximum allowable charge for the drug dispensed.

5. Prescription drug dispensing and refills will be limited in accordance with protocols established by the prescription benefits manager, including the following limitations:

- a. up to a 34-day supply of drugs may be dispensed at one time; and
- b. refills will be available only after 75 percent of drugs previously dispensed should have been consumed.
- c. *brand drug* the trademark name of a drug approved by the U. S. Food and Drug Administration.
- d. *generic drug* a chemically equivalent copy of a brand drug.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:871(C) and 874(B)(2).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Trustees of the State Employees Group Benefits Program, LR 25:1815 (October 1999), LR 27:718 (May 2001), LR 27:

**Chapter 7. Schedule of Benefits – EPO**

**§701. Comprehensive Medical Benefits**

- A. ...
- 1. - 3. ...
- 4. Prescription Drugs (Not subject to deductible)

Network Pharmacy	Member pays 50 percent of drug costs at point of purchase
Maximum co-payment	\$40 per prescription dispensed
Out-of-pocket threshold	\$1000 per person, per calendar year
Co-pay after threshold is reached:	
Brand	\$15
Generic	No co-pay
Plan pays balance of Eligible Expense	
<i>Note: Out-of-pocket threshold - \$500 per person, for the period July 1 – December 31, 2001</i>	
Non-network pharmacy	Member pays full drug costs at point of purchase
In-state	Reimbursement limited to 50% of amount payable by Plan at Network Pharmacy
Out-of-state	Reimbursement limited to 80% of amount payable by Plan at Network Pharmacy

B. – G ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:871(C) and 874(B)(2).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Trustees of the State Employees Group Benefits Program, LR 25:1823 (October 1999), LR 26:487 (March 2000), LR 27:719 (May 2001), LR 27:

A. Kip Wall  
Chief Executive Officer

0107#013

**DECLARATION OF EMERGENCY**

**Office of the Governor  
Division of Administration  
Board of the Trustees of the  
State Employees Group Benefits Program**

PPO Plan of Benefits Prescription Drug Benefits  
(LAC 32:III.325 and 701)

Pursuant to the authority granted by R.S. 42:871(C) and 874(B)(2), vesting the Board of Trustees with the

responsibility for administration of the State Employees Group Benefits Program and granting the power to adopt and promulgate rules with respect thereto, the Board of Trustees, hereby invokes the Emergency Rule provisions of R. S. 49:953(B).

The Board finds that it is necessary to revise and amend provisions of the PPO Plan Document relative to prescription drug benefits. Failure to adopt this rule on an emergency basis may result in disruption of prescription drug therapy for covered employees, retirees, and their dependents, adversely affecting the health and welfare of the public workforce responsible for delivery of vital services to the citizens of the state.

Accordingly, the following Emergency Rule, revising and amending the PPO Plan of Benefits relative to prescription drug benefits, is effective July 1, 2001, and shall remain in effect for a maximum of 120 days, or until the final rule is promulgated, which ever occurs first.

**Title 32**

**EMPLOYEE BENEFITS**

**Part III. Preferred Provider (PPO) Plan of Benefits**

**Chapter 3. Medical Benefits**

**§323. Prescription Drug Benefits**

A. This Plan allows benefits for drugs and medicines approved by the Food and Drug Administration or its successor, requiring a prescription, and dispensed by a licensed pharmacist or pharmaceutical company, but which are not administered to a Covered Person as an inpatient Hospital patient or an outpatient Hospital patient, including insulin, Retin-A dispensed for Covered Persons under the age of 26, Vitamin B12 injections, prescription Potassium Chloride, and over-the-counter diabetic supplies including, but not limited to, strips, lancets and swabs.

B. The following drugs, medicines, and related services are not covered:

- 1.-10. ...
- 11. drugs for Treatment of impotence, except following surgical removal of the prostate gland; and
- 12. glucometers.

C. ...

1. Upon presentation of the Group Benefits Program health benefits identification card at a network pharmacy, the plan member will be responsible for payment of 50 percent of the cost of the drug, up to a maximum of \$40 per prescription dispensed. The plan will pay the balance of the eligible expense for prescription drugs dispensed at a network pharmacy. There is a \$1000 per person per calendar year out-of-pocket threshold for eligible prescription drug expenses. Once this threshold is reached, that is, the plan member has paid \$1000 of co-insurance/co-payments for eligible prescription drug expenses, the plan member will be responsible for a \$15 co-pay for brand name drugs, with no co-pay for generic drugs. The plan will pay the balance of the eligible expense for prescription drugs dispensed at a network pharmacy.

Note: For the period July 1, 2001 through December 31, 2001, the out-of-pocket threshold will be \$500 per person. On January 1, the threshold will be re-set to \$1000 for calendar year 2002 and each subsequent year.

2. ...

3. If the plan member obtains a prescription drug from a non-network pharmacy in state, reimbursement will be limited to 50 percent of the amount that would have been

paid if the drug had been dispensed at a network pharmacy. If the plan member obtains a prescription drug from a non-network pharmacy out of state, benefits will be limited to 80 percent of the amount that would have been paid if the drug had been dispensed at a network pharmacy.

4. Regardless of where the prescription drug is obtained, eligible expenses for brand name drugs will be limited to the prescription benefits manager's maximum allowable charge for the drug dispensed.

