

# Emergency Rules

## DECLARATION OF EMERGENCY

**Office of the Governor  
Division of Administration  
Office of Group Benefits**

EPO Plan of Benefits CPrescription Drug  
Dispense Limits (LAC 32:V.325)

Pursuant to the authority granted by R.S. 42:801(C) and 802(B)(2), vesting the Office of Group Benefits (OGB) with the responsibility for administration of the programs of benefits authorized and provided pursuant to Chapter 12 of Title 42 of the Louisiana Revised Statutes, and granting the power to adopt and promulgate rules with respect thereto, OGB, hereby invokes the Emergency Rule provisions of La R. S. 49:953(B).

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

Accordingly, the following Emergency Rule, revising and amending the EPO Plan of Benefits relative to prescription drug benefits, is effective February 1, 2002, and shall remain in effect for a maximum of 120 days, or until the final rule is promulgated, which ever occurs first.

### Title 32

### EMPLOYEE BENEFITS

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

#### Chapter 3. Medical Benefits

#### §325. Prescription Drug Benefits

A. - C.4. ...

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

a. up to a 34-day supply of drugs may be dispensed upon initial presentation of a prescription or for refills dispensed more than 120 days after the most recent fill;

b. for refills dispensed within 120 days of the most recent fill, up to a 102-day supply of drugs may be dispensed at one time, provided that co-payments shall be due and payable as follows:

i. for a supply of 1-34 days the plan member will be responsible for payment of 50 percent of the cost of the drug, up to a maximum of \$40 per prescription dispensed;

ii. for a supply of 35-64 days the plan member will be responsible for payment of 50 percent of the cost of the drug, up to a maximum of \$80 per prescription dispensed;

iii. for a supply of 69-102 days the plan member will be responsible for payment of 50 percent of the cost of

the drug, up to a maximum of \$120 per prescription dispensed;

iv. once the out-of-pocket threshold for eligible prescription drug expenses is reached, the Plan Member's co-payment responsibility will be \$15 for a 1-34 days supply, \$30 for a 35-64 days supply, and \$45 for a 69-102 days supply, with no co-pay for up to a 102 days supply of generic drugs.

6. - 7. ...

8. Drugs prescribed for treatment of diabetes together with over-the-counter diabetic supplies including, but not limited to, strips, lancets and swabs, shall be consider as one prescription for the purposes of this section; and

9. Refills will be available only after 75 percent of drugs previously dispensed should have been consumed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:801(C) and 802(B)(2).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Group Benefits, LR 25:1835 (October 1999), amended LR 27:721 (May 2001), LR 27:1887 (November 2001), LR 28:

A. Kip Wall  
Chief Executive Officer

0202#008

## DECLARATION OF EMERGENCY

**Office of the Governor  
Division of Administration  
Office of Group Benefits**

PPO Plan of Benefits CPrescription Drug  
Dispense Limits (LAC 32:III.323)

Pursuant to the authority granted by R.S. 42:801(C) and 802(B)(2), vesting the Office of Group Benefits (OGB) with the responsibility for administration of the programs of benefits authorized and provided pursuant to Chapter 12 of Title 42 of the Louisiana Revised Statutes, and granting the power to adopt and promulgate rules with respect thereto, OGB, hereby invokes the Emergency Rule provisions of R.S. 49:953(B).

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

Accordingly, the following Emergency Rule, revising and amending the PPO Plan of Benefits relative to prescription drug benefits, is effective February 1, 2002, and shall remain in effect for a maximum of 120 days, or until the final rule is promulgated, which ever occurs first.

**Title 32  
EMPLOYEE BENEFITS**

**Part III. Preferred Provider (PPO) Plan of Benefits  
Chapter 3. Medical Benefits**

**§323 Prescription Drug Benefits**

A. - C.4. ...

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

a. Up to a 34-day supply of drugs may be dispensed upon initial presentation of a prescription or for refills dispensed more than 120 days after the most recent fill;

b. For refills dispensed within 120 days of the most recent fill, up to a 102-day supply of drugs may be dispensed at one time, provided that co-payments shall be due and payable as follows:

i. for a supply of 1-34 days the Plan Member will be responsible for payment of 50 percent of the cost of the drug, up to a maximum of \$40 per prescription dispensed;

ii. for a supply of 35-64 days the Plan Member will be responsible for payment of 50 percent of the cost of the drug, up to a maximum of \$80 per prescription dispensed;

iii. for a supply of 69-102 days the Plan Member will be responsible for payment of 50 percent of the cost of the drug, up to a maximum of \$120 per prescription dispensed;

iv. once the out-of-pocket threshold for eligible prescription drug expenses is reached, the Plan Member's co-payment responsibility will be \$15 for a 1-34 days supply, \$30 for a 35-64 days supply, and \$45 for a 69-102 days supply, with no co-pay for up to a 102 days supply of generic drugs.

