

Emergency Rules

DECLARATION OF EMERGENCY

Student Financial Assistance Commission Office of Student Financial Assistance

Scholarship/Grant Programs

(LAC 28:IV.301, 503, 507, 701, 705, 803, 903,
907, 1303, 1501, 1503, 1901, 1903, 2103, and 2107)

The Louisiana Student Financial Assistance Commission (LASFAC) is exercising the emergency provisions of the Administrative Procedure Act [R.S. 49:953(B)] to amend and re-promulgate the rules of the Scholarship/Grant programs (R.S. 17:3021-3026, R.S. 17:3041.10-3041.15, 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 October 18, 2001, and shall remain in effect for the maximum period allowed under the Administrative Procedure Act.

Title 28

EDUCATION

Part IV. Student Financial AssistanceC Higher

Education Scholarship and Grant Programs

Chapter 3. Definitions

§301. Definitions

*ACT Score*Cthe highest composite score achieved by the student on the official ACT test (including National, International, Military or Special test types) or an equivalent score, as determined by the comparison tables used by LASFAC, on an equivalent Scholastic Aptitude Test (SAT). ACT or SAT test scores which are unofficial, including so-called "residual" test scores, are not acceptable for purposes of determining program eligibility.

*Average Award Amount (TOPS-Tech)*Cis applicable to those students awarded the TOPS-Tech and TOPS Opportunity, Performance, and Honors Awards who attend LAICU colleges and universities and are enrolled in a vocational, technical education certificate or diploma program or non-academic undergraduate degree program, and is determined by dividing the total dollar value of awards, which are made to students enrolled in the same types of programs in the prior Program Year (Non-Academic Program) at eligible public colleges and universities that do not offer academic degrees at the baccalaureate level, by the total number of students that received the awards.

*Award Amount*Can amount equal to Tuition at the school attended, for those students attending a Louisiana

public college or university, as determined by the commission, which may be used by the student to pay any educational expense included in that students "Cost of Attendance." The amount paid for TOPS and TOPS-Tech Awards shall be as follows:

a. - c. ...

d. For students with the TOPS Opportunity, Performance, and Honors Award attending a regionally accredited independent college or university in Louisiana that is a member of the Louisiana Association of Independent Colleges and Universities and enrolled in a program for a vocational or technical education certificate or diploma or a non-academic undergraduate degree, the amount shall equal the Average Award Amount (TOPS-Tech).

e. - g. ...

Full-Time StudentC

a. ...

b. For continuation purposes, a student must be enrolled full-time at the end of the fourteenth class day at a semester school or the ninth class day at a quarter or term school;

c. - f. ...

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

HISTORICAL NOTE: Promulgated LR 24:632 (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), LR26:1262 (June 2000), LR 26:1601 (July 2000), LR 26:1993, 1999 (September 2000), LR 26:2268 (October 2000), LR 26: 2752 (December 2000), LR 27:36 (January 2001), LR 27:284 (March 2001), LR 27:1219 (August 2001), LR 28:

Chapter 5. Application; Application Deadlines and Proof of Compliance

§503. Application Deadlines

A.1 - 3. ...

4. For priority consideration for award years after 1998-99, applicants must submit the FAFSA to be received by the federal processor by May 1, preceding the award year.

B. - E. ...

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

HISTORICAL NOTE: Promulgated LR 24:635 (April 1998), amended LR 24:1900 (October 1998), LR 25:655 (April 1999), LR 25:2396 (December 1999), LR 25:1994 (September 2000), LR 28:

§507. Final Deadline for Submitting Documentation of Eligibility

A. ...

B. All documentation and certifications necessary to establish student eligibility including, but not limited to, high school and/or college transcripts and certifications, copies of Student Aid Reports, applicant confirmation forms, promissory notes and other documents which may be utilized in determining eligibility, must be received by LASFAC no later than May 1 of the award year. For example, to receive an award for the 2001-2002 award year,

LASFAC must have in its possession all documents relevant to establishing eligibility by May 1, 2002.

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

HISTORICAL NOTE: Promulgated LR 24:635 (April 1998), amended LR 24:1901 (October 1998), LR 28:

Chapter 7. Tuition Opportunity Program for Students (TOPS) Opportunity, Performance, and Honors Awards

§701. General Provisions

A. - E.5.a. ...

b. In a program for a vocational or technical education certificate or diploma or a non-academic undergraduate degree receive an amount equal to the Average Award Amount (TOPS-Tech), as defined in §301, plus any applicable stipend, prorated by four terms or equivalent units in each Program Year (Non-academic Program). The stipend will be paid for each term or equivalent unit for which tuition is paid.

E.6. - G. 2. ...

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

HISTORICAL NOTE: Promulgated LR 24:635 (April 1998), amended LR 24:1901 (October 1998), LR 25: 256 (February 1999), LR 26:67 (January 2000), LR 26:1262 (June 2000), LR 26: 1995, 2000 (September 2000), LR 28:

§705. Maintaining Eligibility

A.1. - 12. ...

B. Students failing to meet the requirements listed in §705.A.8 or §705.A.9.a or b may have their tuition awards reinstated upon regaining Steady Academic Progress (See §301.) and/or attainment of the required GPA, if the period of ineligibility did not persist for more than two years from the date of loss of eligibility. Students who fail to meet the continuation requirements of §705.a.9.b., but who meet the continuation requirements of §705.A.9.a., shall no longer be eligible for the stipend authorized for the Performance and Honors Awards, but shall continue to receive the award amount for the Opportunity Award.

C. - D. ...

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

HISTORICAL NOTE: Promulgated LR 24:637 (April 1998), amended LR 24:1904 (October 1998), LR 25:257 (February 1999), LR 25:656 (April 1999), LR 25:1091 (June 1999), LR 26:67 (January 2000), LR 26:688 (April 2000), LR 26:1996, 2001 (September 2000), LR 28:

Chapter 8. TOPS-TECH Award

§803. Establishing Eligibility

A. - A. 5.d.iii. ...

6. if qualifying under the terms of §803.A.5.a, at the time of high school graduation,:

A.6.a. - A.6.a.ii. ...

iii. For students graduating through the 2001-2002 school year, the TOPS-TECH core curriculum as follows:

Core Curriculum B TOPS-TECH Award...

A.6.b. - A.11. ...

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 24:1898 (October 1998), amended LR 24:2237 (December 1998), LR 25:1795 (October 1999), LR 26:65, 67 (January 2000), LR 26:1602 (August 2000), LR 26:1997 (September 2000), LR

26:2269 (October 2000), LR 26:2752 (December 2000), LR 27:36 (January 2001), LR 28:

Chapter 9. TOPS Teacher Award

§903. Establishing Eligibility

A. - A.4.a. ...

i. at the time of high school graduation, have successfully completed 16.5 units of high school course work constituting a core curriculum as defined in LAC 28:IV.703.A.5.a.i; and

A.4.a.ii. - 9. ...

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

HISTORICAL NOTE: Promulgated LR 24:637 (April 1998), amended LR 24:1906 (October 1998), LR 26:68 (January 2000), LR 26:2269 (October 2000), LR 27:284 (March 2001), LR 28:

§907. Maintaining Eligibility

A.1. - 6. ...

7. submit the Renewal FAFSA in accordance with §501.B;

A.8. - B. ...

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

HISTORICAL NOTE: Promulgated LR 24:638 (April 1998), amended LR 24:1907 (October 1998), LR 25:1092 (June 1999), LR 26:689 (April 2000), LR 28:

Chapter 13. Leveraging Educational Assistance Partnership (LEAP)

§1303. Establishing Eligibility

A. LEAP applicants must meet all of the following criteria:

1. - 2. ...

