

Emergency Rules

DECLARATION OF EMERGENCY

Department of Agriculture and Forestry Office of Agro Consumer Services

Weights and Measures CMeat Labeling (LAC 7:XXXV.135)

The Commissioner of Agriculture and Forestry hereby adopts the following emergency rules for the implementation of regulations governing the labeling of meat in accordance with R.S. 3:3.B, R.S. 51:614 and the emergency rule provisions of R.S. 49:953.B, in the Administrative Procedure Act.

The Louisiana Legislature, by Act 487 of the 1999 Regular Session, enacted R.S. 51:614 to require the labeling of meat and to provide for the enforcement thereof. As a result of the current outbreak of foot and mouth disease in European livestock and the fact that meat consumed in the United States, including Louisiana, is imported from foreign countries there is an imminent danger that Louisiana citizens will substantially decrease their consumption of meat, including meat raised or processed in Louisiana, if they cannot identify the source of the meat.

Louisiana's livestock industry has suffered severe financial distress as a result of the four-year drought that this state has experienced. The threat of a substantial decline in the consumption of meat poses an imminent peril to Louisiana's livestock industry. Additional economic losses threaten the continuation of the livestock industry in Louisiana. The livestock industry in Louisiana is a vital part of Louisiana's economic base. Therefore, financial deterioration and subsequent failures in the livestock industry pose an imminent peril to Louisiana's economy and to the welfare of the citizens of Louisiana, especially when it occurs in the midst of an economic slowdown.

The Commissioner of Agriculture and Forestry has, therefore, determined that these emergency rules are necessary in order to immediately implement and enforce the labeling of meat in Louisiana as to country of origin.

These rules become effective upon signature and will remain in effect 120 days, unless renewed by the Commissioner of Agriculture and Forestry or until permanent rules are promulgated in accordance with law.

Title 7

AGRICULTURE AND ANIMALS

Part XXXV. Agro-Consumer Services

Chapter 1. Weights and Measures

§135. Meat Labeling

A. As used in this Section the following terms are defined as.

1. *American* Any meat that is produced in the United States.
2. *Blend* Any combination of American and foreign meat.
3. *Imported* Any meat produced in a foreign country.

B. Unless otherwise provided in this Section, all processed or unprocessed meat sold in Louisiana, whether fresh or frozen, shall indicate the meat's country of origin.

1. The country of origin or designations "American," "imported," or "blend of imported and American meats" shall be indicated in clear and conspicuous letters in English.

2. All meat shall be labeled with one of the following designations, "American," "imported," or "blend of imported and American meats" or shall contain the name of the country of origin preceded by the "product of."

Example: Meat produced in the United States would be labeled "American" or "Product of U.S.A."

3. Meat displayed for sale or sold unwrapped shall contain the proper designation as to the country of origin on the meat, or on the immediate container or wrapping, or on a sign included with the display.

4. If an establishment sells only American meat, then a placard indicating that only American meat is sold will be sufficient to meet the requirements of these regulations.

C. The provisions of this Section shall not apply to prepared meat that is sold at retail for consumption on the premises and fully cooked meat as defined by the United States Department of Agriculture Food Safety Inspection Service rules and regulations.

D. The Commissioner of Agriculture and Forestry, the Weights and Measures Commission and the Department of Agriculture and Forestry shall have the power and authority granted under the Weights and Measures Law to enforce the provisions of this Section.

E. The penalty for any violation of this Section shall be as provided in R. S. 51:614.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4608, 3:4607 and R.S. 51:614.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Division of Weights and Measures, LR 28:

Bob Odom
Commissioner

0110#006

DECLARATION OF EMERGENCY

Student Financial Assistance Commission Office of Student Financial Assistance

Scholarship/Grant Programs
(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).

The emergency rules are 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 September 6, 2001, and shall remain in effect for the maximum period allowed under the Administrative Procedure Act.

**Title 28
EDUCATION**

Part IV. Student Financial Assistance

Higher Education Scholarship and Grant Programs

Chapter 3. Definitions

§301. Definitions

* * *

Selective Enrollment Program Can advanced college course of study with competitive admissions based on a student's qualifications including successful completion of required college courses and a minimum college cumulative grade point average. Examples of Selective Enrollment Programs include, but are not limited to, medical technology, nursing (bachelor of science), occupational therapy, physical therapy, and radiation technology.

* * *

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, LR 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 (August 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 27:1219 (August 2001), LR 28:

Chapter 21. Miscellaneous Provisions and Exceptions

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

A. - E.9.c. ...

10. Transfer Selective Enrollment Program

a. Definition. A student/recipient who completed his or her program requirements for transfer to a Selective Enrollment Program.

b. Certification Requirements. The student/recipient must submit:

i. a completed exception request form including official college transcripts and the semester(s) affected, and

ii. a written statement from the dean of the college or the dean's designee certifying that the student/recipient has or will complete his or her course requirements for transfer to a Selective Enrollment Program.

c. Maximum Length of Exception. Two semesters or three quarters.

A.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 by the Student Financial Assistance Commission, Office of Student Financial Assistance LR 17: 959 (October 1991), amended LR 22:338 (May 1996), LR 23:1647 (December 1997), LR 24:647 (April 1998), LR 24:1916 (October 1998), LR 26:1015 (May 2000) LR 28:

Mark S. Riley
Assistant Executive Director

0110#001

DECLARATION OF EMERGENCY

**Office of the Governor
Division of Administration
Racing Commission**

**Net Slot Machine Proceeds
(LAC 35:III.5737)**

Editor's Note: The original text in Section 5737 ("Commission Office") was moved to Section 5738 to allow slot machine subject matter to be consecutive. This information is being repromulgated in Section 5738 with no changes for informative purposes only.

The Louisiana State Racing Commission is exercising the emergency provisions of the Administrative Procedures Act, R.S. 49:953(B), and pursuant to the authority granted under R.S. 4:141 et seq., adopts the following emergency rule effective September 24, 2001, and it shall remain in effect for 120 days or until this rule takes effect through the normal promulgation process, whichever comes first.

The Louisiana State Racing Commission finds it necessary to adopt this rule to expand on the statutes involving slot machines housed at racing associations, specifically R.S. 27:353, R.S. 27:354 and R.S. 27:361, and specify certain provisions thereof.

Title 35

HORSE RACING

Part III. Personnel, Registration, and Licensing

Chapter 57. Associations' Duties and Obligations

§5737. Net Slot Machine Proceeds

A. The commission, pursuant to R.S. 27:354, finds that it is in the best interests of licensed associations, breeders associations, horsemen, and the state that the annual payments provided for in R.S. 27:361 be paid in monthly installments.

B. The definitions set forth in R.S. 27:353 are incorporated herein by reference.

C. Not later than the date on which an association installs slot machines at its facility, it shall open three separate checking accounts as provided for herein. One account shall be a control bank account into which not less than 100 percent of the net slot machine proceeds for the activity month shall be deposited in sufficient time to be distributed or disbursed not later than the twentieth day of the following month as required by these rules. The association shall also open two distinct interest bearing accounts, one for thoroughbred purse proceeds and one for quarter horse purse proceeds, into which the association shall make its deposits for purse supplements of 15 percent

of net slot machine proceeds and from which funds, including interest earned, such purse supplements shall be made available as provided by law and these rules.

D. While an association is conducting live racing, the monies due to be paid pursuant to R.S. 27:361(B)(4)(a) shall be made available monthly for use as purses prior to the 20th day of the month following the month in which they are earned, during the current race meeting.

E. While an association is not conducting live racing, the monies due to be paid pursuant to R.S. 27:361(B)(4)(a) shall be deposited in the appropriate breed account either:

1. for accrual until the first day of the next live race meeting conducted by that association for that breed at which time such accumulated monies, including interest, shall be used to supplement appropriate purses during that race meeting; or

2. with prior written agreement of the Louisiana HBPA for reimbursement to the association for actual funds advanced to supplement purses at a preceding race meeting in anticipation of the revenue to be earned from slot machines. However, an association shall not be reimbursed except from proceeds earned during the same annual period during which it advanced the purse supplements.

F. The monies due to be paid by an association pursuant to R.S. 27:361(B)(4)(b) and (c) shall be remitted monthly to the appropriate breeders association and the monies due to be paid by an association pursuant to R.S. 27:361(B)(4)(a)(i) and (ii) shall be remitted monthly to the HBPA, prior to the 20th day of the month following the month in which they are earned.

G. Each racing association conducting slot machine gaming shall file with the commission a complete report, on a form acceptable to the commission, not later than the twentieth day of each month, setting forth the amounts deposited and payments made from the net slot machine proceeds earned the preceding month, as well as payments for purses and payments to breeders associations and to the HBPA. Copies of those bank accounts required to be maintained by Subsection C of this Section shall be submitted to the commission along with the monthly report.

H. Each racing association, after conducting slot machine gaming for 12 months, shall file an annual report with the commission, on forms acceptable to the commission, not later than the twentieth day of the following month, and on that date each following year, which report shall certify under oath by a responsible officer the association's compliance with all requirements under R.S. 27:361(B)(4) and under this rule. Each such 12-month period shall constitute an annual period for the purposes of this rule.

I. All records and reports pertaining to slot machines, including checking accounts, maintained by an association shall be subject to inspection, reporting procedures and audits by the commission. All records and reports on revenues and expenses from slot machines shall be included as part of the association's annual CPA opinion audit submitted to the commission.

J. Before receiving any payments provided by R.S. 27:361(B)(4)(b) or (c), the respective Executive Committee of the Louisiana Thoroughbred Breeders Association and Executive Committee of the Louisiana Quarter Horse Breeders Association shall file with the commission the

schedule or formula and within a time period which it has established for the distribution of such funds. Any amendments or modifications to such distribution schedule or formula shall be filed with the commission within 30 days of its adoption by the Executive Committee. A true and complete copy of each such filing with the commission shall be delivered to each racing association and the filing shall so certify delivery. Each Executive Committee shall also file a monthly report with the commission of revenue received, payments made, and the bank balance on hand along with a copy of the bank statement.