6. - 7. ...

8. Drugs prescribed for treatment of diabetes together with over-the-counter diabetic supplies including, but not limited to, strips, lancets and swabs, shall be considered as one prescription for the purposes of this section; and

9. Refills will be available only after 75 percent of drugs previously dispensed should have been consumed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:801(C) and 802(B)(2).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Group Benefits, LR 25:1815 (October 1999), amended LR 27:720 (May 2001), LR 27:1886 (November 2001), LR 28:

A. Kip Wall  
Chief Executive Officer

0202#009

**DECLARATION OF EMERGENCY**

**Department of Revenue  
Policy Services Division**

In-State Tax Liabilities Collection  
(LAC 61:I.4913)

The Louisiana Department of Revenue is exercising the emergency provisions of the Administrative Procedure Act, R.S. 49:953(B), to adopt this Emergency Rule to authorize

the secretary to enter into contracts with debt collection agencies for the collection of in-state tax liabilities.

R.S. 47:1516.1 authorizes the secretary to enter into contracts with debt collection agencies for the collection of certain in-state tax liabilities. This Rule is being adopted under the emergency provisions of the Administrative Procedure Act, R.S. 49:953(B), in order to immediately issue a request for proposal to award a contract for the collection of in-state tax liabilities. The in-state debt collection contract request for proposal will be advertised in the official journal of the state and in one or more newspapers for at least 30 days before the last day that proposals will be accepted. A proposer's conference will be held two weeks after the request for proposal is released. The deadline for inquiries is one week after the proposer's conference and the due date for submission of the proposals is three weeks after the proposer's conference. The secretary will select a committee to evaluate the proposals and make a recommendation and applicants will be notified of the selection in a timely manner.

This Emergency Rule shall be effective February 15, 2002 and remain in effect for a period of 120 days or until a final rule is adopted, whichever occurs first.

**Title 61**

**REVENUE AND TAXATION**

**Part I. Taxes Collected and Administered By the  
Secretary of Revenue**

**Chapter 49. Tax Collection**

**§4913. Collection of In-State Tax Liabilities by Debt  
Collection Agencies or the Attorney General's  
Office**

A. Definitions. For purposes of this rule, the following terms shall have the meaning ascribed to them:

*Attorney General*—the attorney general of the state of Louisiana.

*Collection Contractor*—the attorney general or one or more private persons, companies, associations, or corporations who provide debt collection services inside the state.

B.1. The secretary is authorized to enter into contracts with collection contractors to facilitate the collection of taxes, interest, penalties, and fees due the department after an obligation has become collectible by distraint and sale.

2. The secretary may only enter into a collection contract after notice by certified mail has been transmitted to the taxpayer at the address given in the last report filed by the taxpayer, or to any address obtainable from any private entity that will provide such address free of charge or from any federal, state, or local government entity, including but not limited to the United States Postal Service or from United States Postal Service certified software.

3. The taxpayer will be informed of the following:

a. that the obligation is a final judgment;

b. all the actions the secretary is authorized to take in order to collect the debt; and

c. that if the debt is not paid within 60 days of the date of the notice, a collection fee not to exceed 25 percent of the total liability will be charged to the account.

4. The taxpayer must pay the full amount of any additional charge for the collection of any taxes, interest, penalties, or fees. If an account is referred to a collection

contractor, the additional charge will be paid to the collection contractor.

C. The secretary will consider the following criteria in selecting collection contractors:

1. fees charged;
2. organizational structure;
3. experience with government accounts;
4. computer capabilities including the ability to generate reports and formatting;
5. collection methodology;
6. financial stability; and,
7. personnel resources.

D. Prior to entering into any contract, the secretary will require a performance bond, cash, or securities from the collection contractor in an amount not to exceed \$100,000.