3. annually, submit the completed Free Application for Federal Student Aid (FAFSA) or Renewal FAFSA, whichever is available to the applicant, by any deadline imposed by the institution attended; and

4. - 12. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036.

HISTORICAL NOTE: Promulgated LR 24:641 (April 1998), amended LR 24:1910 (October 1998), LR 25:1459 (August 1999), LR 28:

Chapter 19. Eligibility and Responsibilities of Postsecondary Institutions

§1901. Eligibility of Postsecondary Institutions to Participate

A. Undergraduate degree granting schools which are components of Louisiana public university medical centers and two- and four-year public colleges and universities are authorized to participate in the Tuition Opportunity Program for Students (TOPS), TOPS-TECH, Rockefeller State Wildlife Scholarship, and Leveraging Educational Assistance Partnership (LEAP) Program.

B. - D. ...

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

HISTORICAL NOTE: Promulgated LR 24:645 (April 1998), amended LR 24:1914 (October 1998), LR 25:1459 (August, 1999), LR 26:1998 (September 2000), LR 28:

§1903. Responsibilities of Postsecondary Institutions

A. - B.1. ...

2. institutions will bill LASFAC based on their certification that the recipient of a TOPS Award is enrolled full-time, as defined in §301, at the end of the fourteenth class day for semester schools and the ninth class day for

quarter and term schools, and for any qualifying summer sessions at the end of the last day to drop and receive a full refund for the full summer session). Institutions shall not bill for students who are enrolled less than full-time at the end of the fourteenth class day for semester schools or the ninth class day for quarter and term schools, and for any qualifying summer sessions at the end of the last day to drop and receive a full refund for the summer session), unless the student qualifies for payment for less than full-time enrollment as defined in §2103.B. Students failing to meet the full-time enrollment requirement are responsible for reimbursing the institution for any awards received. Refunds of awards to students who are not receiving federal Title IV aid, for less than full-time enrollment after the fourteenth or ninth class day, as applicable, shall be returned to the state. Refunds to students who are receiving federal Title IV aid shall be refunded to the state in accordance with the institution's federal Title IV aid refund procedures; and

B.3. ...

4. annually, all institutions are required to provide LASFAC a current fee schedule. The schedule must include an itemized description of the composition of the mandatory fees listed on the fee schedule;

5. certify that the institution will reimburse LASFAC for any award funds incorrectly disbursed to ineligible students; and

6. upon the school's certification that a recipient of a TOPS Award is enrolled full-time, institutions shall bill for and LASFAC will reimburse the institution for each such recipient as follows:

a. public colleges and universities may bill for an amount up to the maximum tuition for that institution, as defined in §301;

b. Louisiana Technical College campuses may bill for an amount up to the tuition for that institution, as defined in §301;

c. LAICU member colleges and universities may bill for students enrolled in academic programs an amount up to the Weighted Average Award Amount, as defined in §301;

d. LAICU member colleges and universities may bill for students enrolled in nonacademic programs an amount up to the Average Award Amount (TOPS-Tech), as defined in §301;

e. for recipients of the Performance and Honors awards, institutions may bill LASFAC for the stipend that accompanies these awards, in the amounts of \$200 or \$400 per semester, respectively.

7. upon the school's certification that a recipient of a TOPS-TECH Award is enrolled full-time, institutions shall bill for and LASFAC will reimburse the institution for each such recipient as follows:

a. eligible public colleges and universities that do not offer an academic undergraduate degree at the baccalaureate level may bill for an amount up to the tuition for that institution, as defined in §301;

b. all other Eligible Colleges and Universities may bill for an amount up to the Average Award Amount (TOPS-Tech), as defined in §301; and

8. Before applying a TOPS award to pay a student's tuition, institutions shall first apply the student's out-of-pocket payments, including student loans, toward tuition

charges. In those cases when a student's tuition as defined in 26 U.S.C. 25A is paid from a source other than the TOPS award, the institution shall apply the TOPS award toward payment of expenses other than tuition which are described in the term "cost of attendance" as that term is defined in 20 U.S.C. 1087(II), as amended, for the purpose of qualifying the student or his parent or guardian for the federal income tax credits provided for under 26 U.S.C. 25A.

C. - D.2. ...

3. release award funds by crediting the student's account within 14 days of the institution's receipt of funds or disbursing individual award checks to recipients as instructed by LASFAC. Individual award checks for the Rockefeller State Wildlife Scholarship, TOPS Teacher Award and LEAP must be released to eligible recipients within 30 days of receipt by the school or be returned to LASFAC.

E. Reporting of Academic Data. At the conclusion of each term or semester, the institution will complete and return to LASFAC, a College Academic Grade Report including, but not limited to, the following data elements:

1. - 3. ...

4. academic standing; and

E.5. - G ...

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

HISTORICAL NOTE: Promulgated LR 24:645 (April 1998), amended LR 24:1914 (October 1998), LR 25: 1459 (August 1999), LR 26:1998, 2002 (September 2000), LR 28:

Chapter 21. Miscellaneous Provisions and Exceptions **§2103. Circumstances Warranting Exception to the Initial and Continuous Enrollment Requirements**

A. - B. ...

C. Less Than Full-Time Attendance. LASFAC will authorize awards under the TOPS Opportunity, Performance, Honors and Teachers Awards, and the TOPS-TECH Award, for less than full-time enrollment provided that the student meets all other eligibility criteria and at least one of the following:

C.1. - E.11.c. ...

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

HISTORICAL NOTE: Promulgated LR 24:647 (April 1998), amended LR 24:1916 (October 1998), LR 26:1017 (May 2000), LR 26:2004 (September 2000), LR 27:37 (January 2001), LR 28:

§2107. Funding and Fees

A. - A.2. ...

B. Less than Full-Time Attendance. The LASFAC will authorize awards under the TOPS Opportunity, Performance, Honors and Teachers Awards for less than full-time enrollment provided that the student meets all other eligibility criteria and at least one of the following:

1. requires less than full-time enrollment to complete the undergraduate degree; or

2. is enrolled in a degree program that defines *full-time* as less than 12 hours per semester or eight hours per quarter; or

3. requires less than full-time enrollment to complete requirements for a specified course of study or clinical program.

C. Insufficient Funds Appropriated

1. All LASFAC administered State Scholarship and Grant Program Awards are contingent upon the annual appropriation of funds by the Louisiana Legislature.

2. In the event appropriated funds are insufficient to fully reimburse institutions for awards and stipends for all students determined eligible for the TOPS Opportunity, Performance, Honors and TECH Awards for a given academic year, then the number of eligible students shall be reduced in accordance with the following procedures until such funds are sufficient.

a. Applicants who do not submit financial data on the initial FAFSA or a renewal FAFSA or who do not submit a renewal FAFSA to allow determination of eligibility for federal aid will be the first students eliminated from consideration if insufficient funds are appropriated for the program.

b. After the elimination of students under §2107.D.2.a, if funds are still insufficient to award all of those students who remain eligible for award year 1998-99, then those students qualified by the actions of the First Extraordinary Session of 1998 shall be funded only after all awards to all students who are eligible pursuant to the requirements of this Chapter as they existed prior to any Act of the 1998 First Extraordinary Session of the Legislature are fully funded. Students qualified by actions of the First Extraordinary Session of 1998 include the following:

i. students qualified by reduction of Foreign Language requirement for 1996-97 and 1997-98 graduates;

ii. students qualified as Exceptional Students/Students with disabilities;

iii. students who graduated from out-of-state high schools; and,

iv. students who completed an Approved Home Study Program.

c. After the elimination of students in §2107.D.2.a and b, if funds are still insufficient to award all of the remaining students, then those who remain will be prioritized according to their ACT score and, within ACT score, by their EFC in ranges of \$1,000, from lowest to highest. Beginning with the lowest qualifying ACT score, the students with the highest EFC shall be eliminated until the funds available are sufficient to award all remaining students or until all students with that ACT score have been eliminated. This process shall be repeated, beginning with the lowest ACT score and progressing to the highest ACT score, until the projected expenditure for awards equals the funds appropriated for that purpose.

d. After the elimination of students in §2107.D.2.a, if funds are sufficient to award all students who were eligible prior to the Act of the 1998 First Extraordinary Session of the Legislature, but are insufficient to award all students made eligible under such Act and listed in §2107.D.2.b, then those students made eligible by such Act shall be rendered ineligible by application of §2107.D.2.c, above, until funds available are sufficient to award all remaining students.