5. Prescription drug dispensing and refills will be limited in accordance with protocols established by the prescription benefits manager, including the following limitations:

- a. up to a 34-day supply of drugs may be dispensed at one time; and
- b. refills will be available only after 75 percent of drugs previously dispensed should have been consumed.
- c. *brand drug* the trademark name of a drug approved by the U. S. Food and Drug Administration.
- d. *generic drug* a chemically equivalent copy of a brand drug.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:871(C) and 874(B)(2).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Trustees of the State Employees Group Benefits Program, LR 25:1815 (October 1999), LR 27:720 (May 2001), LR 27:

**Chapter 7. Schedule of Benefits–PPO**

**§701 Comprehensive Medical Benefits**

- A. ...
- 1. - 3. ...
- 4. Prescription Drugs (Not subject to deductible)

Network Pharmacy	Member pays 50 percent of drug costs at point of purchase
Maximum co-payment	\$40 per prescription dispensed
Out-of-pocket threshold	\$1000 per person, per calendar year
Co-pay after threshold is reached:	
Brand	\$15
Generic	No co-pay
Plan pays balance of Eligible Expense	
<i>Note: Out-of-pocket threshold - \$500 per person, for the period July 1 - December 31, 2001</i>	
Non-network pharmacy	Member pays full drug costs at point of purchase
In-state	Reimbursement limited to 50 percent of amount payable by Plan at Network Pharmacy
Out-of-state	Reimbursement limited to 80 percent of amount payable by Plan at Network Pharmacy

B. - G ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:871(C) and 874(B)(2).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Trustees of the State Employees Group Benefits Program, LR 25:1823 (October 1999), LR 26:487 (March 2000), LR 27:722 (May 2001), LR 27:

A. Kip Wall  
Chief Executive Officer

0107#012

**DECLARATION OF EMERGENCY**

**Department of Health and Hospitals  
Office of the Secretary  
Bureau of Health Services Financing**

Disproportionate Share Hospital Payment Methodologies  
Provider Based Rural Health Clinics

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts the following emergency rule in the Medical Assistance Program as authorized by R.S. 46:153 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is adopted in accordance with the Administrative Procedure Act, R.S. 49:953(B)(1) et seq. and shall be in effect for the maximum period allowed under the Act or until adoption of the rule, whichever occurs first.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopted a rule to establish the provisions governing the disproportionate share payment methodologies for hospitals (*Louisiana Register*, Volume 24, Number 3). This March 20, 1998 rule was subsequently amended to include the definition of a teaching hospital as required by Act 19 of the 1998 Regular Session of the Louisiana Legislature (*Louisiana Register*, volume 25, number 5).

The Department then adopted an emergency rule with an effective date of June 21, 1999 to establish an additional disproportionate share hospital group for state fiscal year 1999 only, for large public non state rural hospitals that had at least 25 percent Medicaid inpatient days utilization (*Louisiana Register*, volume 25, number 6). The May 20, 1999 rule was later amended to revise the qualifying criteria for small rural hospitals as required by Senate Concurrent Resolution Number 48 and Act 1068 of the 1999 Regular Session of the Louisiana Legislature (*Louisiana Register*, volume 26, number 3). The Department later adopted an emergency rule with an effective date of October 21, 2000 to establish an additional disproportionate share hospital group for state fiscal year 2001 only, for public non state hospitals with no more than 60 licensed beds as of July 1, 2000 (*Louisiana Register*, volume 26, number 10).

The Bureau provides coverage for rural health clinic services under the Medicaid Program. Currently, the uncompensated costs of rendering health care services in a provider based rural health clinic are not considered in the calculation of the hospitals' uncompensated costs. The Bureau has now determined that it is necessary to include the uncompensated costs of a provider based rural health clinic in the calculation of the rural hospital's uncompensated costs. This Emergency Rule is being adopted to continue the provisions contained in the April 10, 2001 rule.

**Emergency rule**

Effective August 9, 2001, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing increases the disproportionate share payments to small rural hospitals by including the uncompensated costs

of health care services provided in a rural health clinic that is licensed as part of the small rural hospital in the calculation of the hospital's uncompensated costs. Qualifying hospitals must meet the qualifying criteria contained in section II. E and either section II. A, B, or C of the May 20, 1999 rule. In addition, qualifying hospitals must meet the definition for a small rural hospital contained in III. B.1. of the March 20, 2000 rule. Qualifying hospitals must maintain a log documenting the provision of uninsured care in the rural health clinic as directed by the Department. All other provisions contained in the May 20, 1999 rule shall remain in effect as previously promulgated.

The disproportionate share payments to each qualifying rural hospital shall continue to be equal to that hospital's pro rata share of uncompensated costs for uninsured patients only for all hospitals meeting these criteria for the cost reporting period ended during the period April 1, 2000 through March 31, 2001, multiplied by the amount set for this pool. Payment will not exceed each qualifying hospital's actual uncompensated costs for uninsured patients or the amount appropriated. If the cost reporting period is not a full period (twelve months), actual uncompensated cost data for the previous cost reporting period may be used on a pro rata basis to equate to a full year.

Implementation of this rule shall be subject to the approval of the Health Care Financing Administration.

Interested persons may submit written comments to Ben A. Bearden, Bureau of Health Services Financing, Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to all inquiries regarding this emergency rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

David W. Hood  
Secretary

0107#055

#### **DECLARATION OF EMERGENCY**

**Department of Health and Hospitals  
Office of the Secretary  
Bureau of Health Services Financing**

Durable Medical Equipment  
Ostomy Supplies Reimbursement Increase

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts the following emergency rule in the Medical Assistance Program as authorized by R.S. 46:153 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is adopted in accordance with the Administrative Procedure Act, R.S. 49:953(B)(1) et seq. and shall be in effect for the maximum period allowed under the Act or until adoption of the rule, whichever occurs first.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing previously reimbursed certain durable medical equipment items identified by specific Health Care Financing Administration Common Procedure Codes (HCPC) at either 80 percent of the Medicare Fee Schedule, 80 percent of the Manufacturers Suggested Retail Price (MSRP) or billed charges, whichever was the lesser amount. As a result of a budgetary shortfall,

the reimbursement for these durable medical equipment items was reduced to 70 percent of the Medicare Fee Schedule, 70 percent of the MSRP or billed charges, whichever was the lesser amount (*Louisiana Register*, volume 27, number 1). The bureau now proposes to increase the reimbursement for ostomy supplies identified by specific HCPC codes to either 80 percent of the Medicare fee schedule, 80 percent of the MSRP or billed charges, whichever is the lesser amount.