K. After the expiration of one year from the filing of its first distribution schedule or formula with the commission but within 20 days thereafter, and on that date each following year, the respective Executive Committee of the Louisiana Thoroughbred Breeders Association and Executive Committee of the Louisiana Quarter Horse Breeders Association shall file with the commission a report which shall certify under oath by a responsible officer the association's compliance with its applicable distribution schedule or formula and within a time period which it has established for the distribution of such funds.

L. An association shall publicly disclose its schedule for the distribution of funds for purse supplements to be made pursuant to R.S. 27:361(B)(4)(a). Excluding those funds statutorily dedicated to races restricted to accredited Louisiana-breds, the remaining funds shall be distributed proportionately according to the conditions of the races in which the remaining funds are used to insure parity among restricted and non-restricted races.

M. Whenever it appears to the executive director of the commission that a violation may have occurred, he shall furnish the apparent violator with a warning letter, sent by ordinary mail and by fax, affording the party 15 days from the date of the transmission of the letter to correct the violation.

N. If the apparent violation has not been timely corrected, the executive director, or his designee, shall within 10 days give written notice, by certified mail, to the party that its responsible officers are to appear before him for an informal conference to determine whether a violation has occurred and, if so, whether the violation can be corrected in the absence of imposing a fine or indefinitely suspending the license of the party, or refusing to allow the party to receive payments under this rule. Such informal hearing shall be conducted in accordance with the Administrative Procedure Act applicable to such hearing.

O. If the executive director, or his designee, determines after affording the party an opportunity for an informal conference that a violation has occurred and that a fine, license suspension, or other appropriate action should be taken, he shall file a *rule to show cause* with the commission for the notified party and its responsible officers to appear before the commission and show cause why disciplinary action or sanctions should not be imposed. The *rule to show cause* shall be forwarded by certified mail and by fax to the party. The cited party shall have 10 days from transmission, excluding holidays and weekends, to file with the commission a written response, under oath, and to submit a list of the names and addresses of all witnesses it desires to be subpoenaed for the hearing, including those to produce documents and other things. The failure to timely file a

verified response may, in the commission's discretion, result in the cited party being refused to participate in the hearing on the *rule to show cause*.

P. At the conclusion of the hearing, the commission shall take action appropriate to the violation if it finds that one has occurred.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:353, R.S. 27:354 and R.S. 27:361.

HISTORICAL NOTE: Promulgated by the Division of Administration, Racing Commission LR 28:

§5738. Commission Office

A. Each association shall provide and furnish an adequate office for the use of the commission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:148.

HISTORICAL NOTE: Adopted by the Racing Commission in 1971, promulgated by the Department of Commerce, Racing Commission, LR 2:435 (December 1976), LR 3:31 (January 1977), LR 4:278 (August 1978), repromulgated by the Office of the Governor, Division of Administration LR 28:

Charles A. Gardiner III
Executive Director

0110#029

DECLARATION OF EMERGENCY

**Office of the Governor
Division of Administration
Racing Commission**

Penalty Guidelines
(LAC 35:I.1797)

The Louisiana State Racing Commission is exercising the emergency provisions of the Administrative Procedures Act, R.S. 49:953(B), and pursuant to the authority granted under R.S. 4:141 et seq., adopts the following emergency rule effective September 24, 2001, and it shall remain in effect for 120 days or until this rule takes effect through the normal promulgation process, whichever comes first.

The Louisiana State Racing Commission finds it necessary to amend this rule to provide for revised penalty guidelines for violations of class IV and V drugs/substances found in equine biological samples.

Title 35

HORSE RACING

Part I. General Provisions

Chapter 17. Corrupt and Prohibited Practices

§1797. Penalty Guidelines

A. - B3. ...

4. *Classes IV and V*: possible suspension of license for a period not more than 60 days and a fine of not less than \$500 nor more than \$1,500, or both, depending on the severity and number of violations occurring within a 12-month period. The purse may be redistributed.

a. On ordinary violation(s) of Classes IV or V within a 12-month period the penalty shall be a fine of \$500 on the first violation; a fine of \$1,000 on the second violation; a fine of \$1,000 on the third and subsequent violations and referred to the commission. The purse shall be redistributed commencing with the fourth violation within a 12-month period.

b. On extraordinary violation(s) of Classes IV or V in a manner that might affect the performance of a horse within a 12-month period the penalty shall be a fine of \$1,000 on the first offense; a fine of \$1,000 and referred to the commission for further action on second and subsequent violations. The purse shall be redistributed commencing with the third violation within a 12-month period.

c. On gross violation(s) of Classes IV or V in a manner that intends to affect the performance of a horse the penalty shall be not less than \$1,000 and referred to the commission for further action. The purse shall be redistributed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:141 and R.S. 4:148.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Racing Commission LR 19:612 (May 1993), amended by the Office of the Governor, Division of Administration, Racing Commission LR 28:

Charles A. Gardiner III
Executive Director

0110#030

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 increased the reimbursement for certain designated procedure codes for emergency ambulance transportation services by 1.4 percent. This Emergency Rule is being adopted to continue the provisions contained in the July 1, 2001 Rule.

Emergency Rule

Effective for dates of service October 30, 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 02 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 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

0110#054

DECLARATION OF EMERGENCY

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

Hospital ProgramCOutpatient Surgery 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 adopted a rule in December of 1985 that established the criteria and reimbursement for certain surgical procedures when performed in an outpatient setting. Reimbursement for these surgical procedures was set at a flat fee per service if the procedure code is included in one of the four Medicaid established payment groups. Reimbursement for those surgical procedures not included in the Medicaid outpatient surgery list was not changed from the established methodology (*Louisiana Register*, volume 11, N=number 12). A rule was subsequently adopted in January of 1996

which established the reimbursement methodology for outpatient hospital services at an interim rate of 60 percent of billed charges, except for those outpatient surgeries subject to the Medicaid outpatient surgery list (*Louisiana Register*, volume 22, number 1).

As a result of a budgetary shortfall, the bureau assigned the highest flat fee in the four Medicaid established payment groups for outpatient surgery to those surgical procedures that are not included in the Medicaid outpatient surgery list (*Louisiana Register*, volume 26, number 12).

As a result of the allocation of funds by the Legislature during the 2001 Regular Session, the Bureau increased the reimbursement rates paid to hospitals for outpatient surgery services. This emergency rule is being adopted to continue the provisions contained in the July 1, 2001 Rule.

Emergency Rule

Effective for dates of service on or after October 30, 2001, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing increases the reimbursement paid to hospitals for those outpatient surgical procedures included in the four payment groups on the Medicaid outpatient surgery list to the following rates:

Group 1	\$444.25
Group 2	\$528.92
Group 3	\$569.32
Group 4	\$646.25

Reimbursement paid to hospitals for those surgical procedures not included on the Medicaid outpatient surgery list shall be the highest flat fee assigned to the outpatient surgery payment groups.

Implementation of this proposed rule 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) as set forth in the Appropriations Act of the 2001 Regular Session of the Louisiana Legislature and 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 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

0110#059

DECLARATION OF EMERGENCY

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

Inpatient Psychiatric 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 adopted a rule which established the prospective reimbursement methodology for inpatient psychiatric hospital services provided in either a free-standing psychiatric hospital or distinct part psychiatric unit of an acute care general hospital (*Louisiana Register*, volume 19, number 6). This rule was subsequently amended by a rule adopted to discontinue the practice of automatically applying an inflation adjustment to the reimbursement rates for inpatient psychiatric services in those years when the rates are not rebased (*Louisiana Register*, volume 25, number 5).

As a result of the allocation of additional funds by the Legislature during the 2000 Second Special Session, the Bureau adopted a rule in August 2000 to restore the 7 percent reduction previously made to the reimbursement rates for inpatient psychiatric services (*Louisiana Register*, volume 26, number 8).

As a result of the allocation of funds by the Legislature during the 2001 Regular Session, the Bureau increased the reimbursement rate for inpatient psychiatric services provided to recipients up to the age of 21. This emergency rule is being adopted to continue the provisions contained in the July 3, 2001 Rule.

Emergency Rule

Effective for dates of service on or after November 1, 2001, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing increases the current per diem rate for inpatient psychiatric services by \$50 for services provided to recipients up to the age of 21.

Implementation of this proposed 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 responsible for responding to all inquiries regarding this emergency rule. A copy of this emergency rule is available at the parish Medicaid office for review by interested parties.

David W. Hood
Secretary

0110#055

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-capitated 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 7 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 increased 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 emergency rule is being adopted to continue the provisions contained in the July 1, 2001 Rule.

Emergency Rule

Effective for dates of service October 30, 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	AdultCLow Need	\$ 350
X0133	AdultCMedium Need	\$ 750
X0135	ChildCLow Need	\$ 400
X0136	ChildCMedium Need	\$ 840
X0137	ChildCHigh Need	\$1415

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 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

0110#056

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 increased the reimbursement rates for certain designated procedure codes for personal care attendant, respite and supervised independent living services. This emergency rule is being adopted to continue the provisions contained in the July 1, 2001 Rule.