E. Once the collection contract is entered into, the secretary will provide information to the collection contractors concerning the accounts of individual taxpayers only to the extent necessary for the collection contractor to fulfill his contractual obligation.

a. The information furnished by the secretary will be considered confidential and privileged by the collection contractor and members of his staff, as provided by R.S. 47:1508.

b. Collection contractors may not take any action that exceeds the authority of the secretary and must follow the Fair Debt Collection Practices Act.

F. With the approval of the secretary, the collection contractor may file suit, at his expense, in the name of the secretary in the courts of this state for the purpose of collecting the tax debt.

G.1. Nothing contained in this rule shall be construed to affect in any manner any rights and remedies available to the taxpayer.

2. This rule does not apply to a spouse who qualifies for liability relief under the innocent spouse provisions of R.S. 47:101.B.(7).

H. The attorney general will have a right of first refusal for all accounts selected to be sent to a collection contractor.

1. A list of accounts selected will be compiled by the secretary and forwarded to the attorney general for the exercise of his right of first refusal.

2. The right of first refusal shall be exercised within 30 days of the date of mailing or electronic transmission of the list.

3. If the attorney general fails to exercise his right of first refusal within 30 days or refuses to accept an account, the secretary may send the account to any collection contractor meeting the requirements of Subsection C.

4. When the attorney general accepts an account for collection, the collection fee may not exceed 15 percent of the total liability.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1511 and 47:1516.1.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Office of the Secretary, LR 28:

Cynthia Bridges  
Secretary

0202#007

## DECLARATION OF EMERGENCY

### Department of Revenue Office of Alcohol and Tobacco Control

#### Prohibition of Certain Unfair Business Practices (LAC 55:VII.317)

The Office of Alcohol and Tobacco Control, under the authority of R.S. 26:792 and 26:150 and in accordance with the emergency rule provisions of the Administrative Procedure Act, R.S. 49:953(B), is adopting this emergency rule, LAC 55:VII.317 pertaining to the prohibition of certain unfair business practices in the marketing of alcoholic beverages.

Adoption of this Emergency Rule is necessary to ensure equal enforcement of the unfair practice laws for all industry members. This Declaration of Emergency shall be effective on February 20, 2002, 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. Alcoholic Beverages

#### § 317. Prohibition of Certain Unfair Business Practices

##### A. Definitions

*Alcoholic Beverages* Any fluid or any solid capable of being converted into fluid, suitable for human consumption, and containing more than one-half of one percent alcohol by volume, including malt, vinous, spiritous, alcoholic or intoxicating liquors, beer, porter, ale, stout, fruit juices, cider, or wine.

*Beverages of High Alcoholic Content* Alcoholic beverages containing more than six percent alcohol by volume.

*Beverages of Low Alcoholic Content* Alcoholic beverages containing not more than six percent alcohol by volume.

*Brewer* Any person who, directly or indirectly, personally or through any agency, engages in the making or production of malt beverages.

*Bureau* The Bureau of Alcohol, Tobacco and Firearms of the United States Treasury Department.

*Commissioner* The Louisiana Commissioner of Alcohol and Tobacco Control.

*Cost to Industry Member* The invoice cost, or the replacement cost, of the merchandise to the industry member, whichever is lower:

a. less all trade discounts except customary discounts for cash and discounts from the state or any governmental agency allowed for the payment of collection of any taxes;

b. plus, in the following order:

i. freight charges not otherwise included in the invoice cost or the replacement cost of the merchandise;

ii. cartage cost that shall be three-fourths of one percent of the cost to the industry member after adding freight charges but before adding cartage, any existing tobacco stamp excise tax, and markup;

- iii. any existing tobacco stamp excise tax; and
- iv. a markup to cover a proportionate part of the cost of doing business which markup, in the absence of proof of a lesser cost, shall be two percent of the cost to the industry member after adding freight charges, cartage, and any existing tobacco stamp excise tax.

*Exclusive Outlet* Cthe requirement, by agreement or otherwise, that any retailer engaged in the sale of distilled spirits, wine, or malt beverages, purchase any such products from such person to the exclusion in whole or in part of distilled spirits, wine, or malt beverages sold or offered for sale by other persons.