If an item is not available at 80 percent of the Medicare fee schedule amount or 80 percent of the MSRP amount, the flat fee that will be utilized is the lowest cost at which the item has been determined to be widely available by analyzing usual and customary fees charged in the community. This Emergency Rule is being adopted to continue the provisions contained in the April 6, 2001 rule.

#### **Emergency Rule**

Effective for dates of service August 5, 2001 and after, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing increases the reimbursement for ostomy supplies identified by specific Health Care Financing Administration Common Procedure Codes. The reimbursement is increased to 80 percent of the Medicare Fee Schedule, 80 percent of the Manufacturers Suggested Retail Price (MSRP) or billed charges, whichever is the lesser amount, for the following HCPC codes:

Ostomy Supplies  
A4360-A4421  
A5051-A5149  
K0137-K0139  
K0278-K0280  
K0421-K0437

If an item is not available at 80 percent of the Medicare Fee Schedule amount or 80 percent of the MSRP amount, the flat fee that will be utilized is the lowest cost at which the item has been determined to be widely available by analyzing usual and customary fees charged in the community.

Interested persons may submit written comments to Ben A. Bearden, Bureau of Health Services Financing, Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to all inquiries regarding this emergency rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

David W. Hood  
Secretary

0107#056

#### **DECLARATION OF EMERGENCY**

**Department of Health and Hospitals  
Office of the Secretary  
Bureau of Health Services Financing**

Emergency Ambulance Transportation  
Services Reimbursement Increase

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts the following emergency rule in the Medical Assistance Program as authorized by R.S. 46:153 and pursuant to Title

XIX of the Social Security Act. This Emergency Rule is adopted in accordance with the Administrative Procedure Act, R.S. 49:953(B)(1) et seq. and shall be in effect for the maximum period allowed under the Act or until adoption of the rule, whichever occurs first.

The Department of Health and Hospitals, Bureau of Health Services Financing provides reimbursement for emergency ambulance transportation services. Reimbursement for these services is the base rate established by the Bureau minus the amount which any third party coverage would pay. As a result of the allocation of additional funds by the Legislature during the 2000 Second Special Session, the Bureau adopted a rule in February 2001 to restore the seven percent reduction previously made to the reimbursement rates for emergency ambulance transportation services and increase the base rate for these services by two percent (*Louisiana Register*, volume 27, number 2).

As a result of the allocation of additional funds by the Legislature during the 2001 Regular Session, the Bureau now proposes to increase the reimbursement for certain designated procedure codes for emergency ambulance transportation services by 1.4 percent. This action is being taken to promote the health and welfare of recipients by ensuring the continued participation of providers in the Medicaid Program. It is estimated that implementation of this emergency rule will increase expenditures for emergency ambulance transportation services by approximately \$596,111 for the state fiscal year 2001-2002.

#### **Emergency Rule**

Effective for dates of service July 1, 2001 and after, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing increases the reimbursement for the following designated procedure codes for emergency ambulance transportation services by 1.4 percent:

A0368	Emergency transport, no specialized ALS services
A0380	Emergency loaded miles, BLS
A0382	Routine disposable supplies, BLS
A0390	Non-Emergency loaded miles, ALS
A0394	Disposable supplies, ALS
A0398	Oxygen & oxygen supplies, ALS or BLS
A0422	Ambulance O2 life sustaining
A0427	ALS-Emergency
A0429	BLS-Emergency transport
A0433	ALS2
A0434	Specialty care transport

Implementation of the provisions of this rule shall be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services.

Interested persons may submit written comments to Ben A. Bearden, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is the person responsible for responding to all inquiries regarding this emergency rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

David W. Hood  
Secretary

0107#051

## **DECLARATION OF EMERGENCY**

### **Department of Health and Hospitals Office of the Secretary Bureau of Health Services Financing**

#### **Inpatient Hospital Services Reimbursement MethodologyCWell Baby Care**

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts the following Emergency Rule in the Medical Assistance Program as authorized by R.S. 46:153 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is adopted in accordance with the Administrative Procedure Act, R.S. 49:953(B)(1) et seq. and shall be in effect for the maximum period allowed under the Act or until adoption of the rule, whichever occurs first.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopted a rule in June of 1994 which established the prospective reimbursement methodology for inpatient services provided in private (non-state) acute care general hospitals (*Louisiana Register*, volume 20, number 6). Under the prospective reimbursement methodology, five general peer groups for hospitals and three peer groups for specialty hospital services were established for the reimbursement of inpatient hospital services. In addition, peer groups were established for the reimbursement of the following high intensity inpatient services: neonatal intensive care, pediatric intensive care, burn care and transplants.

Four levels of neonatal intensive care based on severity of illness and intensity of service are recognized under the current reimbursement methodology. Level 1 (nursery boarder) is a separate prospective per diem rate developed for infants who remain in the hospital nursery after the mother is discharged. The principal cost of the birth is included with the payment for the mother's stay at the general peer group per diem rate. The nursery boarder rate is intended to cover incidental costs associated with an infant's short-term stay in the nursery following the mother's discharge.