Emergency Rule

Effective October 30, 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, LA 70821-9030. She 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

0110#057

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 increased reimbursement for certain designated procedure codes for non-emergency ambulance transportation services. This Emergency Rule is being adopted to continue the provisions contained in the July 1, 2001 Rule

Emergency Rule

Effective for dates of service October 30, 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 st trip	\$152.75
A0426	ALS non-emergency transport	\$152.75
A0428	BLS non-emergency transport	\$152.75
Z5100	Transfer, loaded miles, BLS, 1 st trip	\$152.75
Z5101	Transfer, loaded miles, ALS, 1 st trip	\$152.75
Z9497	Base rate, ALS or BLS, 2 nd 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 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

0110#058

DECLARATION OF EMERGENCY

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

Private Nursing Facilities
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 adopted a rule on June 20, 1984 which established the reimbursement methodology for private nursing facilities (*Louisiana Register*, volume 10, number 6). The reimbursement methodology for private nursing facilities included provisions for interim adjustments to the reimbursement rates and automatic application of an inflation adjustment to the rates in those years when the rates are not rebased. The June 1984 rule was subsequently amended to discontinue the practice of automatically applying an inflation adjustment to the rates in those years when the rates are not rebased (*Louisiana Register*, volume 25, number 6). As a result of the allocation of additional funds by the Legislature during the 2000 Second Special Session, the Bureau adopted an emergency rule to restore the 7 percent reduction previously made to the prospective per diem rates for private nursing facilities (*Louisiana Register*, volume 26, number 7).

As a result of the allocation of funds by the Legislature during the 2001 Regular Session in order to continue initial year rebasing as provided for by R.S. 46:2691 through an approved state plan amendment to be in effect for state fiscal year 2001-2002 only and for cost increases as verified by the Department of Health and Hospitals, the Bureau adjusted the per diem rates paid to private nursing facilities. This emergency rule is being adopted to continue the provisions contained in the July 1, 2001 Rule.

Emergency Rule

Effective for dates of service on or after October 30, 2001, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adjusts the percentile utilized for all cost components, except profit incentive, from the sixtieth to the sixty-second percentile.

Implementation of this proposed rule shall be contingent on the approval of the U.S. Department of Health and Human Services, Center 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 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

0110#060

DECLARATION OF EMERGENCY

Department of Natural Resources Office of Conservation

Pollution ControlCStatewide Order No. 29-B
(LAC 43:XIX.501 and 503)

Pursuant to the power delegated under the laws of the state of Louisiana, and particularly Title 30 of the Revised Statutes of 1950, as amended, and in conformity with the provisions of the Louisiana Administrative Procedure Act, Title 49, Sections 953(B)(1) and (2), 954(B)(2), as amended, the following Emergency Rule and reasons therefor are now adopted and promulgated by the Commissioner of Conservation as being necessary to protect the public health, safety and welfare of the people of the state of Louisiana, as well as the environment generally, by continuing a procedure for testing E&P waste after receipt at a commercial facility and identifying acceptable storage, treatment and disposal methods for certain E&P wastes at commercial facilities.

Need and Purpose for Emergency Rule

Certain oil and gas exploration and production waste (E&P waste) is exempt from the hazardous waste regulations under the Resource Conservation and Recovery Act (RCRA). This exemption is based on findings from a 1987-1988 Environmental Protection Agency (EPA) study and other studies that determined this type of waste does not pose a significant health or environmental threat when properly managed. The EPA, in its regulatory determination, found that these wastes are adequately regulated under existing federal and state programs.

Existing Louisiana state regulations governing the operations of commercial E&P waste disposal facilities (Statewide Order No. 29-B) require only very limited testing of the waste received for storage, treatment and disposal at each commercial facility. Such limited testing finds its basis in the above-mentioned national exemption for E&P waste recognized by the EPA. However, public concern warranted the Commissioner of Conservation to issue a first Emergency Rule effective May 1, 1998 (May 1, 1998 Emergency Rule), the purpose of which was to gather technical data regarding the chemical and physical makeup of E&P waste disposed at permitted commercial E&P waste disposal facilities within the state of Louisiana. The May 1, 1998 Emergency Rule had an effective term of 120 days. However, technical experts under contract with the Office of Conservation determined during the term of the May 1, 1998

Emergency Rule that sampling and testing should be extended for an additional 30 days for the purpose of receiving additional data in order to strengthen the validity of the inferred concentration distributions within the various E&P waste types. Therefore, a second Emergency Rule was issued on August 29, 1998, and effective through September 30, 1998.

The second Emergency Rule required continued comprehensive analytical testing of E&P waste at the site of generation together with verification testing at the commercial E&P waste disposal facility. During the terms of the first and second Emergency Rules, approximately 1,800 E&P waste testing batches were analyzed, with the raw data results being filed with the Office of Conservation. Technical experts under contract with the Office of Conservation, together with staff of the Office of Conservation, determined that the number of raw data sets of E&P waste types, along with other published analytical results of E&P waste testing, provided adequate numbers of validated test results of the various generic E&P waste types to reach statistically valid conclusions regarding the overall chemical and physical composition of each type of E&P waste.

Therefore, continued testing of E&P waste at the site of generation was unnecessarily redundant, and was discontinued. The third Emergency Rule adopted on October 1, 1998, required continued testing of each E&P waste shipment at the commercial disposal facility according to procedures described in Section D. Such continued testing was required to assure that E&P waste shipments received for disposal at commercial facilities were consistent with evolving E&P waste profiles.

A fourth Emergency Rule, adopted January 29, 1999, a fifth Emergency Rule, adopted May 29, 1999, a sixth Emergency Rule, adopted September 26, 1999, a seventh Emergency Rule, adopted January 24, 2000, an eighth Emergency Rule, adopted May 23, 2000, a ninth Emergency Rule, adopted September 20, 2000, a tenth Emergency Rule, adopted January 18, 2001, and an eleventh Emergency Rule, adopted May 18, 2001, provided requirements for continued testing of all E&P waste shipments received for disposal at commercial E&P waste disposal facilities, as well as identifying acceptable methods of storage, treatment and disposal of certain E&P waste types at such commercial facilities. However, since evaluation of data generated by Emergency Rules 1 and 2 has not been completed and a permanent rule has not been promulgated, it is necessary to adopt an twelfth Emergency Rule, effective September 14, 2001, to continue the requirements of the fourth Emergency Rule.

Concurrent with implementation of this Emergency Rule, the Office of Conservation will continue development of a permanent rule for the management and disposal of E&P waste at commercial facilities within the state of Louisiana. Best E&P waste management practices, based on established E&P waste profiles, will be incorporated into the permanent rule. Such permanent rule will also address specific storage, treatment and disposal options for the various categories of E&P waste.

Synopsis of Emergency Rule

1. E&P Waste Will Be Transported With Identification

Each load of E&P waste transported from the site of generation to a commercial facility for disposal will be

accompanied by an Oilfield Waste Shipping Control Ticket (Form UIC-28) and presented to the operator before offloading. Copies of completed Form UIC-28 are required to be timely filed with the Office of Conservation.

Produced water, produced formation fresh water and other E&P waste fluids are exempt from certain provisions of the testing requirements provided they are:

1) transported in enclosed tank trucks, barges, or other enclosed containers;

2) stored in enclosed tanks at a commercial facility; and

3) disposed by deepwell injection. Such provision is reasonable because, provided the above conditions are met, exposure to the public and to the environment would be minimal.

2. Each Load of E&P Waste Will Be Tested At Commercial Facility

Before offloading at a commercial E&P waste disposal facility and in order to verify that the waste qualifies for the E&P category, each load of E&P waste shall be sampled for required parameters. Additionally, the presence and concentration of BTEX (benzene, toluene, ethyl benzene and xylene) compounds and hydrogen sulfide must be determined. Appropriate records of tests shall be kept at each commercial facility for review by the Office of Conservation.

3. Identification of Acceptable Storage, Treatment and Disposal Methods (Options) for E&P Waste

It is required that all offsite storage, treatment and disposal methods for E&P waste utilize approved technologies that are protective of public health and the environment. Therefore, this Emergency Rule requires that injection in Class II wells, after storage in a closed system, shall be utilized for Waste Types 01 and 14. As a result of the E&P waste study conducted by Louisiana State University and CSI, Inc. (available for review on Conservation's web page), commercial land treatment facilities will not be permitted to receive, treat or dispose of natural gas plant processing waste solids (Waste Type 12). The remainder of the E&P waste types are currently under study to confirm acceptable storage, treatment and disposal methods. Any additional acceptable storage, treatment and disposal methods will be promulgated in the near future.

Reasons

Recognizing the potential advantages of a testing program that is fully protective of public health and the environment and that adequately characterizes such waste as to its potentially toxic constituents, and by the identification of acceptable storage, treatment and disposal methods for certain types of E&P waste, it has been determined that failure to establish such procedures and requirements in the form of an administrative rule may lead to the existence of an imminent peril to the public health, safety and welfare of the people of the state of Louisiana, as well as the environment generally.

Protection of the public and our environment therefore requires the Commissioner of Conservation to take immediate steps to assure that adequate testing is performed and acceptable storage, treatment and disposal methods for certain types of E&P waste are employed at commercial facilities. The Emergency Rule, Amendment to Statewide

Order No. 29-B (Emergency Rule) set forth hereinafter, is now adopted by the Office of Conservation.

Title 43

NATURAL RESOURCES

Part XIX. Office of Conservation General Operations

Subpart 1. Statewide Order No. 29-B

Chapter 5. Off-Site Storage, Treatment and/or disposal of Nonhazardous Oilfield Waste Generated from Drilling and Production of Oil and Gas Wells

§501. Definitions

* * *

Commercial Facility Ca legally permitted waste storage, treatment and/or disposal facility which receives, treats, reclaims, stores, or disposes of exploration and production waste for a fee or other consideration, and shall include the term *transfer station*.

* * *

Exploration and Production (E&P) Waste Cdrilling fluids, produced water, and other waste associated with the exploration, development, or production of crude oil or natural gas and which is not regulated by the provisions of the Louisiana Hazardous Waste Regulations and the Louisiana Solid Waste Regulations. Such wastes include, but are not limited to, the following.