3. From among those students otherwise eligible who are denied an award because of the imposition of the procedures in §2107.D.2, if additional funds subsequently become available for expenditure in the same award year, those students who have the highest ACT scores and the least capacity to pay, as evidenced by their families' lower

EFC, shall be the first to be awarded by reversing the procedure described in §2107.D.2.c.

D. Stop Payment of Uncleared Checks. The LASFAC may stop payment on checks which are issued as scholarship or grant awards but not negotiated by September 1 following the close of the academic year for which they were issued.

E. Transferability of Funds. A student receiving an award under the Tuition Opportunity Program for Students (TOPS), and/or Rockefeller State Wildlife Scholarship may have his award transferred to another postsecondary institution which is authorized to participate in these programs, as described in §1901. The student must meet all continuation requirements and submit a Scholarship and Grant Transfer Request Form.

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

HISTORICAL NOTE: Promulgated LR 24:649 (April 1998), amended LR 24:1919 (October 1998), LR 26:1998 (September 2000), LR 28:

Mark S. Riley
Assistant Executive Director

0111#009

DECLARATION OF EMERGENCY

Tuition Trust Authority Office of Student Financial Assistance

Student Tuition and Revenue Trust
(START Saving) Program
(LAC 28:VI.107, 301)

The Louisiana Tuition Trust Authority (LATA) is exercising the emergency provisions of the Administrative Procedure Act [R.S. 49:953(B)] to amend rules of the Student Tuition Assistance and Revenue Trust (START Saving) Program (R.S. 17:3091-3099.2).

The emergency rules are necessary to allow the Louisiana Office of Student Financial Assistance 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 authority 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 October 18, 2001, and shall remain in effect for the maximum period allowed under the Administrative Procedure Act.

Title 28

EDUCATION

Part VI. Student Financial AssistanceC Higher Education Savings

Chapter 1. General Provisions Subchapter A. Student Tuition Trust Authority §107. Applicable Definitions

* * *

*Eligible Educational Institution*C either a state college, university, or technical college or institute or an independent college or university located in this state that is accredited by the regional accrediting association, or its successor, approved by the U.S. Secretary of Education or a public or independent college or university located outside this state

that is accredited by one of the regional accrediting associations, or its successor, approved by the U.S. Secretary of Education or a Louisiana licensed proprietary school licensed pursuant to R.S. Chapter 24-A of Title 17, and any subsequent amendments thereto and is eligible to participate in a program under Title IV of the Higher Education Act of 1965 (20 U.S.C. 1088), as amended.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3091-3099.2.

HISTORICAL NOTE: Promulgated by the Tuition Trust Authority, Office of Student Financial Assistance, LR 23:712 (June 1997), amended LR 24:1268 (July 1998), LR 25:1794 (October 1999), LR 26:2260 (October 2000), LR 27:37 (January 2001), LR 27:1154 (August 2000), LR 28:

Chapter 3. Education Savings Account

§301. Education Savings Accounts

A. - H.2. ...

3. By signing the Owners Agreement, the Account Owner certifies that both Account Owner and Beneficiary are United States Citizens or permanent residents of the United States as defined by the U.S. Immigration and Naturalization Service (INS) and, if permanent residents have provided copies of INS documentation with the submission of the Application and Owners Agreement, and that either the Account Owner or Beneficiary is a Louisiana Resident.

H.4. - J. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3091-3099.2.

HISTORICAL NOTE: Promulgated by the Tuition Trust Authority, Office of Student Financial Assistance, LR 23:713 (June 1997), amended LR 24:436 (March 1998), LR 24:1269 (July 1998), LR 25:1794 (October 1999), LR 26:2262 (October 2000), LR 28:

Mark S. Riley
Assistant Executive Director

0111#010

DECLARATION OF EMERGENCY

**Office of the Governor
Office of Financial Institutions**

Loan Brokers

Under the authority of the Louisiana Administrative Procedure Act, R.S. 49:950, et seq., and in accordance with the Louisiana Loan Brokers Act, ("LLBA"), R.S. 9:3572.1, et seq., the Commissioner of Financial Institutions hereby intends to adopt an emergency rule, which will provide and require that any person having a location in Louisiana that solicits a loan for a consumer from a third party for or in expectation of compensation shall obtain a license as a loan broker. Loans so brokered must comply with the provisions of the Louisiana Loan Broker Act, the Louisiana Consumer Credit Law, ("LCCL"), R.S. 9:3510, et seq., and the Louisiana Deferred Presentment and Small Loan Act, ("LDPSLA"), R.S. 9:3518.1 et seq.

The Office of Financial Institutions ("OFI") is statutorily charged with the licensure and supervision of all persons who obtain or offer to obtain a loan for a Louisiana citizen for personal, family or household purposes from a third party for or in expectation of compensation. In view of this

mandate, and as a result of persons located in this state obtaining and offering to obtain loans for Louisiana citizens, wherein fees, charges and other requirements of the Louisiana Consumer Credit Law and/or the Louisiana Deferred Presentment and Small Loan Act are being contracted for in excess of and are in non-compliance with the foregoing laws, it is therefore imperative for the public safety and welfare of the citizens of the state of Louisiana that these persons be licensed by the Office of Financial Institutions and be required to comply with all provisions of the LLBA, the LCCL and the LDPSLA.

I, John D. Travis, in my capacity as Commissioner of Financial Institutions for the state of Louisiana, do hereby clarify that loans to consumers which are brokered within this state must comply with all of the provisions of the LCCL or the LDPSLA and persons brokering such loans must be properly licensed under the LLBA, unless otherwise exempt by statute. Further, any person who is already licensed under one of the following programs within the jurisdiction of the Office of Financial Institutions shall be subject to suspension or revocation of that license for failure to comply with the provisions of this Declaration of Emergency:

- Louisiana Check Cashers Act CR.S. 6:1001 et seq.;
- Louisiana Sale of Checks and Money Transmission Act CR.S. 6:1031 et seq.;
- Louisiana Consumer Credit Law CR.S. 9:35 10, et seq.;
- Louisiana Credit Repair Services Organizations Act CR.S. 9:3573.1 et seq.;
- Louisiana Collection Agency Regulation Act CR.S. 9:3576.1 et seq.;
- Louisiana Deferred Presentment and Small Loan Act CR.S. 9:3578.1 et seq.;
- Louisiana Pawnshop Act CR.S. 37:1701 et seq.

Therefore, in accordance with R.S. 49:950 et seq., and the provisions of R.S. 9:3572.1 et seq., OFI hereby adopts this Declaration of Emergency on October 24, 2001. Accordingly, this emergency rule shall become effective on the commissioner's signature and shall remain effective for a maximum of 120 days, or until the final rule is promulgated, whichever occurs first.