The Bureau has now determined that it is necessary to establish a separate prospective per diem rate for services rendered to infants who are discharged at the same time that the mother is discharged. This emergency rule is being adopted to continue the provisions contained in the April 10, 2001 rule.

#### **Emergency Rule**

Effective for dates of service on or after August 9, 2001, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing establishes a separate prospective per diem rate for well baby care rendered to infants who are discharged at the same time that the mother is discharged. The separate per diem rate for well baby care shall be available to private hospitals that perform more than 1500 Medicaid deliveries per year. The per diem rate for well baby care shall be the lesser of actual costs as documented on the last finalized cost report or the rate for a nursery boarder.

Interested persons may submit written comments to Ben A. Bearden, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is the person responsible for responding to all inquiries regarding this emergency rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

David W. Hood  
Secretary

0107#057

**DECLARATION OF EMERGENCY**

**Department of Health and Hospitals  
Office of the Secretary  
Bureau of Health Services Financing**

Mental Health Rehabilitation Services  
Reimbursement Increase

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts the following emergency rule in the Medical Assistance Program as authorized by R.S. 46:153 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is adopted in accordance with the Administrative Procedure Act, R.S. 49:953(B)(1) et seq. and shall be in effect for the maximum period allowed under the Act or until adoption of the rule, whichever occurs first.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing provides reimbursement for mental health rehabilitation services under the Medicaid Program. Reimbursement for these services is a prospective, negotiated and non-capped rate based on the delivery of services as specified in the service agreement and the service package required for the adult and child/youth populations. As a result of the allocation of additional funds by the Legislature during the 2000 Second Special Session, the Bureau adopted a rule in July of 2000 to restore the seven percent reduction made to the reimbursement rates in the Mental Health Rehabilitation Program for high need services for adults and children as well as moderate need services for children (*Louisiana Register*, volume 26, number 7).

As a result of the allocation of additional funds by the Legislature during the 2001 Regular Session, the Bureau now proposes to increase the reimbursement rates for designated procedure codes in the Mental Health Rehabilitation Program for high need, medium need and low need services for adults and children. This action is being taken to promote the health and welfare of recipients by ensuring the continued participation of providers in the Medicaid Program. It is estimated that implementation of this emergency rule will increase expenditures for mental health rehabilitation services by approximately \$2,142,720 for the state fiscal year 2001-2002.

**Emergency Rule**

Effective for dates of service July 1, 2001 and after, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing increases the reimbursement rates in the Mental Health Rehabilitation

Program for designated procedure codes for high need, medium need and low need services for adults and children to the following rates.

Procedure code	Procedure Name	New Rate
X0132	Adult - Low Need	\$350.00
X0133	Adult - Medium Need	\$750.00
X0135	Child - Low Need	\$400.00
X0136	Child - Medium Need	\$840.00
X0137	Child - High Need	\$1415.00

Implementation of the provisions of this rule shall be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services.

Interested persons may submit written comments to Ben A. Bearden, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is the person responsible for responding to all inquiries regarding this emergency rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

David W. Hood  
Secretary

0107#052

**DECLARATION OF EMERGENCY**

**Department of Health and Hospitals  
Office of the Secretary  
Bureau of Health Services Financing**

Mentally Retarded/Developmentally Disabled  
Waiver Reimbursement Increase

The Department of Health and Hospitals, Office of the Secretary, Bureau of Community Supports and Services adopts the following Emergency Rule under the Administrative Procedure Act, R.S. 49:950 et seq. The Emergency Rule shall be in effect for the maximum period allowed under the Administrative Procedure Act or until adoption of the rule, whichever occurs first.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Community Supports and Services provides reimbursement for personal care attendant (PCA), supervised independent living (SIL) and respite services provided to recipients in the Mentally Retarded/Developmentally Disabled (MR/DD) Waiver Program. The Bureau adopted emergency rules in July 1995 to reduce the reimbursement rates paid for PCA, SIL and respite services provided to MR/DD waiver recipients (*Louisiana Register*, volume 21, number 7). The provisions contained in the July 20, 1995 emergency rules were subsequently repealed by an emergency rule adopted in October 1995 (*Louisiana Register*, volume 21, number 10).

As a result of the allocation of additional funds by the Legislature during the 2001 Regular Session, the Bureau now proposes to increase the reimbursement rates for certain designated procedure codes for personal care attendant, respite and supervised independent living services. This action is being taken to promote the health and welfare of recipients by ensuring the continued participation of

providers in the Medicaid Program. It is estimated that implementation of this emergency rule will increase expenditures for MR/DD waiver services by approximately \$2,223,345 for the state fiscal year 2001-2002.

**Emergency Rule**

Effective July 1, 2001, the Department of Health and Hospitals, Office of the Secretary, Bureau of Community Supports and Services increases the reimbursement rates in the Mentally Retarded/Developmentally Disabled Waiver for certain designated procedure codes for personal care attendant, respite and supervised independent living services as follows.