Waste Type	Waste Description
01	salt water (produced brine or produced water), except for salt water whose intended and actual use is in drilling, workover or completion fluids or in enhanced mineral recovery operations, and natural gas plant processing waste fluid which is or may be commingled with produced formation water
02	oil-base drilling mud and cuttings
03	water-base drilling mud and cuttings
04	completion, workover and stimulation fluids
05	production pit sludges
06	production storage tank sludges
07	produced oily sands and solids
08	produced formation fresh water
09	rainwater from ring levees and pits at production and drilling facilities
10	washout water generated from the cleaning of containers that transport E&P waste and are not contaminated by hazardous waste or material
11	washout pit water and solids from oilfield related carriers that are not permitted to haul hazardous waste or material
12	natural gas plant processing (E&P) waste solids
13	waste from approved salvage oil operators who only receive oil (BS&W) from oil and gas leases
14	pipeline test water which does not meet discharge limitations established by the appropriate state agency, or pipeline pigging waste, i.e., waste fluids/solids generated from the cleaning of a pipeline
15	wastes from permitted commercial facilities
16	crude oil spill clean-up waste
50	salvageable hydrocarbons
99	other approved E&P waste (written authorization required)

* * *

*NOW*Exploration and production waste

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 30.4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 26:2813 (December 2000), amended LR 28:

§509. Criteria for the Operation of Commercial Facilities and Transfer Stations

A. - H.3. ...

I. Receipt, Sampling and Testing of E&P Waste

1. ...

2. Before offloading E&P waste at a commercial facility, including a transfer station, each load of E&P waste shall be sampled and analyzed by commercial facility personnel for the following:

a. pH, electrical conductivity (EC-mmhos/cm) and chloride (Cl) content; and

b. the presence and concentration of BTEX (benzene, toluene, ethyl benzene, and xylene) compounds using an organic vapor monitor or other procedures sufficient to identify and quantify BTEX;

c. the sample temperature (degrees Fahrenheit) representing actual testing conditions of the sample obtained for BTEX analysis by methodology that will assure sufficient accuracy; and

d. the presence and concentration of hydrogen sulfide (H₂S) using a portable gas monitor.

3. ...

4. The commercial facility operator shall enter the pH, electrical conductivity, chloride (Cl) content, BTEX, BTEX sample temperature and hydrogen sulfide measurements on the manifest (Form UIC-28) which accompanies each load of E&P waste.

5. Produced water, produced formation fresh water, and other E&P waste fluids are exempt from organic vapor monitoring measurement (BTEX), and the H₂S measurement in (a) above if the following conditions are met:

a. if transported by the generator or transporter in enclosed tank trucks, barges, or other enclosed containers; and

b. if stored in an enclosed container at a commercial facility; and

c. if disposed by deep well injection.

6. Records of these tests shall be kept on file at each commercial facility for a period of three years and be available for review by the Commissioner or his designated representative. Copies of completed Form UIC-28 shall be filed with the Office of Conservation as provided in § 511.D.

J. - L. ...

M. It is required that all offsite storage, treatment and disposal methods for E&P waste utilize approved technologies that are protective of public health and the environment. The following chart includes acceptable and required storage, treatment and disposal methods for each type of E&P waste disposed of at commercial facilities within the state of Louisiana.

Waste Type	Required Storage, Treatment and Disposal Method(s)
01	Injection in Class II well utilizing a closed system
02	(reserved)
03	(reserved)
04	(reserved)
05	(reserved)
06	(reserved)
07	(reserved)
08	(reserved)
09	(reserved)
10	(reserved)
11	(reserved)

12	Commercial land treatment facilities shall not receive, treat or dispose of natural gas plant processing waste solids (Waste Type 12)
13	(reserved)
14	Pipeline test water - Injection in Class II well utilizing a closed system Pipeline pigging waste - (reserved)
15	(reserved)
16	(reserved)
50	Commercial salvage oil facility
99	(reserved)

DECLARATION OF EMERGENCY
Department of Public Safety and Corrections
Corrections Services

Louisiana Risk Review Panel (LAC 22:I.107)

AUTHORITY NOTE: Promulgated in accordance with R.S. 30.4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 26:2813 (December 2000), LR 28:

Summary

The Emergency Rule adopted herein above evidences the finding of the Commissioner of Conservation that failure to adopt the above rules may lead to an imminent risk to public health, safety and welfare of the citizens of Louisiana, and that there is not time to provide adequate notice to interested parties. However, the Commissioner of Conservation notes again that a copy of the permanent Amendment to Statewide Order No. 29-B will be developed in the immediate future, with a public hearing to be held as per the requirements of the Administrative Procedure Act.

The Commissioner of Conservation concludes that the above Emergency Rule will better serve the purposes of the Office of Conservation as set forth in Title 30 of the Revised Statutes, and is consistent with legislative intent. The adoption of the above Emergency Rule meets all the requirements provided by Title 49 of the Louisiana Revised Statutes. The adoption of the above Emergency Rule is not intended to affect any other provisions, rules, orders, or regulations of the Office of Conservation, except to the extent specifically provided for in this Emergency Rule.

Within five days from date hereof, notice of the adoption of this Emergency Rule shall be given to all parties on the mailing list of the Office of Conservation by posting a copy of this Emergency Rule with reasons therefor to all such parties. This Emergency Rule with reasons therefor shall be published in full in the *Louisiana Register* as prescribed by law. Written notice has been given contemporaneously herewith notifying the Governor of the state of Louisiana, the attorney general of the state of Louisiana, the Speaker of the House of Representatives, the President of the Senate and the *State Register* of the adoption of this Emergency Rule and reasons for adoption.

Effective Date and Duration

1. The effective date for this Emergency Rule shall be September 14, 2001.

2. The Emergency Rule herein adopted as a part thereof, shall remain effective for a period of not less than 120 days hereafter, or until the adoption of the final version of an Amendment to Statewide Order No. 29-B as noted herein, whichever occurs first.

Signed at Baton Rouge, Louisiana, this 14th day of September, 2001.

Philip N. Asprodites
Commissioner

0110#007

In accordance with the provisions of R.S. 49:953, the Louisiana Department of Public Safety and Corrections, Corrections Services, hereby determines that adoption of an Emergency Rule for implementation of the Louisiana Risk Review Panel is necessary and that for the following reasons failure to adopt the rule on an emergency basis will result in imminent peril to the public health, safety and welfare.

Act. 403 of the 2001 Regular Session of the Louisiana Legislature at R.S. 15:574.22 created the Louisiana Risk Review Panel within the Department of Public Safety and Corrections. The act specifies the composition of the panel(s), call of meetings, powers and duties with regard to evaluation of the risk to society of release of incarcerated individuals. Additionally, the act mandates that the secretary of the Department of Public Safety and Corrections, on or before January 1, 2002, shall adopt and promulgate rules, regulations and procedures for operations of the Louisiana Risk Review Panel. In conjunction with the passage of Act 403, the legislature reduced the annual appropriation to the Department of Public Safety and Corrections, Corrections Services, for the fiscal year 2001-2002 by \$5,095,460. This reduction in operating funds to Corrections Services was primarily in anticipation of a reduction in housing of state inmates in parish jails due to the passage of Act 403.

In order for the Risk Review Panel to meet its statutory obligation to properly review each applicant for consideration relative to his risk of danger to society if released and in order to assist the department in meeting the revised funding schedule, it is imperative that the panel(s) be operational as soon as possible.

The Administrative Procedure Act, R.S. 49:950, et seq., requires, unless a rule is promulgated as an Emergency Rule, a period of approximately 100 days between the filing of the initial Notice of Intent and the effective date of the Rule, which would be beyond the statutorily required promulgation date of January 1, 2002. Delays in the implementation of the Risk Review Panel will greatly impede the ability of the department to meet the stringent fiscal goals established by the legislature for this fiscal year. The inability to immediately process applications and make the requisite recommendations to the Boards of Parole and Pardon may result in significant fiscal problems that will negatively impact programs and conditions of confinement.

For the foregoing reasons, the Louisiana Department of Public Safety and Corrections has determined that the adoption of the following Emergency Rule is necessary and hereby adopts this Emergency Rule effective October 10, 2001, in accordance with R.S. 49:953(B). This Emergency Rule shall be in effect for the maximum period allowed under the Administrative Procedure Act or until adoption of the final rule, whichever occurs first.

Title 22
CORRECTIONS, CRIMINAL JUSTICE AND LAW
ENFORCEMENT

Part I. Corrections

Chapter 1. Secretary's Office

§107. Louisiana Risk Review Panel

A. Purpose. To establish the secretary's policy regarding the formation of the Louisiana Risk Review Panel pursuant to legislative intent and the provisions R.S. 15:574.22 (Act 403 of the 2001 Regular Session of the Louisiana Legislature).

B. Applicability. Deputy Secretary, Undersecretary, Assistant Secretary of the Office of Adult Services, Wardens of Adult Institutions, Director of Probation and Parole -Adult, Chairman/Board of Parole, Chairman/Board of Pardons and administrators of local jail facilities.

C. Panel Composition and Guidelines

1. The secretary hereby creates three regional Risk Review Panels to be known as the North Louisiana Panel, (supported by David Wade Correctional Center serving as the regional state facility), the Central Louisiana Panel, (supported by David Wade Correctional Center with the Work Training Facility-North serving as the regional state facility), and the South Louisiana Panel, supported by the Elayn Hunt Correctional Center as the regional state facility.) The secretary shall designate the parishes which comprise each panel and shall appoint a chairman and a Coordinator for each panel.

2. Each Risk Review Panel shall consist of five members as follows:

- a. the secretary, or his designee, who shall be chairman;
- b. a psychologist (either licensed or working directly under the supervision of a licensed psychologist), who shall be authorized and approved by the secretary;
- c. the warden (or his deputy) at the state facility where the inmate is housed or the regional state facility warden (or his deputy) for inmates housed in local jail facilities;
- d. a retired judge with criminal law experience, who shall be appointed by the governor; and
- e. a probation and parole officer -Adult with a minimum of ten years experience, who shall be appointed by the governor.

3. A majority of members present constitutes a quorum. All official actions of the panel shall require an affirmative vote of a majority of members present.