John D. Travis
Commissioner

0111#007

DECLARATION OF EMERGENCY

**Office of the Governor
Office of Women's Services**

Microenterprise Development Program
(LAC 4:VII.1741 and 1743)

In Accordance with the Administrative Procedure Act, R.S. 49:953(B), the executive director of the Governor's Office of Women's Services (OWS) is exercising the emergency provisions of the Administrative Procedure Act in adopting the following rule for the implementation of the Microenterprise Development Program to further the goals of and the intentions of the federal Temporary Assistance to Needy Families Block Grant funds. This Emergency Rule facilitates expenditures of Temporary Assistance to Needy

Families (TANF) funds as authorized by Act 12 of the 2001 Regular Session of the Louisiana Legislature for the support of microenterprise development, in accordance with federal and state regulations (45 CFR Part 260 et al and LAC 67:III.Subpart 15). The Emergency Rule will remain in effect for a period of 120 days, effective on October 12, 2001.

The agency has, therefore, determined that this Emergency Rule providing for immediate implementation of the OWS Microenterprise Development Program is essential to alleviate the imminent peril to the welfare of potential program recipients as they strive to end their dependency upon public assistance.

Title 4

ADMINISTRATION

Part VII. Governor's Office

Chapter 17. Women's Services

§1741. General Provisions

A. The OWS Microenterprise Program will help families achieve self-sufficiency through the development of comprehensive microenterprise development opportunities as a strategy for moving parents on public assistance into self-employment and work thereby breaking the cycle of dependence on public assistance and moving families out of poverty. A microenterprise is a sole proprietorship, partnership or family business which has fewer than five employees. It is small enough to benefit from loans under \$25,000 and generally too small to access commercial banking sector.

B. OWS will collaborate with DED in the implementation of this program according to mutually agreed upon terms. OWS's program design will encourage collaboration and partnerships between Community-Based Organization (CBOs), Community Development Corporations (CDCs), Small Business Development Centers (SBDCs) and other institutions as a vehicle for efficiency, reducing costs, and providing high quality, comprehensive services.

AUTHORITY NOTE: Promulgated in accordance with Act 12 of the 2001 Special Session of the Louisiana Legislature.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Women's Services, LR 28:

§1743. Eligibility and Verification

A. Eligibility will be determined by verifying eligibility for Family Independence Temporary Assistance Program (FITAP), Kinship Care Subsidy Program (KCSP), food stamps, Child Care Assistance Program (CCAP), Medicaid, Louisiana Children's Health Insurance Program (LaChip,) Supplemental Security Income (SSI) or Free or Reduced School Lunch. If a family does not meet the definition of need, but appears to be eligible for one of the qualifying programs, the family should be referred to the appropriate agency. Upon being determined eligible for one of the qualifying programs, the family meets the definition of needy. Verification includes but is not limited to: Notices of Eligibility (as detailed in the following examples and provided to practitioner agency by the program participant), a copy of current SSI check, a documented phone call to certifying agency, written documentation from certifying agency, and electronic data exchange, if available.

B. Eligibility can also be determined by verifying that earned income levels fall at or below 200 percent of the federal poverty level. Contractors can use the TANF-EZ

form to record information for eligibility determination. Examples of documented verification can include, but are not limited to: Notice of eligibility for FITAP, KCSP, Food Stamps, CCAP, Medicaid, LaChip, SSI or Free or Reduced School Lunch or most recent employment pay stub that verifies income, letter from employer stating wages, letter of termination from employment, or copy of most recent tax return. Verification documentation must be provided within 3 days of application of services. Sub-Contractors shall be responsible for determining the TANF eligibility.

C. Documentation of each eligibility determination (approval or denial) must be maintained by and made available in accordance with Section VIII.B.3. Once eligibility is established, it is valid for a period of one year. However, funding of services will not extend past September 30, 2002.

AUTHORITY NOTE: Promulgated in accordance with Act 12 of the 2001 Special Session of the Louisiana Legislature.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Women's Services, LR 28:

Vera Clay
Executive Director

0111#002

DECLARATION OF EMERGENCY

Department of Health and Hospitals Office of Public Health

Reportable Diseases

Under the authority of R.S. 40:5 and in accordance with the provisions of the Administrative Procedure Act, R. S. 49:950 et seq., the Department of Health and Hospitals, Office of Public Health has invoked emergency rulemaking provisions and is amending Chapter II of the Louisiana Sanitary Code as related to reportable diseases.

The threat of new or re-emerging infectious diseases/conditions, as well as, the potential for bioterrorist events, necessitates the addition of several diseases/conditions to the list of reportable diseases/conditions and changes in the time periods for reporting specific diseases/conditions (Section 2:003). The revised list of reportable diseases provides for the addition of the following diseases/conditions: Anthrax, Aseptic meningitis, Brucellosis, Cryptococcosis, Cyclosporiasis, Dengue, EHEC serogroup non 0157, EHEC + shiga toxin not serogrouped, Giardia, Hantavirus Pulmonary Syndrome, Hansen Disease (leprosy), Listeria, Plague, Psittacosis, Streptococcal pneumoniae (invasive in children <5 years of age), Tularemia, Smallpox and Viral Hemorrhagic fever. This action has become necessary as a result of the recognition of new and re-emerging diseases of public health importance and/or those that may be associated with bioterrorist events. In addition, three diseases were removed from the reportable list for which reports have been rare or sporadic: Amebiasis, Meningitis, other bacterial, fungal and Mycobacteriosis, atypical. The need to categorize the reportable disease/condition list according to time periods for reporting will allow for more timely and efficient public health responses for which active intervention and

prevention can be instituted to protect the health of the citizens of Louisiana.

The following emergency rule provisions are effective October 26, 2001, and shall remain in effect for the maximum period as allowed under the Administrative Procedure Act or until adoption of the final rule, whichever comes first.

Sanitary Code

State of Louisiana

Chapter II. The Control of Disease

2:003 The following diseases or conditions are hereby declared reportable with reporting requirements by Class:

A. Class A Diseases or Conditions Which Shall Require Reporting Within 24 Hours. This class includes diseases of major public health concern because of the severity of disease and potential for epidemic spread. Class A diseases or conditions shall be reported to the Office of Public Health by telephone immediately upon recognition that a case, a suspected case, or a positive laboratory result is known. In addition, all cases of rare or exotic communicable diseases, unexplained death, unusual clusters of disease and all outbreaks shall also be reported.

The following diseases or conditions shall be classified as Class A for reporting requirements:

- Anthrax
- Botulism
- Brucellosis
- Cholera
- Diphtheria
- Haemophilus influenzae (invasive infection)
- Measles (rubeola)
- Neisseria meningitidis (invasive infection)
- Plague
- Rabies (animal and man)
- Rubella (congenital syndrome)
- Rubella (German measles)
- Smallpox
- Tularemia
- Viral Hemorrhagic Fever

B. Class B Diseases or Conditions Which Shall Require Reporting Within One Business Day. This class includes diseases of public health concern needing timely response because of potential for epidemic spread. The following Class B diseases shall be reported to the Office of Public Health by the end of the next business day after the existence of a case, a suspected case, or a positive laboratory result is known.

- Arthropod-borne encephalitis
- Aseptic meningitis
- Chancroid¹
- E. Coli 0157:H7
- Hantavirus Pulmonary Syndrome
- Hemolytic-Uremic Syndrome
- Hepatitis A (acute illness)
- Hepatitis B (carriage in pregnancy)
- Herpes (neonatal)
- Legionellosis
- Malaria
- Mumps

- Pertussis
- Salmonellosis
- Shigellosis
- Syphilis¹
- Tetanus
- Tuberculosis²
- Typhoid Fever

C. Class C Diseases or Conditions Which Shall Require Reporting Within Five Business Days. This class shall include the diseases of significant public health concern. The following diseases shall be reported to the Office of Public Health by the end of the workweek after the existence of a case, suspected case, or a positive laboratory result is known.