Z0002	PCA	\$10.30
Z0011	PCA - High Need	\$11.64
Z0003	Respite	\$10.30
Z0013	Respite - High Need	\$11.64
Z0004	Respite - Center	\$6.66
Z0014	Respite - Center - High Need	\$11.64
Z0053	SIL Day Companion	\$7.38
Z0055	SIL Night Companion	\$6.35

Interested persons may submit written comments to Barbara Dodge, Bureau of Community Supports and Services, P.O. Box 91030, Baton Rouge, Louisiana 70821-9030. She is the person responsible for responding to all inquiries regarding this emergency rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

David W. Hood  
Secretary

0107#053

**DECLARATION OF EMERGENCY**

**Department of Health and Hospitals  
Office of the Secretary  
Bureau of Health Services Financing**

Non-Emergency Ambulance Services  
Reimbursement Increase

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts the following emergency rule in the Medical Assistance Program as authorized by R.S. 46:153 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is adopted in accordance with the Administrative Procedure Act, R.S. 49:953(B)(1) et seq. and shall be in effect for the maximum period allowed under the Act or until adoption of the rule, whichever occurs first.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing provides reimbursement for non-emergency ambulance transportation services. Reimbursement for these services is the base rate established by the Bureau minus the amount which any third party coverage would pay. As a result of the allocation of additional funds by the Legislature during the 2000 Second Special Session, the Bureau adopted a rule in February 2001 to restore the base rate for non-emergency ambulance transportation services to the rate that was in effect July 1, 1999 and increase the reimbursement fees for certain

designated procedure codes (*Louisiana Register*, volume 27, number 2).

As a result of the allocation of additional funds by the Legislature during the 2001 Regular Session, the Bureau now proposes to increase reimbursement for certain designated procedure codes for non-emergency ambulance transportation services. This action is being taken to promote the health and welfare of recipients by ensuring the continued participation of providers in the Medicaid Program. It is estimated that implementation of this emergency rule will increase expenditures for non-emergency ambulance transportation services by approximately \$1,349,031 for the state fiscal year 2001-2002.

**Emergency Rule**

Effective for dates of service July 1, 2001 and after, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing increases the reimbursement for certain designated procedure codes for non-emergency ambulance transportation services to the following rates:

A0366	Base rate, Specialized ALS services, 1 <sup>st</sup> trip	\$152.75
A0426	ALS non-emergency transport	\$152.75
A0428	BLS non-emergency transport	\$152.75
Z5100	Transfer, loaded miles, BLS, 1 <sup>st</sup> trip	\$152.75
Z5101	Transfer, loaded miles, ALS, 1 <sup>st</sup> trip	\$152.75
Z9497	Base rate, ALS or BLS, 2 <sup>nd</sup> trip	\$152.75

Implementation of the provisions of this rule shall be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services.

Interested persons may submit written comments to Ben A. Bearden, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is the person responsible for responding to all inquiries regarding this emergency rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

David W. Hood  
Secretary

0107#054

**DECLARATION OF EMERGENCY**

**Department of Health and Hospitals  
Office of the Secretary  
Bureau of Health Services Financing**

Public Hospitals CReimbursement Methodology

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts the following emergency rule in the Medical Assistance Program as authorized by R.S. 46:153 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is adopted in accordance with the Administrative Procedure Act, R.S. 49:953(B)(1) et seq. and shall be in effect for the maximum period allowed under the Act or until adoption of the rule, whichever occurs first.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopted a rule in June of 1994 which established the prospective

reimbursement methodology for inpatient services provided in non-state operated acute care hospitals (*Louisiana Register*, volume 20, number 6). The reimbursement methodology was subsequently amended in a rule adopted in January of 1996 which established a weighted average per diem for each hospital peer group (*Louisiana Register*, volume 22, number 1). The January 1996 rule was later amended to discontinue the practice of automatically applying an inflation adjustment to the reimbursement rates in those years when the rates are not rebased (*Louisiana Register*, volume 25, number 5).

Act 11 of the 2000 Second Extraordinary Session of the Louisiana Legislature directed the Department of Health and Hospitals to implement procedures to receive transfers of public funds from qualifying health care providers that will qualify as the state's matching share for the purpose of claiming federal financial participation (FFP). The Department defines a qualifying health care provider as any public provider owned by a parish, city or other local government agency or instrumentality. This definition includes facilities owned jointly by two or more government entities, but does not include facilities owned jointly by government and private organizations. The Bureau proposes to amend the reimbursement methodology for all non-state public hospitals (other than those recognized as small rural hospitals) to recognize the hospitals unreimbursed Medicaid costs incurred in providing care to Medicaid recipients. This emergency rule is being adopted to continue provisions contained in the December 21, 2000 rule.

#### **Emergency Rule**

Effective August 20, 2001, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing may recognize unreimbursed Medicaid costs incurred by non-state public hospitals, which are not recognized by the Department as a small rural hospital, in providing care to Medicaid recipients. Recognition shall be contingent upon the certification of matching funds by non-state public hospitals (except small rural hospitals as defined in R.S. 40:1300.143).

These costs shall be calculated from each hospital's latest audited Medicaid cost report. The amount shall be determined by subtracting the actual Medicaid reimbursements from the total Medicaid costs as calculated from the audited cost report. The Medicaid reimbursements and Medicaid costs shall include inpatient (acute and psychiatric services) hospital services and outpatient hospital services. This amount shall then be inflated forward to State Fiscal Year 2001 using the annual Medicare PPS Marketbasket Index. There will be no adjustment to this amount if additional costs are identified subsequent to the completion of the audit process.

Interested persons may submit written comments to Ben A. Bearden, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is the person responsible for responding to all inquiries regarding this emergency rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

David W. Hood  
Secretary

0107#058

## **DECLARATION OF EMERGENCY**

### **Department of Health and Hospitals Office of the Secretary Bureau of Health Services Financing**

#### **Public Hospitals Reimbursement Methodology Upper Payment Limit**

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts the following emergency rule in the Medical Assistance Program as authorized by R.S. 46:153 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is adopted in accordance with the Administrative Procedure Act, R.S. 49:953(B)(1) et seq. and shall be in effect for the maximum period allowed under the act or until adoption of the rule, whichever occurs first.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopted a rule in June of 1994 which established a prospective reimbursement methodology for inpatient services provided in non-state operated acute care hospitals (*Louisiana Register*, volume 20, number 6). The reimbursement methodology was subsequently amended in a rule adopted in January of 1996 which established a weighted average per diem for each hospital peer group (*Louisiana Register*, volume 22, number 1). The January 1996 rule was later amended to discontinue the practice of automatically applying an inflation adjustment to the reimbursement rates in those years when the rates are not rebased (*Louisiana Register*, volume 25, number 5).