4. Each panel or panel member may work in any region. A panel shall meet on the call of the chairman or upon the request of any three members.

5. Panel members, other than departmental employees, may receive a per diem for each hearing they attend. The amount of the per diem shall be fixed by the secretary in accordance with R.S. 15:574.22(D.) All members shall receive travel reimbursement in accordance with Department Regulation Number A-03-002 "Travel" and PPM Number 49.

6. Panels will follow the provisions of R.S. 42:1 et seq. (Public Policy for Open Meetings Law) and *Robert's Rules of Order*.

7. Official results will be maintained on a docket sheet results form.

D. Selection Criteria

1. First Priority Inmate Pool - Inmates who committed crimes enumerated in Act 403 prior to the effective date of the Act who have served longer than the mandatory minimums of the Act, or who would be parole eligible under Act 403, except for those statutorily or technically ineligible pursuant to this regulation, (See §107.D.4. and 5.)

2. Second Priority Inmate Pool - Inmates convicted of crimes enumerated in Act 1163, i.e. third, fourth or subsequent offenses for operating a vehicle while intoxicated (DWI.)

3. Third Priority Inmate Pool - First offenders with low level drug, property, or other crimes not otherwise excluded in Act 403.

4. Pursuant to R.S. 15:574.22 G(1), (2), and (3), the following inmates are ineligible to apply for Risk Review Panel consideration:

- a. an inmate convicted of a crime of violence as defined or enumerated in R.S. 14:2(13);
- b. an inmate convicted of a sex offense as defined in R.S. 15:540 et seq. when the victim was under the age of 18 at the time of commission of the offense;
- c. an inmate convicted of a violation of the Uniform Controlled Dangerous Substances Law except for any of the following:

- i. possession as defined in R.S. 40:966(C), 967(C), 968(C), 969(C) or 970(C);
- ii. distribution or possession with the intent to distribute cocaine where the offense of conviction involved less than 28 grams of cocaine;
- iii. distribution or possession with the intent to distribute marijuana where the offense of conviction involved less than one pound of marijuana.
- d. an inmate sentenced as a habitual offender under R.S. 15:529.1 where one or more of the crimes was a crime of violence defined or enumerated in R.S. 14:2(13).

5. Pursuant to this regulation, the following inmates are also ineligible to apply for Risk Review Panel consideration:

- a. participating in or recommended for participation in the IMPACT program;
- b. 120 days or less until regularly scheduled parole hearing;
- c. felony detainer(s) or open warrant(s).

6. An application will normally be ineligible for Risk Review Panel referral to the appropriate board in the following circumstances:

- a. a poor disciplinary record, to include habitual and compulsive violent behavior, consistent signs of bad work habits, lack of cooperation or good faith and/or other undesirable behavior;
- b. maximum custody status;
 - i. exception: inmates assigned to maximum custody solely based upon classification criteria and not for disciplinary reasons are eligible;
- c. low level of program activity - Inmates should demonstrate initiative, participation in self help programs and good work habits (where available);
- d. extensive criminal history, to include habitual or compulsive use of violence against the person;
- e. probation and parole revocation history;

f. prior history of mental illness that would lead to the conclusion that the individual is a danger to society;

g. communicable or contagious disease for which inmate has not been receptive to or is non-compliant with treatment (e.g., tuberculosis, hepatitis A, B, and C, human immunodeficiency virus (HIV) and sexually transmitted diseases);

h. under the influence or in possession of a controlled dangerous substance.

E. Application Procedures

1. Only inmates who fit the selection criteria and priority established by the department are eligible to apply. All requests for consideration must be submitted on the department's official Risk Review Panel Application.

2. State inmates in state facilities will apply to the warden at the facility in which they are housed. The application will be reviewed by appropriate staff and a recommendation concerning the inmate's statutory and technical eligibility pursuant to this regulation for Risk Review Panel review will be made. Facilities located in the geographical area of the North Louisiana and Central Louisiana Panels will forward the application with recommendation to the appropriate executive staff officer (ESO) at David Wade Correctional Center and those in the geographical area of the South Louisiana Panel will forward the application with recommendation to the ESO at Elayn Hunt Correctional Center.

3. State inmates in local jail facilities in the geographical area of the North Louisiana and Central Louisiana Panels will apply directly to the appropriate ESO at David Wade Correctional Center and those in the geographical area of the South Louisiana Panel will apply directly to the ESO at Elayn Hunt Correctional Center.

4. The ESO will then prepare a preliminary report. This will include confirmation of statutory, technical, and subjective eligibility pursuant to this regulation and a docketing recommendation. A recommendation for docketing is not necessarily a qualification or disqualification, as the Risk Review Panel may take such action as it deems appropriate regarding each application. Applications which are determined to be ineligible for consideration will be returned to the inmate.

5. Applications will be recommended for docketing as follows:

a. defer docketCthe inmate is a poor candidate for consideration. A live review is not recommended. However, the panel may move the inmate from the defer docket to the hearing docket at its discretion;

b. consent docketCthe inmate is an excellent candidate for consideration. A live review may not be necessary if there is sufficient file information for the panel to make a recommendation to the appropriate board;

c. hearing docketCa live review is recommended.

6. Inmates placed on the consent or hearing docket will participate in risk assessment utilizing an instrument determined by the department.

7. If a preliminary recommendation for referral to the appropriate board is made at either a consent or hearing docket, then a psychological evaluation or assessment, if recommended by the panel, will be conducted.

F. Panel Review

1. A decision relative to the location of Risk Review Panels for state inmates housed in local jail facilities will be made based upon volume:

a. if the volume is high, the Risk Review Panel may go on-site locally to conduct reviews;

b. if the volume is low, the inmate may be brought to the closest state facility or other designated site to conduct reviews.

2. The relevance of witness testimony will be determined solely at the discretion of the Risk Review Panel.

3. Panel review may be conducted either live, by file review, review of staff assessments, telephone or video conferencing, or by other conferencing methods at the discretion of the panel.

4. Panel decisions will be recorded on a docket results sheet. The panel may recommend that the inmate be considered for clemency by the Board of Pardons or the panel may recommend that the person be considered for parole by the Board of Parole. The panel may also recommend to the appropriate board such conditions for clemency or parole as may be deemed appropriate. Any recommendation of the panel shall not be binding on either board.

5. For those inmates being heard from the second priority inmate pool, the panel may also request that the Division of Probation and Parole make a recommendation to the court for the inmate's participation in home incarceration in accordance with C.Cr.P. Art. 894.2 or to make a recommendation to the Pardon Board to take such action as may be necessary to enable the inmate to apply for parole under conditions enumerated in Act 1163.

6. The panel's decision shall be disseminated to the inmate by letter from the chairman with a copy to the appropriate warden or local jail administrator. In the event the inmate is denied a favorable recommendation, the letter will include instructions concerning the inmate's ability to reapply for consideration. Re-application frequency shall be a minimum of six months and shall be determined at the discretion of the panel.

7. Risk Review Panel recommendations are not appealable through the Administrative Remedy Procedure.

G. Other Considerations for Panel Deliberations

1. Panels may consider any pertinent information during deliberations. Such information may include, but shall not be limited to the following:

a. presentence reports, master prison records, medical and psychological records;

b. comments submitted by the district attorney, assistant district attorney, the Board of Parole, the Board of Pardons, the victim or victim's family or the inmate;

c. the age of the inmate (to include consideration of chronological age and length of confinement where such contributes to a reduction in danger to the public);

d. current medical condition (where such contributes to a reduction in danger to the public);

e. damage or injury occasioned by the crime committed;

f. resources available to the inmate in the event of release (job and housing, family or other support, skill level).

2. Registered victims will receive a letter advising them of the purpose of the Risk Review Panel review at the time the inmate is placed on a docket.

H. The effective date of this regulation is October 10, 2001.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:574.22 (as enacted by Act Number 403 of the 2001 Regular Session of the Louisiana Legislature).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Corrections Services, LR 28:

Family Impact Statement

In accordance with the Administrative Procedure Act, R.S. 49:953(A)(1)(a)(viii) and R.S. 49:972, the Department of Public Safety and Corrections, Corrections Services, hereby provides the Family Impact Statement.

Adoption of these disciplinary rules and procedures for adult inmates will have no effect on the stability of the family, on the authority and rights of parents regarding the education and supervision of their children, on the functioning of the family, on family earnings and family budget, on the behavior and personal responsibility of children or on the ability of the family or a local government to perform the function as contained in the proposed rule amendment.

Interested persons may submit oral or written comments to Richard L. Stalder, Secretary, Department of Public Safety and Corrections, Post Office Box 94304, Capitol Station, Baton Rouge, Louisiana 70804-9304, (225) 342-6741. Comments will be accepted through the close of business at 4:30 p.m., November 20, 2001.

Richard L. Stalder
Secretary

0110#101

DECLARATION OF EMERGENCY

Department of Revenue Office of Alcohol and Tobacco Control

Class A General Requirements (LAC 55:VII.315)

The Office of Alcohol and Tobacco Control is exercising the provisions of the Administrative Procedure Act, R.S. 49:953(B), to adopt this Emergency Rule in accordance with Act 1188 of the 2001 Regular Legislative Session and R.S. 26:71.1(1)(h) and 271.2(1)(h). The commissioner shall promulgate rules regarding requirements related to the number and location of public restrooms to be used in conjunction with the licensed premises of each Class ACGeneral retail permit. This Declaration of Emergency shall be effective on October 1, 2001, and shall remain in effect for 120 days or until adoption of the final Rule, whichever occurs first.

Title 55

PUBLIC SAFETY

Part VII. Alcohol and Tobacco Control

Chapter 3. Liquor Credit Regulations

§315. Qualifications for Class ACGeneral Permits

A. A Class ACGeneral retail permit shall be issued only to an establishment that stands on its own by having its own public restroom facilities.