- Acquired Immune Deficiency Syndrome (AIDS)
- Blastomycosis
- Campylobacteriosis
- Chlamydial infection¹
- Cryptococcosis
- Cryptosporidiosis
- Cyclosporiasis
- Dengue
- EHEC serogroup non 0157
- EHEC + shiga toxin not serogrouped
- Enterococcus -Vancomycin Resistant; (VRE)
- Giardia
- Gonorrhea¹
- Hansen Disease (leprosy)
- Hepatitis B (acute)
- Hepatitis C (acute)
- Human Immunodeficiency Virus (HIV)
- Listeria
- Lyme Disease
- Lymphogranuloma venereum¹
- Psittacosis
- Rocky Mountain Spotted Fever (RMSF)
- Staphylococcus aureus, Methicillin/Oxacillin or vancomycin resistant (MRSA)
- Streptococcus pneumoniae
[invasive infection;penicillin, resistant (DRSP)]
- Streptococcus pneumoniae (invasive infection in children <5 years of age)
- Varicella (chickenpox)
- Vibrio infections (other than cholera)

D. Other Reportable Conditions

- Cancer
- Complications of abortion
- Congenital hypothyroidism*
- Galactosemia*
- Hemophilia*
- Lead Poisoning
- Phenylketonuria*
- Reye's Syndrome
- Severe traumatic head injury**
- Severe under nutrition
(severe anemia, failure to thrive)

Sickle cell disease (newborns)*
Spinal cord injury**
Sudden infant death syndrome (SIDS)

Case reports not requiring special reporting instructions (see below) can be reported by Confidential Disease Case Report forms (2430), facsimile, phone reports, or electronic transmission.

¹Report on STD-43 form. Report cases of syphilis with active lesions by telephone.

²Report on CDC72.5 (f.5.2431) card.

*Report to the Louisiana Genetic Diseases Program Office by telephone.

**Report on DDP-3 form; preliminary phone report from ER is encouraged.

Information contained in reports required under this section shall remain confidential in accordance with the law.

David W. Hood
Secretary

0111#020

DECLARATION OF EMERGENCY

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

Disproportionate Share Hospital Payment Methodologies

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 May 20, 1999 governing the disproportionate share payment methodologies for hospitals (*Louisiana Register*, Volume 25, Number 5). This Rule was adopted pursuant to Act 19 of the 1998 Legislative Session and Act 1485 (the Rural Hospital Preservation Act) of the 1997 Legislative Session. The May 20, 1999 Rule was subsequently amended to revise the disproportionate share qualification criteria for small rural hospitals in compliance with Senate Concurrent Resolution Number 48 and Act 1068 of the 1999 Regular Session of the Louisiana Legislature (*Louisiana Register*, Volume 26, Number 3).

The Bureau subsequently adopted a rule to establish an additional disproportionate share hospital group, for state fiscal year 2001 only, composed of large public non-state hospitals in order to facilitate the transfers of public funds from qualifying health care providers as directed in Act 11 of the 2000 Second Extraordinary Session of the Louisiana Legislature (*Louisiana Register*, Volume 27, Number 2).

Act 1074 of the 2001 Regular Session of the Louisiana Legislature amended the Rural Hospital Preservation Act to add certain hospitals to the definition of rural hospitals. In compliance with Act 1074, the Bureau has determined that it is necessary to amend the March 20, 2000 Rule to revise the

disproportionate share qualification criteria for small rural hospitals.

Qualification for disproportionate share is based on the hospital's latest year end cost report for the year ended during the specified period of the previous year. Payment is equal to each qualifying hospital's pro rata share of the uncompensated cost for all hospitals meeting these criteria for the cost reporting period ended during the specified period of the preceding year multiplied by the amount set for each pool. The specified cost reporting period for all hospitals except small rural hospitals is July 1 through June 30 of the previous year. The specified cost reporting period for small rural hospitals is April 1 through March 31 of the previous year. As a result of Medicare amending its reimbursement methodology for hospitals and granting extensions on the submission dates for hospital cost reports, the bureau amended the provisions governing cost reporting periods for qualification and calculation of payments for disproportionate share. This emergency rule is being adopted to continue the provisions contained in the August 8, 2001 rule.

Emergency Rule

Effective for dates of service on or after December 7, 2001, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, amends the provisions governing the disproportionate share payment methodologies for hospitals by incorporating the following revisions.

I. General Provisions

A. - C. ...

D. DSH payments to a hospital determined under any of the methodologies below shall not exceed the hospital's net uncompensated cost as defined in Section I.G for the state fiscal year to which the payment is applicable.

E. Qualification is based on the hospital's latest filed cost report. Hospitals must file cost reports in accordance with Medicare deadlines, including extensions. Hospitals that fail to timely file Medicare cost reports will be assumed to be ineligible for disproportionate share payments. Only hospitals that return timely disproportionate share qualification documentation will be considered for disproportionate share payments. For hospitals with distinct part psychiatric units, qualification is based on the entire hospital's utilization.

F. - I. ...

III. Reimbursement Methodologies

B. Small Rural Hospitals

1. A small rural hospital is a hospital (excluding a long-term care hospital, rehabilitation hospital or free-standing psychiatric hospital, but including distinct part psychiatric units) that meets the following criteria:

a. had no more than 60 hospital beds as of July 1, 1994 and is located in a parish with a population of less than 50,000 or in a municipality with a population of less than 20,000; or

b. meets the qualifications of a sole community hospital under 42 CFR §412.92(a); or

c. had no more than 60 hospital beds as of July 1, 1999 and is located in a parish with a population of less than 17,000 as measured by the 1990 census; or

d. had no more than 60 hospital beds as of July 1, 1997 and is a publicly owned and operated hospital that is

located in either a parish with a population of less than 50,000 or a municipality with a population of less than 20,000; or

e. had no more than 60 hospital beds as of June 30, 2000 and is located in a municipality with a population, as measured by the 1990 census, of less than 20,000; or

f. had no more than 60 beds as of July 1, 1997 and is located in a parish with a population, as measured by the 1990 and 2000 census, of less than 50,000; or

g. was a hospital facility licensed by the Department that had no more than 60 hospital beds as of July 1, 1994, which hospital facility has been in continuous operation since July 1, 1994, is currently operating under a license issued by the department, and is located in a parish with a population, as measured by the 1990 census, of less than 50,000.

2. ...

3. Payment is equal to each qualifying rural hospital's pro rata share of uncompensated cost for all hospitals meeting these criteria for the latest filed cost report multiplied by the amount set for each pool. If the cost reporting period is not a full period (12 months), actual uncompensated cost data from the previous cost reporting period may be used on a pro rata basis to equate a full year.

4. ...

C. Large Public Non-State Hospitals

1. A large public non state hospital is defined as any hospital owned by a parish, city or other local government agency or instrumentality; and not included in section III. A or B of the May 20, 1999 rule. A qualifying hospital may be a long term hospital.

2. Qualifying hospitals must meet the qualifying criteria contained in section II.E and either section II. A, B, or C of the May 20, 1999 rule. Qualifying hospitals must maintain a log documenting the hospital's provision of uninsured care as directed by the department. Issuance of the disproportionate share payment is contingent on the public non state hospital certifying public funds as representing expenditures eligible for FFP in compliance with Act 12 of the 2001 Regular Session of the Louisiana Legislature.