*Handle* Csell, use, distribute, store, consume, or otherwise handle.

*Importer* Cany dealer who imports alcoholic beverages from any state, territory, possession, or foreign country for handling in Louisiana.

*Industry Member* Cany person engaged in business as a distiller, brewer, rectifier, blender or other producer, or as an importer or wholesaler, of distilled spirits, wine or malt beverages, or as a bottler, or warehouseman and bottler, of distilled spirits, but shall not include an agency of a state or political subdivision thereof, or an officer or employee of such agency.

*Malt Beverages* or *Malt Liquors* Ca beverage made by the alcoholic fermentation of an infusion or decoction, or combination of both, in potable brewing water, of malted barley with hops, or their parts, or their products, and with or without other malted cereals, and with or without the addition of unmalted or prepared cereals, other carbohydrates, or products prepared therefrom, and with or without the addition of carbon dioxide, and with or without other wholesome products suitable for human food consumption.

*Manufacturer* Cany person who, directly or indirectly, personally or through any agency, engages in the making, blending, rectifying, or other processing of alcoholic beverages in Louisiana.

*Person* Cany individual, municipality, industry, public or private corporation, partnership, firm, or any other entity.

*Retail Dealer* or *Retailer* Cany person who offers for sale, exposes for sale, has in their possession for sale or distribution, or sells alcoholic beverages in any quantity to persons other than licensed wholesale or retail dealers.

*Tied House* Cwhen any retailer, engaged in the sale of distilled spirits, wine, or malt beverages, is induced to purchase any such products from such person to the exclusion in whole or in part of distilled spirits, wine, or malt beverages sold or offered for sale by other persons through any of the following means:

- a. by acquiring or holding after the expiration of any existing license any interest in any license with respect to the premises of the retail dealer;
- b. by acquiring any interest in real or personal property owned, occupied, or used by the retail dealer in the conduct of his business;
- c. by furnishing, giving, renting, lending, or selling to the retail dealer, any equipment, fixtures, signs, supplies, money, services, or other thing of value, subject to such exceptions as the commissioner of alcoholic beverage control shall by regulation prescribe, having due regard for public health, the quantity and value of articles involved,

established trade customs not contrary to the public interest and the purposes of this Section;

- d. by paying or crediting the retail dealer for any advertising, display, or distribution service;
- e. by guaranteeing any loan or the repayment of any financial obligation of the retail dealer;
- f. by extending to the retail credit; or
- g. by requiring the retail dealer to take and dispose of a certain quota of any of such products.

*Wholesale Dealer* or *Wholesaler* Cpersons who sell alcoholic beverages to licensed wholesale dealers or licensed retail dealers exclusively within the state or to any person for delivery beyond the borders of the state and who conduct a bona fide wholesale business and maintain a warehouse or warehouses for the storage and warehousing of alcoholic beverages in the area where domiciled and licensed by the state, and conduct and maintain systematic and regular solicitations, distribution, deliveries and sales of the alcoholic beverages to licensed retail dealers located within the boundary of each parish and municipality in which the wholesale dealer makes any sale or delivery.

B. Prohibition against certain business practices in the alcoholic beverage industry.

1. The Bureau of Alcohol, Tobacco and Firearms of the United States Treasury prohibits exclusive outlet and tied house arrangements with respect to the marketing and sale of beverages of both high and low alcoholic content as authorized by the Federal Alcohol Administration Act (FAA Act), 27 U.S.C., Section 205.

2. The bureau's enforcement of this federal law requires Louisiana to have a similar law that imposes similar requirements for similar transactions.

3. The bureau enforces the provisions of the FAA Act, prohibiting exclusive outlets and tied house arrangements in the marketing and sale of alcoholic beverages in Louisiana under the authority of R.S. 51:422, the Louisiana Unfair Sales Law, and R.S. 26:287.A.(9) and (10), which provide for additional causes for suspension and revocation of permits.

4. Prohibitions against exclusive outlets and tied house arrangements with respect to the marketing and sale of alcoholic beverages in Louisiana has stabilized the industry and prevented unlawful and unfair inducements for the retail purchase of alcohol and unlawful coercion, bribery, kickback demands, and other unfair and unlawful business practices.