1. These facilities shall conform to the current regulations as set forth in the Louisiana State Plumbing Code, Chapter XIV of the Louisiana Sanitary Code.

2. A Class ACGeneral permit applicant may not use restrooms located in any other premises, regardless of ownership, to meet the requirement of having their own public restroom facilities pursuant to this regulation.

3. Failure to meet the requirements of this regulation shall result in the denial, suspension, or revocation of the retail alcohol permit.

AUTHORITY NOTE: Promulgated in accordance with R.S. 26:71.1(1)(h) and 271.2(1)(h).

HISTORICAL NOTE: Adopted by the Department of Public Safety, Office of Alcoholic Beverage Control, 1973, filed at the Office of the State Register, 1974, amended by the Department of Revenue, Office of Alcohol and Tobacco Control, LR 28:

Murphy J. Painter
Commissioner

0110#068

DECLARATION OF EMERGENCY

Department of Revenue Policy Services Division

Manufactured and Mobile Home Settlement Fund Administration (LAC 61:I.4314)

The Department of Revenue, Policy Services Division, is exercising the emergency provisions of the Administrative Procedure Act, R.S. 49:953.B, to establish procedures for the administration of the Manufactured and Mobile Home Settlement Fund.

This Declaration of Emergency is necessary to clarify the intent and effective period of LAC 61:I.4313, as published in the August 2001 issue of the *Louisiana Register* and republished in the September 2001 issue, that the payment of the judgment issued on February 5, 2001, in the matter of "Shirley M. Avants and Jim W. Miley v. John Neely Kennedy, Secretary, Department of Revenue and Taxation, State of Louisiana; and Elmer Litchfield, Sheriff of East Baton Rouge Parish," No. 434,575 (19th Judicial District Court) in the amount of \$5,167,194 plus interest from the date of judgment be paid only from the state portion of the funds currently held in escrow by the Office of Motor Vehicles. This emergency rule becomes effective October 20, 2001, and shall remain in effect for the maximum period allowed under the Administrative Procedure Act or until adoption of the final rule, whichever occurs first.

Title 61

REVENUE AND TAXATION

Part I. Taxes Collected and Administered by the Secretary of Revenue

Chapter 43. Sales and Use Tax

§4313. Administration of Claims Against the Manufactured and Mobile Home Settlement Fund as Required by Act 1212 of the 2001 Regular Legislative Session

A. Payment of Avants Judgment

1. The Secretary of Revenue will direct the Office of Motor Vehicles to issue a payment for the judgment rendered on February 5, 2001, in the matter of "Shirley M. Avants and

Jim W. Miley v. John Neely Kennedy, Secretary, Department of Revenue and Taxation, State of Louisiana; and Elmer Litchfield, Sheriff of East Baton Rouge Parish," No. 434,575 (19th Judicial District Court Mar. 12, 1997) in the amount of \$5,167,194 plus interest from the date of the judgment. This payment will be made out of the state funds currently held in escrow by the Office of Motor Vehicles pursuant to the October 22, 1999 order issued in the Avants lawsuit.

2. Those individuals specifically listed as plaintiffs in the Shirley M. Avants lawsuit referenced in §4313.A.1 are not eligible to file a claim against the state regarding the Manufactured and Mobile Homes Settlement Fund described in §4313.B.

B. Source of Funds in the Manufactured and Mobile Homes Settlement Fund. After the payment described in §4313.A is made and an order is issued releasing the remainder of the state funds from escrow, the State Treasurer will transfer all remaining state tax monies held in escrow to the Manufactured and Mobile Homes Settlement Fund, hereinafter referred to as "the Fund."

C. Administration of the Fund with Regard to the Stevens, Rossi, and Miley Suits

1. The Department of Revenue will obtain a list of all persons who were plaintiffs on or before July 1, 2001, in the following three suits:

a. Nancy C. Stevens and Edward Istre, Jr. v. Brett Crawford, Secretary, Department of Revenue, State of Louisiana, No. 466,122 (19th Judicial District Court Nov. 2, 1999);

b. Darla M. Rossi, et al v. Cynthia Bridges, Secretary, Department of Revenue, State of Louisiana, No. 478,526 (19th Judicial District Court Nov. 29, 2000); and

c. Jim W. Miley, Individually, and on behalf of all others similarly situated v. John Neely Kennedy, Secretary, Department of Revenue and Taxation, State of Louisiana, No. 4695 (La. Board of Tax Appeals Apr. 15, 1997).

2. Any plaintiff referred to in §4313.C.1 must provide his legal representative with documentation that identifies the transaction upon which his claim is based. Examples of such documentation include the VIN number of the manufactured or mobile home purchased by the plaintiff, a copy of the plaintiff's registration issued by the Office of Motor Vehicles upon the original purchase of the manufactured or mobile home, or a copy of the bill of sale. The plaintiff's representative must present this documentation to the Department of Revenue by December 31, 2001.

3. The information provided by the plaintiffs in §4313.C.2 will be used to locate the sales transactions in the Office of Motor Vehicle's records to determine the amount of state sales or use tax actually paid on those transactions.

4. After the state tax monies held in escrow are transferred to the Fund, the Secretary of the Department of Revenue will authorize payment from the Fund for the state sales or use tax paid to those plaintiffs described in §4313.C.1.a. - c., but only in instances where the amount of state sales or use tax paid has been verified.

5. If it cannot be determined that a plaintiff described in §4313.C.1.a. - c. has paid state sales or use tax on the purchase of a manufactured or mobile home, or if the amount cannot be verified, the amount claimed by that plaintiff will be denied.

6. Plaintiffs in the suits listed in §4313.C.1.a. - c. are not eligible to file a claim against the state regarding the Manufactured and Mobile Home Settlement Fund.

D. Administration of the Manufactured and Mobile Home Fund with Respect to All Others

1. The Secretary of the Department of Revenue will obtain from the Department of Public Safety, Office of Motor Vehicles, a list of all persons who purchased a manufactured or mobile home after December 31, 1997, and before July 1, 2001.

2. The Department of Revenue will mail a notice to each person described in §4313.D.1. The notice will inform persons who are not a party to the lawsuits referenced in §4313.A.1 or §4313.C.1.a. - c. of their right to file a claim against the state for state sales or use tax paid on manufactured and mobile home purchases and will include a Manufactured and Mobile Homes Settlement Claim Form that must be filed with the claim against the state. The Manufactured and Mobile Homes Settlement Claim Forms will also be available at the Louisiana Board of Tax Appeals, at any office of the Department of Revenue, and on the Department of Revenue's website at www.rev.state.la.us.

3. The Department of Revenue will collect the Manufactured and Mobile Homes Settlement Claim Forms on behalf of the Board of Tax Appeals. Taxpayers who purchased a manufactured or mobile home after December 31, 1997, and before July 1, 2001, must return the completed claim form to the Department of Revenue on or before December 31, 2001. The forms may be delivered to any Department of Revenue office or mailed to the Louisiana Department of Revenue, Manufactured and Mobile Homes Settlement Claims, P.O. Box 15409, Baton Rouge, LA 70895-5409. Forms that are postmarked on or before December 31, 2001, will be deemed received by December 31, 2001.

4. Claimants must include documentation that identifies the transaction upon which their claim is based with the Manufactured and Mobile Homes Settlement Claim Form. Examples of such documentation include the VIN number of the manufactured or mobile home purchased by the plaintiff, a copy of the plaintiff's registration issued by the Office of Motor Vehicles upon the original purchase of the manufactured or mobile home, or a copy of the bill of sale.

5. The information provided by the claimants in §4313.D.4. will be used to locate the sales transactions in the Office of Motor Vehicle's records to determine the amount of state sales or use tax actually paid on those transactions

6. If a claim is filed with incomplete documentation to identify the transaction, the secretary will notify the claimant that the claim is unacceptable. The secretary may allow additional time for the claimant to provide adequate documentation. However, all documentation must be provided no later than February 28, 2002, or the claim will be denied.

7. After the December 31, 2001 deadline to file a Manufactured and Mobile Homes Settlement Claim Form has passed, the Department of Revenue will review the forms in conjunction with the Office of Motor Vehicle's records to determine the amount of state sales or use tax actually paid by each claimant. Thereafter, the Department

will forward the claim forms along with its findings to the Board of Tax Appeals for a ruling.

8. After the Board of Tax Appeals rules on all claims, the Secretary of the Department of Revenue will authorize payment from the Fund of all claims approved by the Board of Tax Appeals in accordance with Paragraphs B and C of Section 4 of Act 1212 of the 2001 Regular Legislative Session.

AUTHORITY NOTE: Promulgated in Accordance with Acts 2001, No. 1212 and R.S. 47:301 (West 2001).

HISTORICAL NOTE: Promulgated by the Department of Revenue, Policy Services Division, LR 28:

Raymond E. Tangney
Senior Policy Consultant

0110#086

DECLARATION OF EMERGENCY

Department of Social Services Office of Family Support

Family Independence Temporary Assistance
Program/Kinship Care Subsidy Program
Drug Treatment Program (LAC 67:III.1291 and 5391)

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 §1291 in the Family Independence Temporary Assistance Program (FITAP) and §5391 in the Kinship Care Subsidy Program (KCSP) effective September 28, 2001. These regulations are implemented pursuant to the Temporary Assistance for Needy Families (TANF) Initiatives provided for in Act 12 of the 2001 Regular Session of the Louisiana Legislature. This rule shall remain in effect for a period of 120 days.

Whereas it has been shown that providing substance abuse treatment to drug-dependent individuals can lead to more responsible behavior which contributes to educational training and job preparation and promotes self-sufficiency, the agency proposes to continue the necessary funding for payment for the cost of drug screening, assessment, testing, and nonmedical treatment of KCSP and FITAP recipients and certain post-KCSP and FITAP recipients. Funding for these services was previously provided for by the Department of Health and Hospitals, Office of Addictive Disorders. Medical services provided during treatment will continue to be paid for by the Department of Health and Hospitals, Office of Addictive Disorders.