In compliance with Act 11 of the 2000 Second Extraordinary Session of the Louisiana Legislature, an emergency rule was adopted to establish supplemental payments to non-state public hospitals, which are not recognized by the Department as small rural hospitals, for unreimbursed Medicaid costs incurred in providing care to Medicaid recipients (*Louisiana Register*, volume 26, number 12). Issuance of the supplemental payment is contingent on the public hospital entering into a cooperative endeavor agreement with the department to certify public funds as representing expenditures eligible for federal financial participation (FFP).

The bureau now proposes to utilize the revised upper payment limit for non-state government-owned or operated hospitals as set forth in the 42 CFR §447.272(c) and §447.321(c). 42 CFR §447.272(c) and §447.321(c) states as follows: "Exceptions C (1) Non-State government-operated hospitals. The aggregate Medicaid payments may not exceed 150 percent (150%) of a reasonable estimate of the amount that would be paid for the services furnished by these hospitals under Medicare payment principles in subchapter B of this chapter." This Emergency Rule is being adopted to continue the provisions contained in the April 1, 2001 rule.

#### **Emergency Rule**

Effective July 31, 2001, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing will utilize the revised upper payment limit for non-state government-owned or operated hospitals as set

forth in the 42 CFR §447.272(c) and §447.321(c). The hospital payment differential for any year shall be the difference between 150 percent (150%) of the upper limit of aggregate payments to non-state government-owned or operated hospitals, as defined in the 42 CFR §447.272(c) and §447.321(c), and the aggregate Medicaid per diem reimbursement paid to these hospitals for the year.

Interested persons may submit written comments to Ben A. Bearden, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to all inquiries regarding this emergency rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

David W. Hood  
Secretary

0107#059

## DECLARATION OF EMERGENCY

### Department of Social Services Office of Community Services

Percentage of Title IV-E Foster  
Children in Care over 24 Months  
(LAC 67:V.3510)

The Department of Social Services, Office of Community Services, adopts the following Emergency Rule in the Foster Care Program as required by 42 USC Sec. 671(A)(14) of the Social Security Act. This emergency rule shall be in effect for 120 days effective June 26, 2001.

The Department of Social Services, Office of Community Services, is required by 42 USC Sec. 671(A)(14) of the Social Security Act to incorporate into State administrative regulations a goal as to the maximum absolute or percentage of children in foster care for over 24 continuous months. Without this immediate and emergency rule, the agency plan for Title IV-E funding would be out of compliance with Federal requirements. This would potentially cause the state to be at risk of immediate sanctions that could result in penalties such as loss of Title IV-E Program funding. The Department has selected a percentage of all children in foster care receiving assistance under a State Title IV-E program.

#### Title 67

#### SOCIAL SERVICES

#### PART V. Office of Community Services

#### Subpart 5. Foster Care

#### Chapter 35. Payments, Reimbursables and Expenditures

#### §3510. Percentage of Title IV-E Children in Foster Care over 24 Months

A. For the percentage of all children in foster care receiving assistance under the State Title IV-E program who at any given time during the fiscal year will have been in foster care over 24 months, the Department will limit that percentage to 55 percent of the total foster care population.

AUTHORITY NOTE: Promulgated in accordance with 42 USC Sec. 671 (A) (14) of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Services, LR (July, 2001).

J. Renea Austin-Duffin  
Secretary

0107#009

## DECLARATION OF EMERGENCY

### Department of Social Services Office of Family Support

Food Stamp Eligibility  
(LAC 67:III.1949, 1983, and 1987)

The Department of Social Services, Office of Family Support, has exercised the emergency provision of the Administrative Procedure Act, R.S. 49:953(B) to adopt changes to LAC 67:III, Subpart 3, effective July 1, 2001. This rule shall remain in effect for a period of 120 days.

A final rule published in the June 20, 2001 issue of the Louisiana Register amended Subsections A of §§1949, 1983, and 1987. By failing to show that there were no revisions to what followed each subsection, the regulations contained in the subsequent paragraphs and subsections have been effectively removed from LAC 67:III beginning July 1. (Rules promulgated by the Office of Family Support are effective the first of the month following the publication of the final rule, unless otherwise stated within the rule.) Removal, or omission, of these regulations could result in the imposition of sanctions or penalties by the USDA, Food and Nutrition Service, the governing authority of the Food Stamp Program in Louisiana. Therefore, an emergency rule is necessary to repromulgate these regulations.

#### Title 67

#### SOCIAL SERVICES

#### Part III. Office of Family Support

#### Subpart 3. Food Stamps

#### Chapter 19. Certification of Eligible Households

#### Subchapter H. Resource Eligibility Standards

#### §1949. Exclusions from Resources

A.1. - 4. ...

B. All of the resources of recipients of FITAP, SSI, and aid to the aged, blind, or disabled under Titles I, II, X, XIV, or XVI of the Social Security Act are excluded.