5. It is in the best interest of the state's citizens that fair business dealings and unfettered competition govern the alcohol beverage industry in Louisiana, that it remain an industry dominated by fairness and integrity, and that it be safeguarded against the threat of corrupt and unfair business practices.

C. Marketing and Sale of Alcoholic Beverages in Louisiana

1. Exclusive outlet and tied house arrangements are unfair inducements to purchase goods or services by wholesalers or retailers, and it is unlawful for any person engaged in business as a distiller, brewer, rectifier, blender, manufacturer, or other producer, or as an importer or wholesaler of distilled spirits, wine, malt beverages or malt liquors, directly or indirectly or through an affiliate, to have exclusive outlet or tied house arrangements.

## 2. Exceptions

### a. Equipment

i. To provide proper dispensing of alcoholic beverages by retail dealers, industry members may provide, without charge, coil cleaning service, tap markers that show brand, and tapping equipment such as rods, vents, taps, hoses, washers, couplings, vent tongues and check valves.

ii. Accessories such as carbon dioxide gas tanks, regulators and other draught equipment accessories with a reasonable open market price of more than \$5 but less than \$200 per item must be sold to retailers at a price no less than the cost to the industry member as in this Section. These sales must be made for cash only.

iii. Draught equipment accessories with a reasonable open market value of \$200 or more per item are not included under this exception.

### b. Inside Signs

i. An industry member may furnish, give, rent, loan, or sell to a retailer inside signs that bear advertising matter. Inside signs include such things as mechanical devices, illuminated devices, clocks, neon signs, and other devices that are designed for permanent use in a retail account. These items may be furnished to an industry member if the total value of the materials in use at any one time for any one brand does not exceed \$225 for any one retail establishment, including all expenses incurred directly or indirectly by any industry member in connection with the purchase, manufacture, transportation, and assembly of the items and accessories. The industry member shall not directly or indirectly pay or credit the retailer for displaying the materials or any expense incidental to their operation. In determining the value of these items for purposes of the limitation, value shall be the cost attributable to them at the time of their installation in the retail establishment.

ii. Display stackers, pricing cards, shelf talkers, rail strips, posters, and other such items constructed of paper, cardboard, and similar materials that are designed and installed as point-of-sale material for temporary use in a retail outlet are not included under this Section and may be provided without limitation. Approval of point-of-sale material is not required.

iii. Product displays may be furnished by an industry member to a retailer, if the total value of all product displays furnished by an industry member do not exceed \$155 per brand in use at any one time in any one retail establishment. Product display are racks, bins, barrels, casks, shelving, and the like from which alcoholic beverages are displayed or sold. Product displays shall bear conspicuous and substantial advertising matter.

c. Outside Signs. The furnishing of outside signs by an industry member to licensed retail dealers is prohibited.

d. Advertising Specialties, Utility Items, Merchandise, and Supplies

i. Trays, coasters, paper napkins, clothing, groceries, snack foods, paper, and plastic bags, cups, pitchers, glasses, menu covers, menu sheets, meal checks, match books, ash trays, ice, and other items that are primarily of utility value to a retailer cannot be given away but may be sold to retailers by industry members. The price charged for these items must be no less than the cost to the industry member as defined in this Section.

ii. Other retailer advertising specialties and novelty items, such as form scrapers, thermometers, litter bags, pencils, bottle openers, balloons, lapel pins, and key rings that bear advertising matter and are primarily valuable to the retailer as point-of-sale advertising media but have no utility value to the retailer, may be furnished, given, or sold to a retailer if the total cost to any industry member of the retailer advertising specialty items furnished, given, or sold in connection with any one retail establishment in any one calendar year does not exceed \$50.

iii. After the delivery of the retailer advertising specialties with a total cost to an industry member of \$50 has been made by the industry member to a particular retail establishment during any one calendar year, all future deliveries of these items to that particular retail establishment by the respective industry member during the remainder of the calendar year must be effected by the sale of the items at their reasonable open market price in the locality where sold. Any items sold, furnished, or given away under this Section must be itemized separately on the industry member's invoice and other records.

iv. Carbon dioxide gas or ice may be sold to a retailer at a reasonable open market price in the locality where sold.