3. Disproportionate share payments to each qualifying public non state hospital are equal to that hospital's pro rata share of uncompensated costs for all hospitals meeting these criteria for the latest filed cost report multiplied by the amount set for this pool. Payment shall not exceed each qualifying hospital's actual uncompensated costs as defined in section I.G of the May 20, 1999 rule. If the cost reporting period is not a full period (12 months), actual uncompensated cost data for the previous cost reporting period may be used on a pro rata basis to equate to a full year.

D. All Other Hospitals (private rural and urban hospitals, free-standing psychiatric hospitals exclusive of state hospitals, rehabilitation hospitals and long-term care hospitals)

1. - 2.c. ...

Implementation of this emergency 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, Louisiana 70821-9030. He is responsible for responding to 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

0111#081

DECLARATION OF EMERGENCY

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

Durable Medical Equipment Program Vagus Nerve Stimulators

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 LA. 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 coverage for durable medical equipment and supplies under the Medicaid Program. All medical equipment, appliances and supplies must be prior authorized to determine medical necessity. Currently, vagus nerve stimulators (VNS), implantable devices used to assist in the control of seizures related to epilepsy are not covered under the Medicaid Program. In concurrence with the recommendations of the Medical Practices Committee, the bureau proposes to extend Medicaid coverage under the Durable Medical Equipment Program to include vagus nerve stimulators. Reimbursement for this medical device will be subject to review for medical necessity and prior authorization.

This action is being taken in order to protect the health and well being of Medicaid recipients who have epilepsy related seizures and may benefit from use of this medical device. It is estimated that the implementation of this emergency rule will increase expenditures in the Durable Medical Equipment Program by approximately \$215,833 for state fiscal year 2001-2002.

Emergency Rule

Effective December 1 2001, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing expands coverage under the Durable Medical Equipment Program to include vagus nerve stimulators (VNS) and adopts the following criteria for prior authorization of this medical device. The VNS is an implantable device used to assist in the control of seizures related to epilepsy and must be prescribed by a physician.

A. Inclusion Criteria. Consideration shall be given for Medicaid reimbursement for implantation of the VNS if the treatment is considered medically necessary, the patient has medically intractable epilepsy and meets one or more of the following criteria:

1. is 12 years of age or older, although case by case consideration may be given to younger children who meet all other criteria and have sufficient body mass to support the implanted system; or

2. has a diagnosis of partial epilepsy confirmed and classified according to the International League Against Epilepsy classification. The patient may also have associated generalized seizures, such as tonic, tonic-tonic, or atonic. The VNS may have efficacy in primary generalized epilepsy as well. Video electroencephalographic monitoring is usually necessary for confirmation and classification of seizure type; or

3. has seizures that resist control by antiepilepsy treatment, with adequately documented trails of appropriate antiepilepsy drugs or documentation of the patient's inability to tolerate these medications; or

4. has undergone surgical evaluation and is not considered to be an optimal candidate for epilepsy surgery; or

5. is experiencing at least four to six identifiable partial onset seizures each month. The patient must have had a diagnosis of intractable epilepsy for at least two years. The two year period may be waived if it is deemed that waiting would be harmful to the patient; or

6. has undergone Quality of Life measurements (QOL). The choice of instruments used for the QOL must assess quantifiable measures of day to day life in addition to the occurrence of seizures. In the expert opinion of the treating physician, and clearly documented in the request for prior authorization, there must be reason to believe that QOL will improve as a result of the VNS. This improvement should be in addition to the benefit of seizure frequency reduction; or

7. has progressive disorders, psychosis, or mental retardation that are not contraindications to VNS implantation. Taking into consideration the additional diagnosis, the treating physician must document the benefits of VNS.

B. Exclusion Criteria. Medicaid reimbursement for implantation of a VNS shall not be made if the patient meets one or more of the following criteria:

1. has psychogenic seizures or other nonepileptic seizures; or

2. has systemic or localized infections that could infect the implanted system; or

3. the patient's body mass is insufficient to support the implanted system.

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

0111#080

DECLARATION OF EMERGENCY

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

Facility Need Review Emergency
Community Home Bed Pool
(LAC 48:I.12501-12505)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts the following emergency rule for Facility Need Review as authorized by R.S. 40:2116. This emergency rule is adopted in accordance with the Administrative Procedure Act, R.S. 49:953(B) 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 adopted a rule governing the Facility Need Review process in August 1995 (*Louisiana Register*, Volume 21, Number 8). The August 1995 rule was amended to adopt new provisions governing the relocation of nursing facility beds (*Louisiana Register*, Volume 25, Number 7).

The Department amended the August 1995 rule governing the Facility Need Review process in order to implement provisions of the 2001 Appropriations Bill, Act 12 of the 2001 Regular Session. The Act provides that the Department of Health and Hospitals is authorized to transfer 50 beds currently licensed to state developmental centers to non-state operated community homes for the mentally retarded in accordance with a plan to be developed by the Department. The Department intends to use those 50 beds to address emergency situations which cannot be dealt with adequately through the normal request for proposals process because of the significant delay in placement which is inherent in that process. Therefore, the Department exercised its emergency rule making authority and amended its rules on Facility Need Review to include a plan whereby 50 beds were used to create a pool of beds which are available for transfer to non-state operated community homes. This emergency rule is being adopted to continue the provisions contained in the August 1, 2001 rule.

Emergency Rule

Effective November 30, 2001, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, amends the August 20, 1995 rule on Facility Need Review to include a plan whereby 50 beds will be used to create a pool of beds which will be available for transfer to non-state operated community homes.

Title 48

PUBLIC HEALTH GENERAL

Part I. General Administration

Subpart 5. Health Planning

Chapter 125. Facility Need Review

§12501. Introduction

- A. ...
- B. Definitions

*Emergency Community Home Bed Pool*Ca pool consisting of 50 approved beds which have been transferred from state developmental centers and which are made available for transfer to non-state operated community homes in order to address emergency situations on a case-by-case basis.

C. - F.6. ...

7. Beds may not be disenrolled, except as provided under the alternate use policy, under the Emergency Community Home Bed Pool exception, and during the 120-day period to have beds re-licensed or re-certified. The approval for beds disenrolled, except as indicated, will automatically expire.

F.8. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2116.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 21:808 (August 1995), amended LR 25:1250 (July 1999), amended LR 28:

§12503. Determination of Bed Need

A.1. - 6.d. ...

7. Emergency Community Home Bed Pool Exception:

a. The Emergency Community Home Bed Pool is hereby created, consisting of 50 Medicaid enrolled beds transferred from state developmental centers.

b. The beds in the Emergency Community Home Bed Pool shall be available for transfer to non-state operated community homes in order to address emergency situations on a case-by-case basis.

c. Emergency situations which may be addressed through the use of the Emergency Community Home Bed Pool shall include, but not be limited to, situations in which it is difficult or impossible to find a placement for an individual in an ICF/MR because of one of the following:

i. an inadequate number of available ICF/MR beds in the service area to serve the needs of the mentally retarded/developmentally disabled population in general;

ii. an inadequate number of available ICF/MR beds in the service area to serve the needs of the mentally retarded/developmentally disabled population who also have physical or behavioral disabilities or difficulties;

iii. an inadequate number of available ICF/MR beds in the service area to provide for the transition of individuals from residing in large residential facilities to residing within the community.

d. Any agency or individual who becomes aware of an actual or potential emergency situation should inform the Office for Citizens with Developmental Disabilities (OCDD). The OCDD shall submit to the Facility Need Review Program its recommendations for emergency placement. The recommendations from the OCDD shall include identification of the individual in need of emergency placement, the individual's needs, the service area in which transfer from the Emergency Community Home Bed Pool is requested, and the names of one or more existing community homes that would be appropriate for emergency placement.

e. In order to be eligible for transfer of one or more beds from the Emergency Community Home Bed Pool, a community home must meet the following requirements, based on documentation provided by the Health Standards Section.