AUTHORITY NOTE: Promulgated in accordance with F.R. 52:26937 et seq., 7 CFR 273.8 and 273.9C(v), P.L. 103-66, P.L. 106-387.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 13:656 (November 1987), amended LR 13:249 (August 1987), LR 17:953 (October 1991), amended by the Department of Social Services, Office of Family Support, LR 18:142 (February 1992), LR 18:686 (July 1992), LR 18:1267 (November 1992), LR 20:990 (September 1994), LR 20:1362 (December 1994), LR 21:186 (February 1995), LR 27:867 (June 2001), LR 27:

#### Subchapter I. Income and Deductions

#### §1983. Income Deductions and Resource Limits

A.1. - 2. ...

3. The maximum dependent care deduction is \$200 per month for each child under two years of age and \$175 for each other dependent.

a. A child care expense that is paid for or reimbursed by the FIND Work Program or the Child Care Assistance Program is not deductible except for that portion of the cost which exceeds the payment or reimbursement.

B. The resource limit for a household is \$2,000, and the resource limit for a household which includes at least one elderly member is \$3,000.

AUTHORITY NOTE: Promulgated in accordance with 7 CFR 273.9 (d)(2) and (d)(6), P.L. 104-193, P.L. 106-387.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 12:285 (May 1986), amended LR 12:423 (July 1986), LR 12:824 (December 1986), LR 13:181 (March 1987), LR 14:684 (October 1988), LR 15:14 (January 1989), amended by the Department of Social Services, Office of Family Support, LR 19:303 (March 1993), LR 19:905 (July 1993), LR 20:780 (July 1994), LR 20:990 (September 1994), LR 20:1362 (December 1994), LR 21:186 (February 1995), LR 23:82 (January 1997), LR 27:867 (June 2001), LR 27:

### **Subchapter J. Determining Household Eligibility and Benefit Levels**

#### **§1987. Categorical Eligibility for Certain Recipients**

A.1. - 10. ...

#### **B. Application Processing**

1. Households in which all members are applying for public assistance shall continue to be processed according to joint processing procedures. Until a determination is made on the public assistance application, the household's food stamp eligibility and benefit level shall be based on food stamp eligibility criteria. However, the local office shall postpone denying a potentially categorically-eligible household until the 30th day in case the household is determined eligible to receive public assistance benefits.

2. The household shall be informed on the notice of denial that it is required to notify the local office if its FITAP or SSI benefits are approved.

3. If the household is later determined eligible to receive public assistance benefits after the 30th day and is otherwise categorically eligible, benefits shall be provided using the original application along with other pertinent information occurring subsequent to the application.

4. The local office shall not reinterview the household but shall use any available information to update the application and/or make mail or phone contact with the household or authorized representative to determine any changes in circumstances. Any changes shall be initialed and the updated application resigned by the authorized representative or authorized household member. If eligibility for public assistance is determined within the 30-day food stamp processing time, benefits shall be provided back to the date of application. If eligibility for public assistance is determined after the food stamp application is denied, benefits for the initial month shall be prorated from the effective date of the public assistance certification or the date of the food stamp application, whichever is later.

C. Certified households that become categorically eligible due to receipt of SSI benefits shall be eligible for the medical and uncapped shelter deductions from the beginning of the period for which the SSI benefits are authorized or the

date of the food stamp application, whichever is later. These additional benefits shall be provided through restoration.

D. For food stamp purposes, Refugee Cash Assistance (RCA) benefits are not considered public assistance and, therefore, an RCA household is not categorically eligible.

AUTHORITY NOTE: Promulgated in accordance with F.R. 51:28196 et seq., 7 CFR 271, 272, 273.10, and 274; F.R. 56:63612-63613, P.L. 104-193, 7 CFR 273.2(j)(2)(xi).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 13:90 (February 1987), amended LR 12:755 (November 1986), amended by the Department of Social Services, Office of Family Support, LR 18:142 (February 1992), LR 18:686 (July 1992), LR 18:1267 (November 1992), LR 24:1783 (September 1998), LR 26:349 (February 2000), LR 27:867 (June 2001), LR 27:

J. Renea Austin-Duffin  
Secretary

0107#008

### **DECLARATION OF EMERGENCY**

#### **Department of Wildlife and Fisheries Wildlife and Fisheries Commission**

#### **Commercial Red Snapper Closure**

In accordance with the emergency provisions of R.S. 49:953(B), the Administrative Procedure Act, R.S. 49:967 which allows the Department of Wildlife and Fisheries and the Wildlife and Fisheries Commission to use emergency procedures to set finfish seasons, R.S. 56:326.3 which provides that the Wildlife and Fisheries Commission may set seasons for saltwater finfish, and the authority given to the Secretary of the Department by the Commission in its resolution of January 4, 2001 to close the 2001 spring commercial red snapper season in Louisiana state waters when he is informed that the designated portion of the commercial red snapper quota for the Gulf of Mexico has been filled, or projected to be filled, the Secretary hereby declares:

Effective 12:00 noon, July 6, 2001, the commercial fishery for red snapper in Louisiana waters will close and remain closed until 12:00 noon, October 1, 2001. Nothing herein shall preclude the legal harvest of red snapper by legally licensed recreational fishermen once the recreational season opens. Effective with this closure, no person shall commercially harvest, purchase, barter, trade, sell or attempt to purchase, barter, trade or sell red snapper. Effective with closure, no person shall possess red snapper in excess of a daily bag limit, which may only be in possession during the open recreational season as described above. Nothing shall prohibit the possession or sale of fish legally taken prior to the closure providing that all commercial dealers possessing red snapper taken legally prior to the closure shall maintain appropriate records in accordance with R.S. 56:306.5.