Authorization for emergency action is also contained in Act 12 of the 2001 Regular Session of the Louisiana Legislature.

Title 67

SOCIAL SERVICES

Part III. Office of Family Support

Subpart 2. Family Independence Temporary Assistance Program (FITAP)

Chapter 12. Application, Eligibility, and Furnishing Assistance

Subchapter D. Special Initiatives

§1291. Drug Screening Program

A. The Office of Family Support will enter into a Memorandum of Understanding with the Office of Addictive Disorders to fund a prevention and treatment program for the cost of drug screening, testing, and nonmedical treatment of FITAP recipients and certain post-FITAP recipients.

B. These services meet the TANF goal to end the dependence of needy parents on government benefits by providing needy families with drug abuse treatment so that they may become self-sufficient in order to promote job preparation, work, and marriage.

C. Eligibility for services is limited to needy families, that is, a family in which any member receives FITAP benefits. A needy family that loses eligibility for FITAP benefits for any reason shall continue to be eligible for these services for the one-year period following the loss of FITAP benefits.

D. Services are considered non-assistance by the agency.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 36:474 and 46:231; and Act 12, 2001 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 28:

Subpart 13. Kinship Care Subsidy Program (KCSP)

Chapter 53. Application, Eligibility, and Furnishing Assistance

Subchapter D. Special Initiatives

§5391. Drug Screening Program

A. The Office of Family Support will enter into a Memorandum of Understanding with the Office of Addictive Disorders to fund a prevention and treatment program for the cost of drug screening, testing, and nonmedical treatment of KCSP recipients and certain post-KCSP recipients.

B. These services meet the TANF goal to end the dependence of needy parents on government benefits by providing needy families with drug abuse treatment so that they may become self-sufficient in order to promote job preparation, work, and marriage.

C. Eligibility for services is limited to needy families, that is, a family in which any member receives KCSP benefits. A needy family that loses eligibility for KCSP benefits for any reason shall continue to be eligible for these services for the one-year period following the loss of KCSP benefits.

D. Services are considered non-assistance by the agency.
AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 36:474 and 46:231; and Act 12, 2001 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 28:

J. Renea Austin-Duffin
Secretary

0110#033

DECLARATION OF EMERGENCY

Department of Social Services Office of Family Support

Family Independence Temporary Assistance
Program/Kinship Care Subsidy Program/TANF
Initiatives CHousing Support Services
(LAC 67:III.1292, 5329, and 5547)

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 §1292 in the Family Independence Temporary Assistance Program (FITAP), §5392 in the Kinship Care Subsidy Program (KCSP), and §5547 in the Temporary Assistance for Needy Families (TANF) Initiatives effective September 28, 2001. These regulations are implemented pursuant to the Temporary Assistance for Needy Families (TANF) Initiatives provided for in Act 12 of the 2001 Regular Session of the Louisiana Legislature. This rule shall remain in effect for a period of 120 days.

Whereas inadequate housing may pose a significant danger to children residing in a home and create a barrier to self-sufficiency for those adult caretakers in the home, and whereas providing services such as home repairs, relocation assistance, down payment of deposit and/or initial month's rent, housing counseling, and homebuyer education for prospective homeowners, can help meet the basic needs of shelter for needy families thereby eliminating barriers and imminent danger to those residents, the agency proposes to establish the Housing Support Services Program and the Housing Services Program. The Housing Support Services Program will provide funding for home repairs to FITAP and KCSP recipients who own or are buying their homes or live with certain relatives who own the home of residence. The Housing Services Program will provide transitional, short-term, or one-time housing services to needy families with minor children.

Authorization for emergency action is contained in Act 12 of the 2001 Regular Session of the Louisiana Legislature.

Title 67

SOCIAL SERVICES

Part III. Office of Family Support

Subpart 2. Family Independence Temporary Assistance Program (FITAP)

Chapter 12. Application, Eligibility, and Furnishing Assistance

Subchapter D. Special Initiatives

§1292. Housing Support Services Program

A. Based on the availability of funding and a determination of need, the agency may provide payment for

repairs to the homes of FITAP-eligible households or certain relatives with whom they reside. The cost of repairs shall not exceed \$3000 per home. The agency will establish a specific date of eligibility in order to determine when a recipient will receive a letter of eligibility. Only those households certified for a FITAP grant as of that date will be eligible for services.

B. Eligibility for services is limited to FITAP recipients who own their own home or are buying their home. Once the deadline for homeowner applications has expired and based on funding availability, applications for services may be accepted from FITAP recipients who live with a relative within the fifth degree of relationship who owns the home of residence. The recipient must reside in the home in need of repair.

C. These services meet the TANF goal to provide assistance to needy families so that children may be cared for in their own homes or in homes of relatives by helping families meet the basic need of shelter.

D. Application for the Housing Support Services Program and the payment process will be administered by an outside entity through a contractual agreement. Payment for the repairs will be made directly to the repair service provider. Recipients will be required to provide verification of identity, proof of home ownership, and place of residence.

E. Services are considered non-assistance by the agency.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 36:474 and 46:231; and Act 12, 2001 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 28:

Subpart 13. Kinship Care Subsidy Program (KCSP) Chapter 53. Application, Eligibility, and Furnishing Assistance

Subchapter D. Special Initiatives

§5392. Housing Support Services

A. Based on the availability of funding and a determination of need, the agency may provide payment for repairs to the homes of KCSP-eligible households or certain relatives with whom they reside. The cost of repairs shall not exceed \$3000 per home. The agency will establish a specific date of eligibility in order to determine when a recipient will receive a letter of eligibility. Only those households certified for a KCSP grant as of that date will be eligible for services.

B. Eligibility for services is limited to KCSP recipients who own their own home or are buying their home. Once the deadline for homeowner applications has expired and based on funding availability, applications for services may be accepted from KCSP recipients who live with a relative within the fifth degree of relationship who owns the home of residence. The recipient must reside in the home in need of repair.

C. These services meet the TANF goal to provide assistance to needy families so that children may be cared for in their own homes or in homes of relatives by helping families meet the basic need of shelter.

D. Application for the Housing Support Services Program and the payment process will be administered by an outside entity through a contractual agreement. Payment for the repairs will be made directly to the repair service provider. Recipients will be required to provide verification of identity, proof of home ownership, and place of residence.

E. Services are considered non-assistance by the agency.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 36:474 and 46:231; and Act 12, 2001 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 28:

Subpart 15. Temporary Assistance to Needy Families (TANF) Initiatives

Chapter 55. TANF Initiatives

§5547. Housing Services

A. The Department of Social Services, Office of Family Support, may enter into Memoranda of Understanding or contracts to create pilot programs that provide transitional, short-term, or one-time housing services to needy families with minor children who participate in self-sufficiency activities, who are at risk of losing existing housing arrangements, who are in an emergency situation, or who face ineligibility because of increased earnings. These services can include but are not limited to: relocation assistance; costs associated with moving or relocation; down payment of deposit and/or initial month's rent; short-term continuation of a housing voucher; down payment for the purchase of a house; housing counseling and homebuyer education for prospective homeowners; or other transitional services determined in conjunction with the Department of Social Services and the Division of Administration.

B. These services meet the TANF goal to provide assistance to needy families so that children can be cared for in their own homes or the homes of relatives and the TANF goal to end the dependence of needy parents on government benefits by promoting job preparation, work, and marriage.

C. Eligibility for services is limited to parents, legal guardians, or caretaker relatives of minor children who are at or below 200 percent of the federal poverty level or who are eligible for Housing and Urban Development (HUD)-funded services.

D. Services are considered non-assistance by the agency.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 36:474 and 46:231; and Act 12, 2001 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 28:

J. Renea Austin-Duffin
Secretary

0110#031

DECLARATION OF EMERGENCY

**Department of Social Services
Office of Family Support**

**KITAP, KCSP and TANF Initiatives Energy Assistance
(LAC 67:III.1290, 5390, and 5503)**

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 repromulgate §§1290 and 5390 for the purpose of amending §5503 of the Temporary Assistance to Needy Families (TANF) Initiatives effective September 28, 2001. These sections were established by a Declaration of Emergency effective August 20, 2001 (LR 27:1506). This rule shall remain in effect for a period of 120 days.

Pursuant to Act 12 of the 2001 Regular Session of the Louisiana Legislature, the Office of Family Support will provide energy assistance to a certain population of the state. Originally, the agency chose to hold a portion of the energy funds in the event of a presidentially-declared energy emergency. However, on reconsideration that such a declaration may not be made and to ensure the expenditure of funds, the agency will assume the authority to declare an energy emergency to assist a wide range of households in time of need.

The authorization for emergency action in this matter is also contained in Act 12.

Title 67

SOCIAL SERVICES

Part III. Office of Family Support

Subpart 2. Family Independence Temporary Assistance Program (FITAP)

Chapter 12. Application, Eligibility, and Furnishing Assistance

Subchapter D. Special Initiatives

§1290. Energy Assistance

A. Based on the availability of funding and a determination of need by OFS, all households receiving a FITAP grant may also be eligible to receive an energy assistance grant effective August 20, 2001, to apply towards the cost of utility service. OFS will establish a specific date of eligibility in order to determine when households will receive a grant, and only those households certified as of that date will be eligible for energy assistance.

B. The payment process will be administered by an outside entity through a contractual agreement. Recipients will be required to provide verification of identity as well as proof of residency at the utility service address. The energy assistance payment will be paid directly to the recipient's utility company or provider.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 36:474 and 46:231; and Act 12, 2001 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 28:

Subpart 13. Kinship Care Subsidy Program (KCSP)

Chapter 53. Application, Eligibility, and Furnishing Assistance

Subchapter D. Special Initiatives

§5390. Energy Assistance

A. Based on the availability of funding and a determination of need by OFS, all households receiving a KCSP grant may also be eligible to receive an energy assistance grant effective August 2001 to apply towards the cost of utility service. OFS will establish a specific date of eligibility in order to determine when households will receive a grant, and only those households certified as of that date will be eligible for energy assistance.