i. The facility must comply with the physical accessibility requirements of the Americans with Disabilities Act and Section 504 of the Rehabilitation Act of 1973, or if it does not comply with those requirements, it must have a written plan to be in compliance within 24 months.

ii. The facility can not have been on a termination track or have had any repeat deficiencies within the last 12 months.

iii. The facility must meet all square footage requirements, Life Safety Code requirements, and general construction requirements of 42 CFR Subpart D, Conditions of Participation for ICF/MR, as well as Standards for Payment, LAC 50:II.Chapter 103 and Louisiana Licensing Requirements for Intermediate Care Facilities.

iv. The facility must ensure the provision of sufficient staffing and behavior modification plans to meet the needs of current residents and prevent clients residing in the facility from being adversely affected by the emergency admission.

f. The secretary shall authorize the transfer of the bed to be used at the non-state operated community home, and upon the enrollment of the transferred bed at that community home, it shall be permanently transferred to that facility, subject to the following conditions: Once the bed is no longer needed to remedy the emergency situation, the facility shall continue to make it available for subsequent emergency placements, although it may be used temporarily to serve other individuals until it is needed for a new emergency placement. The facility shall make the bed available for a new emergency placement within 72 hours after receiving a request for such placement from the Department as set forth herein. If the facility does not comply with such a request, the Secretary may, at his discretion, transfer the bed from the facility back to the Emergency Community Home Bed Pool.

g. Beds which have been placed in the Emergency Community Home Bed Pool shall be exempt from the bed need criteria and the requirements for requests for proposals which are normally applicable to ICF/MRs.

h. For purposes of the Emergency Community Home Bed Pool exception, the definition of "service area" provided in §12503.A.1 is applicable.

B. - B.11. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2116.

HISTORICAL NOTE: Repealed and repromulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 21:808 (August 1995), amended LR 28:

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

0111#082

DECLARATION OF EMERGENCY

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

Medicaid Pharmacy Program Average Wholesale Price

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 April, 1990, amending the reimbursement methodology for drugs under the Louisiana Medicaid Pharmacy Program (*Louisiana Register*, Volume 16, Number 4). In compliance with Act 10 of the 1999 Regular Session of the Louisiana Legislature, the Bureau amended the April 20, 1990 Rule to limit payments for prescription drugs to the lower of:

- 1) average wholesale price (AWP) minus 10.5 percent for independent pharmacies and 13.5 percent for chain pharmacies;
- 2) Louisiana's maximum allowable cost (MAC) limitation plus the maximum allowable overhead cost (MAOC);
- 3) federal upper limits plus the; or
- 4) provider's usual and customary charges to the general public. In addition, the definition of chain pharmacies was established as five or more Medicaid enrolled pharmacies under common ownership (*Louisiana Register*, Volume 26, Number 6).

As a result of a budgetary shortfall, the Bureau adopted a rule amending the June 20, 2000 rule to limit payments for prescription drugs to the lower of (AWP) minus 15 percent for independent pharmacies and 16.5 percent for chain pharmacies. In addition, the definition of chain pharmacies was changed from five or more to more than 15 Medicaid-enrolled pharmacies under common ownership (*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 prescription drugs under the Medicaid Pharmacy Program by amending the estimated acquisition cost formula from (AWP) minus 15 percent to 9(AWP) minus 13.5 percent for independent pharmacies and from (AWP) minus 16.5 percent to (AWP) minus 15 percent for chain pharmacies. This emergency rule is being adopted to continue the provisions contained in the August 6, 2001 rule.

Emergency Rule

Effective for dates of services on or after December 5, 2001, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing increases the reimbursement rate for prescription drugs under the Medicaid Pharmacy Program by amending the estimated acquisition cost formula from average wholesale price

(AWP) minus 15 percent to AWP minus 13.5 percent for independent pharmacies and from AWP minus 16.5 percent to AWP minus 15 percent for chain pharmacies. This adjustment applies to single source drugs, multiple source drugs that do not have a state maximum allowable cost (MAC) or federal upper limit and those prescriptions subject to (MAC) overrides based on the physician's certification that a brand name product is medically necessary.

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

0111#083

DECLARATION OF EMERGENCY

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

Public Hospitals CReimbursement Methodology CUpper Payment Limit

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

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

In compliance with Act 11 of the 2000 Second Extraordinary Session of the Louisiana Legislature, an emergency rule was adopted to establish supplemental payments to non-state public hospitals, which are not recognized by the Department as small rural hospitals, for unreimbursed Medicaid costs incurred in providing care to Medicaid recipients (*Louisiana Register*, Volume 26, Number 12). Issuance of the supplemental payment is

contingent on the public hospital entering into a cooperative endeavor agreement with the Department to certify public funds as representing expenditures eligible for federal financial participation (FFP).

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

Emergency Rule

Effective November 29, 2001 the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, will utilize the revised upper payment limit for non-state government-owned or operated hospitals as set forth in the 42 CFR §447.272(c) and §447.321(c). The hospital payment differential for any year shall be the difference between the upper limit of aggregate payments to non-state government-owned or operated hospitals, as defined in the 42 CFR §447.272(c) and §447.321(c), and the aggregate Medicaid per diem reimbursement paid to these hospitals for the year.

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

David W. Hood
Secretary

0111#084

DECLARATION OF EMERGENCY

Department of Social Services Office of Family Support

Food Stamp ProgramC Semi-Annual Households (LAC 67:III.2013)

The Department of Social Services, Office of Family Support, has exercised the emergency provision of the Administrative Procedure Act, R.S. 49:953.B to adopt changes to LAC 67:III, Subpart 3, effective December 5, 2001. This rule shall remain in effect for a period of 120 days. This declaration is necessary to extend the original emergency rule of August 7, 2001, since it is effective for a maximum of 120 days and will expire before the final rule takes effect. (The final rule will be published in January.)

Semi-Annual Reporting in the Food Stamp Program began in August of this year. In the early planning stages, the agency recognized potential conflicts and problems between the reporting requirements of semi-annual reporting households and households not subject to reporting. Therefore, on April 20, 2001, the agency requested, and has now been granted a waiver by the U.S. Department of Agriculture, Food and Nutrition Service, which will allow

the agency to process all interim changes reported by a semi-annual reporting household, including those that result in a decrease in food stamp benefits. The approved waiver will eliminate inequities that exist in current policy, that is, the benefits of semi-annual reporting households are not reduced as a result of reported changes while the benefits of other households would be. Additionally, administration of current policy is complicated and highly prone to error.

An emergency rule is necessary at this time in order to effect the waiver and remedy the inequities that exist in current policy in order to prevent an increase in Louisiana's food stamp error rate which would be expected to result in federal sanctions and penalties.

Title 67

SOCIAL SERVICES

Part III. Office of Family Support

Subpart 3. Food Stamps

Chapter 19. Certification of Eligible Households

Subchapter S. Semi-Annual Reporting

§2013. Semi-Annual Reporting

A. - G ...

H. Effective August 7, 2001, other changes will be processed in accordance with §1999, Reduction or Termination of Benefits.

AUTHORITY NOTE: Promulgated in accordance with 7 CFR 273.12(a).

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 26:1633 (August 2000), LR 27:867 (June 2001), LR 28:

Gwendolyn P. Hamilton
Secretary

0111#061

DECLARATION OF EMERGENCY

Department of Social Services Office of Family Support

Temporary Assistance for Needy Families (TANF) Initiatives C Starting Points Program (LAC 67:III.5501)

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 amend LAC 67:III and establish a new Subpart specific to the adoption of agency-funded programs known collectively as "the TANF Initiatives." This involves a number of measures included in Act 12 of the 2001 Regular Session of the Louisiana Legislature whereby the agency will enter into agreements with other agencies and entities to fund a wide-range of programs to further the goals of the federal Temporary Assistance for Needy Families (TANF) Block Grant to Louisiana.