The secretary has been notified by National Marine Fisheries Service that the commercial red snapper season in

federal waters of the Gulf of Mexico will close at 12:00 noon, July 6, 2001. Closing the season in state waters is necessary to provide effective rules and efficient enforcement for the fishery, to prevent overfishing of this species in the long term.

James H. Jenkins, Jr.  
Secretary

0107#014

## **DECLARATION OF EMERGENCY**

### **Department of Wildlife and Fisheries Wildlife and Fisheries Commission**

#### **2001-2002 Recreational Nutria Harvest Season**

In accordance with the provisions of Act 226 of the 2001 Regular Session of the Louisiana Legislature which authorizes the Wildlife and Fisheries Commission to adopt regulations for a recreational harvest of nutria and in accordance with emergency provisions of R.S. 49:953(B) and R.S. 49:967(D) of the Administrative Procedure Act, which allows the Wildlife and Fisheries Commission to use emergency provisions to set seasons, the Wildlife and Fisheries Commission does hereby set the 2001-2002 recreational nutria harvest season statewide from September 1, 2001, one-half hour before sunrise through February 28, 2002, one-half hour after sunset, with no daily bag limit, by any legal method for small game during legal shooting hours and no pelting or sale of meat, except by persons possessing a valid trapping license during the trapping season only.

Dr. H. Jerry Stone  
Chairman

0107#016

## **DECLARATION OF EMERGENCY**

### **Department of Wildlife and Fisheries Wildlife and Fisheries Commission**

#### **2001 Spring Inshore Shrimp Season Closure**

In accordance with the emergency provisions of R.S. 49:953(B) and R.S. 49:967 of the Administrative Procedure Act which allows the Wildlife and Fisheries Commission to use emergency procedures to set shrimp seasons, R.S. 56:497 which provides that the Wildlife and Fisheries Commission shall fix no less than two open seasons each year for all inside waters and a resolution adopted by the Wildlife and Fisheries Commission on May 3, 2001 which authorized the Secretary of the Department of Wildlife and Fisheries to close the 2001 Spring Inshore Shrimp Season in any area or zone when biological and technical data indicates the need to do so, the Secretary hereby declares:

The 2001 spring inshore shrimp season will close in inshore waters west of the western shore of Bayou Lafourche, on Saturday, June 23, at 6 a.m. This closure includes that part of Zone 2 from the western shore of Bayou Lafourche to the western shore of Vermilion Bay and Southwest Pass at Marsh Island.

That portion of Zone 2 east of the western shore of Bayou Lafourche, and all of Zones 1 and 3 will remain open until further notice.

The State Territorial waters south of the Inside/Outside Shrimp Line, as described in R.S. 56:495, shall remain open.

The number of small white shrimp in these areas has increased substantially in the last week. The region is being closed to protect these immigrating shrimp.

James H. Jenkins, Jr.  
Secretary

0107#017

## **DECLARATION OF EMERGENCY**

### **Department of Wildlife and Fisheries Wildlife and Fisheries Commission**

#### **2001 Spring Inshore Shrimp Season Closure**

In accordance with the emergency provisions of R.S. 49:953(B) and R.S. 49:967 of the Administrative Procedure Act which allows the Wildlife and Fisheries Commission to use emergency procedures to set shrimp seasons, R.S. 56:497 which provides that the Wildlife and Fisheries Commission shall fix no less than two open seasons each year for all inside waters and a resolution adopted by the Wildlife and Fisheries Commission on May 3, 2001 which authorized the Secretary of the Department of Wildlife and Fisheries to close the 2001 Spring Inshore Shrimp Season in any area or zone when biological and technical data indicates the need to do so, the Secretary hereby declares:

The 2001 spring inshore shrimp season will close in inshore waters in the remaining portion of Zone 2 and all of Zone 3, on Sunday, July 1, at 6 a.m. This closure includes that part of Zone 2 from the eastern shore of Bayou Lafourche to the eastern shore of South Pass of the Mississippi River, and all of Zone 3. Zone 3 is that portion of Louisiana's inshore waters from the western shore of Vermilion Bay and Southwest Pass at Marsh Island, westward to the Louisiana-Texas state line. With this closure, all inshore waters from the eastern shore of South Pass of the Mississippi River westward to the Louisiana-Texas state line are closed to shrimping.

The number of small white shrimp in these areas has increased substantially in the last week and these regions are being closed to protect these immigrating shrimp.

Zone 1, which extends from the Mississippi-Louisiana state line to the eastern shore of South Pass of the Mississippi River and all State Territorial waters south of the Inside/Outside Shrimp Line, as described in R.S. 56: 495, shall remain open until further notice.

James H. Jenkins Jr.  
Secretary

0107#011

**DECLARATION OF EMERGENCY**

**Department of Wildlife and Fisheries  
Wildlife and Fisheries Commission**

2001 Wild Alligator Harvest Season

In accordance with the emergency provisions of R.S. 49:953(B) and R.S. 49:967(D) of the Administrative Procedure Act, which allows the Wildlife and Fisheries Commission to use emergency procedures to set seasons, the Wildlife and Fisheries Commission does hereby set the 2001 wild alligator harvest season.

The 2001 wild alligator harvest season shall be from official sunrise August 29, 2001 through official sunset September 30, 2001. Alligators taken from the wild may be

removed from hook and line and taken with other legal capture devices only during daylight hours between official sunrise and official sunset.

Emergency procedures are necessary to allow Department biologists adequate time to gather the biological data required to recommend season dates and harvest quotas.

The Wildlife and Fisheries Commission does hereby also authorize the Secretary of the Department of Wildlife and Fisheries to delay, extend, close or reopen this season based on technical data or if enforcement problems develop.

Dr. H. Jerry Stone  
Chairman

0107#018