B. The payment process will be administered by an outside entity through a contractual agreement. Recipients will be required to provide verification of identity as well as proof of residency at the utility service address. The energy assistance payment will be paid directly to the recipient's utility company or provider.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 36:474 and 46:231; and Act 12, 2001 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 28:

Subpart 15. Temporary Assistance to Needy Families (TANF) Initiatives

Chapter 55. TANF Initiatives

§5503. Emergency Energy Assistance

A. Effective September 28, 2001, in the event of an agency-declared energy emergency based on the availability of funding and a determination of need by OFS, needy families may receive a grant to apply toward the cost of utility service.

B. Services meet the TANF goal of providing assistance to needy families so that children may be properly cared for in their own homes or in the homes of relatives by providing funds to help pay the costs of cooling and heating the homes.

C. A needy family is defined as a family in which any member receives Food Stamp benefits, Child Care Assistance Program (CCAP) benefits, Medicaid, Louisiana Children's Health Insurance (LaCHIP), Supplemental Security Income (SSI), or Free or Reduced School Lunch. However, any of the preceding eligibles also receiving FITAP or KCSP grants are not eligible.

D. Services are considered by the agency as non-assistance.

E. The payment process will be administered by an outside entity through a contractual agreement. Recipients will be required to provide verification of identity and eligibility as defined for a "needy family" as well as proof of residency at the utility service address. The energy assistance payment will be paid directly to the recipient's utility company or provider.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 36:474 and 46:231; and Act 12, 2001 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 28:

J. Renea Austin-Duffin
Secretary

0110#032

DECLARATION OF EMERGENCY

**Department of Social Services
Office of Family Support**

**Percentage of Title IV-E Children
in Foster 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 declaration is necessary to extend the original emergency rule of June 26, 2001 as it is effective only for a maximum of 120 days and will expire before the final rule takes effect in January, 2002. This emergency rule extension shall go into effect October 20, 2001 and cover the time period remaining until the final rule goes into effect.

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 number 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 which 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 27:1001 (July, 2001), repromulgated LR 28:

J. Renea Austin-Duffin
Secretary

0110#072

DECLARATION OF EMERGENCY

**Department of Social Services
Office of Family Support**

**Temporary Assistance for Needy
Families (TANF) Initiatives
(LAC 67:III.5533 - 5545)**

The Department of Social Services, Office of Family Support, has exercised the emergency provision of R.S. 49:953(B), the Administrative Procedure Act, to adopt §§5533 through 5545 effective September 25, 2001. This emergency rule will remain in effect for a period of 120 days.

Pursuant to Act 12 of the 2001 Regular Session of the Louisiana Legislature, the Office of Family Support will provide funding to various departments of the state of Louisiana and other entities for a variety of programs intended to further the goals and intentions of the federal Temporary Assistance for Needy Families Block Grant to Louisiana. Although §5545 is not funded with the TANF Block Grant, it is considered a TANF initiative since the state fund expenditures are being counted as the agency's "maintenance of effort."

Authorization for emergency action in this matter is also contained in Act 12.

Title 67
SOCIAL SERVICES

Part III. Office of Family Support

**Subpart 15. Temporary Assistance to Needy Families
(TANF) Initiatives**

Chapter 55. TANF Initiatives

§5533. Transportation Services

A. The Office of Family Support will make funding available for transportation of employed participants in TANF initiatives administered through other agencies.

B. These services meet the TANF goal to end the dependence on government benefits by promoting job preparation, work, and marriage.

C. Services may or may not be limited to needy families depending on which program the participant is involved in.

D. Services are considered non-assistance.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 36:474 and 46:231; and Act 12, 2001 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 28:

§5535. Fatherhood

A. Act 639 of the 2001 Regulation Session of the Louisiana Legislature created the Fatherhood Council to develop a plan to promote and monitor fatherhood initiatives. Funding and services may be provided in accordance with the plan developed by the Fatherhood Council.

B. These services meet the TANF goal to encourage the formation and maintenance of two-parent families by providing programs that promote responsible parenting and increase the capacity of fathers to provide emotional and financial support for their children.

C. Eligibility for services is limited to fathers of minor children.

D. Services are considered non-assistance by the agency.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 36:474 and 46:231; Acts 12 and 639, 2001 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 28:

§5537. Education and Training

A. The Office of Family Support will enter into a Memorandum of Understanding with the Department of Education to provide structured after-school programs to help children improve academic performance and to provide literacy and basic education services to adults in need of these services. The Department of Education will implement this program through cooperative endeavor agreements with entities in local communities.

B. These services meet the TANF goals to prevent and reduce the incidence of out-of-wedlock births by providing supervised, safe environments for children thus limiting the opportunities for engaging in risky behaviors, and to encourage the formation and maintenance of two-parent families by providing educational services that enhance a parent's ability to financially and emotionally provide for their children.

C. Eligibility for after-school programs is not limited to needy families. Eligibility for adult education services is limited to parents, legal guardians, and caretaker relatives of minor children.

D. The services are considered non-assistance by the agency.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 46:231 and R.S. 36:474; Act 12, 2001 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 28:

§5539. Truancy

A. OFS will enter into a Memorandum of Understanding with the Supreme Court Of Louisiana for Truancy Assessment and Service Centers designed to identify, assess, and intervene to ensure that children in kindergarten through sixth grade attend school regularly.

B. These services meet the TANF goal to prevent and reduce the incidence of out-of-wedlock births by providing counseling to children and family members designed to assure regular school attendance and improved academic and behavioral outcomes.

C. Eligibility for services is not limited to needy families.

D. Services are considered non-assistance by the agency.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 46:231 and R.S. 36:474; Act 12, 2001 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 28:

§5541. Court-Appointed Special Advocates

A. OFS will enter into a Memorandum of Understanding with the Supreme Court Of Louisiana to provide services to needy children identified as abused or neglected who are at risk of being placed in foster care or, are already in foster care. Community advocates provide information gathering and reporting, determination of and advocacy for the children's best interests, and case monitoring to provide for the safe and stable maintenance of the children or return to their own home.

B. The services meet the TANF goal to provide assistance to needy families so that children may be cared for in their own homes or in the home of relatives by ensuring that the time children spend in foster care is minimized.

C. Eligibility for services is limited to needy families, that is, one in which any member receives a Family Independence Temporary Assistance Program (FITAP) grant, Kinship Care Subsidy Program (KCSP) grant, Food Stamp benefits, Child Care Assistance Program (CCAP) services, Title IV-E, Medicaid, Louisiana Children's Health Insurance Program (LaCHIP) benefits, Supplemental Security Income (SSI), or Free or Reduced School Lunch, or who have earned income at or below 200 percent of the federal poverty level.

D. Services are considered non-assistance by the agency.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 46:231 and R.S. 36:474; Act 12, 2001 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 28:

§5543. Drug Courts

A. OFS will enter into a Memorandum of Understanding with the Supreme Court of Louisiana to provide services to drug court clients that may include nonmedical treatment, assessment, counseling, education, and training. Eligible services shall not include drug court administrative costs.

B. These services meet the TANF goal to prevent and reduce the incidence of out-of-wedlock births and to encourage the formation and maintenance of two-parent families.

C. Eligibility for services is limited to children and to the parents or caretaker relatives of minor children.

D. Services are considered non-assistance by the agency.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 46:231 and R.S. 36:474; Act 12, 2001 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 28:

§5545. Remediation and Tutoring Programs

A. OFS will enter into a Memorandum of Understanding with the Department of Education, Office of Student and School Performance, to establish programs designed to increase the likelihood of a student scoring above the "unsatisfactory" achievement level on the Graduate Exit Exam and the LEAP 21 exam and include:

1. Graduate Exit Exam Summer Remediation, designed to provide additional remedial instruction to targeted students, that is, students who scored "unsatisfactory" on the English language arts and/or mathematics components of the Graduate Exit Exam;

2. Louisiana Education Assessment Program (LEAP) 21 Summer Remediation, designed to provide additional remedial instruction to targeted students, that is, fourth and eighth grade students who did not take the spring LEAP 21 test and fourth and eighth grade students who scored "unsatisfactory" on the English language arts and/or mathematics components of the LEAP 21; and

3. Louisiana Education Assessment Program (LEAP) 21 Tutoring, designed to provide intense early intervention and remedial instruction to targeted students in an effort to increase the likelihood of them scoring above the "unsatisfactory" level on the LEAP 21. The targeted group

includes fourth and eighth grade students who have been retained because of their having scored at the "unsatisfactory" level on the English language arts and/or mathematics components of the LEAP 21 tests, and fourth and eighth grade students whose third and seventh grade IOWA test scores were below the thirtieth percentile and are considered to be at risk of scoring at the "unsatisfactory" level on the English language arts and/or mathematics components of the LEAP 21 tests.

B. These services meet the TANF goal to prevent and reduce the incidence of out-of-wedlock births by encouraging youths to remain in school, reducing their risk of engaging in negative behavior and increasing opportunities for families to become self-sufficient through education and training.

C. Eligibility for services is limited to families, which include a minor child living with a custodial parent, an adult caretaker relative or a legal guardian. A family in which any member receives a Family Independence Temporary Assistance Program (FITAP) grant, Kinship Care Subsidy Program (KCSP) grant, Food Stamps, Child Care Assistance Program (CCAP) benefits, Medicaid, Louisiana Children's Health Insurance Program (LaCHIP), Supplemental Security Income (SSI), or Free or Reduced School Lunch is eligible.

D. Services are considered non-assistance by the agency.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 46:231 and R.S. 36:474; Act 12, 2001 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 28:

J. Renea Austin-Duffin
Secretary

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