This emergency rule is effective November 28, 2001, and will remain in effect for a period of 120 days. This declaration is necessary to extend the original emergency rule of August 1, 2001, since it is effective for a maximum of 120 days and will expire before the final rule takes effect. (The final rule will be published in December.)

Whereas it has been shown that providing quality, early childhood education to at-risk children results in more

positive outcomes relative to developing responsible behavior and an interest in learning, for the previous eight years the agency has funded the Starting Points Early Childhood Development Program from the Child Care and Development Fund. This Starting Points school-year program is administered by the Department of Education. With the impending implementation of other initiatives, the agency has chosen to now include Starting Points as a TANF Initiative funded with TANF rather than child care monies.

Therefore, in order to provide for the continuation of the program for the 2001-02 school year and in keeping with the emergency nature of TANF Initiatives as detailed in ACT 12, an emergency rule is necessary to fund and continue services for the Starting Points Program. Additionally, the loss of this program could endanger the welfare of those at-risk families and children who are eligible for its services.

Title 67

SOCIAL SERVICES

Part III. Office of Family Support

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

Chapter 55. TANF Initiatives

§5501. Starting Points Early Childhood Development Program

A. The Office of Family Support will enter into a Memorandum of Understanding with the Department of Education, Office of Student and School Performance, to provide quality, early childhood education to certain four-year-old children.

B. These services meet the TANF goal of encouraging the formation and maintenance of two-parent families by providing at-risk families with quality early childhood education to four-year-old children, as well as providing support to the parents in obtaining higher literacy levels, crisis intervention, and positive parenting skills resulting in greater financial and family stability. Children placed in quality education programs at an early age are more likely to become contributing members of society by developing responsible behaviors and an interest in learning that will eventually lead to graduation.

C. Services are limited to at-risk families in which the child is one year younger than the eligible age for kindergarten and eligible to receive free or reduced school lunch meals pursuant to the Federal Child Nutrition Program as documented by a completed application for such meals, whether or not such meals are sought.

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 RS. 36:474, and Act 12, 2001 Regular Session.

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

Gwendolyn P. Hamilton
Secretary

0111#060

DECLARATION OF EMERGENCY

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

2001 Fall Commercial Red Snapper Closure

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

Effective 12 noon, November 10, 2001, the commercial fishery for red snapper in Louisiana waters will close and remain closed until 12 noon February 1, 2002. Nothing herein shall preclude the legal harvest of red snapper by legally licensed recreational fishermen once the recreational season opens. Effective with this closure, no person shall commercially harvest, purchase, barter, trade, sell or attempt to purchase, barter, trade or sell red snapper. Effective with closure, no person shall possess red snapper in excess of a daily bag limit, which may only be in possession during the open recreational season as described above. Nothing shall prohibit the possession or sale of fish legally taken prior to the closure providing that all commercial dealers possessing red snapper taken legally prior to the closure shall maintain appropriate records in accordance with R.S. 56:306.5 and R.S. 56:306.6.

The secretary has been notified by National Marine Fisheries Service that the commercial red snapper season in federal waters of the Gulf of Mexico will close at 12 noon November 10, 2001. Closing the season in state waters is necessary to provide effective rules and efficient enforcement for the fishery, to prevent overfishing of this species in the long term.

James H. Jenkins, Jr.
Secretary

0111#021

DECLARATION OF EMERGENCY

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

Oyster Harvest Area Grid System
(LAC 76:VII.519)

In accordance with the emergency provisions of R.S. 49:953.B of the Administrative Procedure Act, which allows the Wildlife and Fisheries Commission to use emergency procedures when it finds that an imminent peril to the public welfare requires adoption of a rule upon shorter notice than provided in R.S. 49:953.A, and in accordance with R.S. 56:430.1.B, which provides for the establishment of an oyster harvest area grid system, the Wildlife and Fisheries Commission does hereby adopt the following emergency rule. Adoption of this Declaration of Emergency is necessary inasmuch as it is an essential component of the coastal

restoration program which must move forward immediately to protect the public resources that are critical to the economy and welfare of our coastal areas.

This Declaration of Emergency will become effective on November 20, 2001, and shall remain in effect for the maximum period allowed under the Administrative Procedure Act or until adoption of the final rule.

Title 76

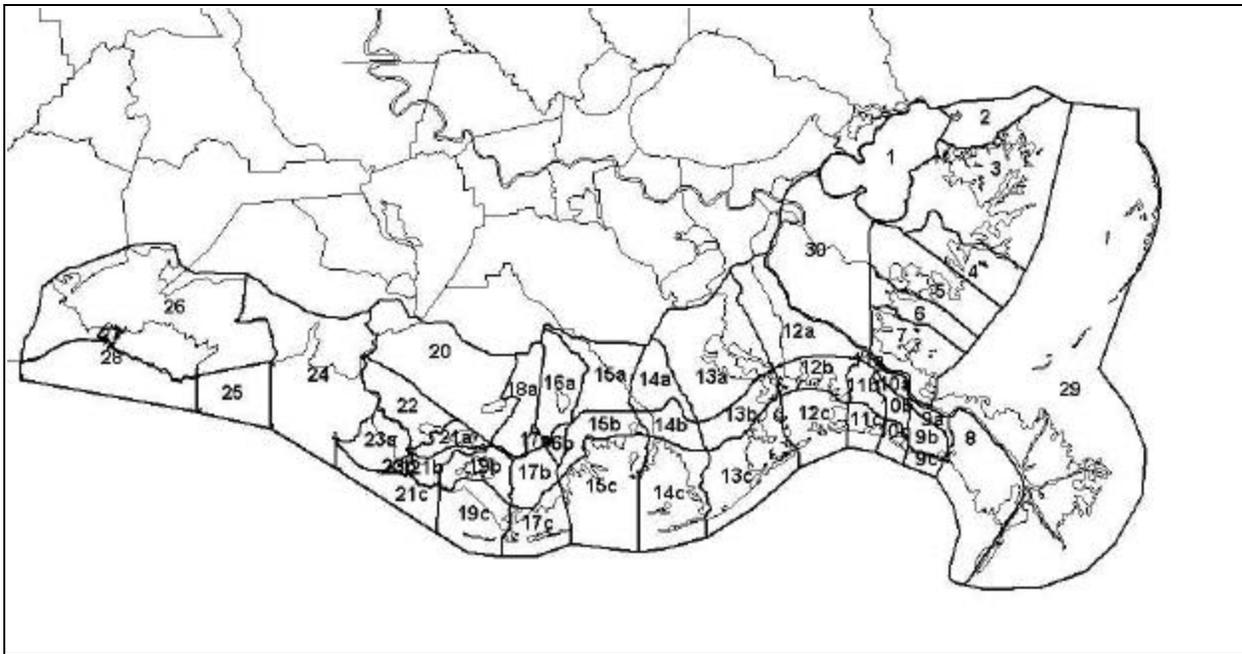
WILDLIFE AND FISHERIES

Part VII. Fish and Other Aquatic Life

Chapter 5. Oysters

§519. Establishment of an Oyster Harvest Area Grid System

A. For the purpose of submission of oyster leaseholder production information, as required in R.S. 56:430.1, the oyster harvest area grid system is established as those grid areas detailed on the map which is attached hereto and made a part hereof.



AUTHORITY NOTE: Promulgated in accordance with R.S. 56:430.1.B.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 28:

0111#031

Dr. H. Jerry Stone
Chairman