### e. Sponsorships

i. Wholesalers and manufacturers may sponsor events relating to or on the premises of retail dealers if nothing of value is given to retail dealers except as allowed elsewhere in this Section:

(a). t-shirts, caps, and similar items may be given to event contestants or patrons of the retail establishment but the total cost of these items may not exceed \$150 per event;

(b). an industry member shall not sponsor an event on the premises of a retail dealer within 60 days of their last sponsored event;

(c). alcoholic beverage sales must be incidental to the event being sponsored; and

(d). industry members shall not directly or indirectly require that the sponsor's product be the exclusive product offered for sale at the event.

ii. Manufacturer or wholesaler may donate alcohol and trophies of nominal value to unlicensed civic, religious or charitable organizations.

iii. In conjunction with events held on regular licensed retail premises, all restrictions on advertising and signage will remain in full force and effect, except that temporary paper signs and posters may be used inside the premises to advertise the event for not more than 21 days.

### f. Trade Calls

i. Bar spending during trade calls, wherein the alcohol purchased by a manufacturer or wholesaler for a consumer is consumed on retail licensed premises in the presence of the giver, shall be lawful so long as the state's laws regulating retail establishments such as the legal drinking age, etc., are observed and not more than \$150 is expended during the trade call.

ii. No trade calls may occur on college campuses.

iii. Manufacturers and wholesalers may be accompanied by entertainers, sports figures and other personalities during trade calls.

iv. Trade calls may be preannounced to consumers in the retail account through table tents, posters and other inside signs.

v. No outside advertising of such events through signs or any media is allowed.

g. Except as otherwise provided by law, the gift of beer, wine or beverage alcohol as a purely social courtesy to unlicensed persons by a manufacturer or wholesaler is not prohibited.

h. Sampling. Beer, wine or beverage alcohol sampling for the purpose of allowing a customer to taste a brand of beverage alcohol must be conducted on any premises holding a permit as designated in R.S. 26:75.C.(1) and 275.B.(1) in accordance with the following restrictions:

i. A retail dealer, wholesaler or manufacturer may furnish the beer, wine, or beverage alcohol to be sampled and the cups to hold the beverages. The wholesaler or manufacturer may also provide and display point-of-sale material in an amount not to exceed \$150 in value. The display materials shall only be placed inside of the facility and shall not block the aisles or other points of ingress or egress.

ii. No retail dealer, wholesaler, or manufacturer shall furnish a sampling of beverage alcohol in a greater quantity than two ounces per brand of beverage alcohol to each individual and no individual shall consume more than two ounces of each brand of beverage alcohol provided at the sampling. The sampling of a beverage alcohol having an alcoholic content of more than 23 percent by volume shall be limited to one-half ounce per serving per individual.

iii. All samplings shall be limited in duration to one day.

iv. No more than two samplings per brand of beverage alcohol shall be conducted on the same licensed premises in any month.

v. The retail dealer, wholesaler, or manufacturer shall provide the Office of Alcohol and Tobacco Control with written notice of the date, time, place, permit number and brand of beverage alcohol to be sampled at least one week prior to the date of the sampling.

i. Tubs and Other Single Containers. Tubs, ice chests, and other containers designed to hold single units of product and display them for sale in retail establishments may be furnished by manufacturers and wholesalers, provided that no more than two containers per retail location may be furnished by an industry member and the value of the items furnished shall not exceed \$155.

j. Consignment Sales and Returns

i. It is unlawful for an industry member to sell, offer for sale, or contract to sell to any retailer, or for any retailer to purchase or contract to purchase any products:

- (a). on consignment;
- (b). under conditional sale;
- (c). with the privilege of return;
- (d). on any basis other than a bona fide sale;
- (e). if any part of the sale involves, directly or

indirectly, the acquisition by such person of other products from the trade buyer or the agreement to acquire other products from the trade buyer; or

(f). if the return or exchange of a product is solely because it overstocked or slow-moving.

ii. Transactions involving the bona fide return of products for ordinary and usual commercial reasons arising after the product had been sold are not prohibited, but the industry member is under no obligation to accept such returns. "Ordinary and usual commercial reasons" include:

(a). the exchange of product for products that are unmarketable because of product deterioration, leaking containers or damaged labels;

(b). the correction of any discrepancy between products ordered and products delivered within a one-week period; or

(c). products on hand at the time a retail dealer closes a business or terminates business operations, in which case the return may be for cash or credit against outstanding indebtedness. This also includes a temporary seasonal event or temporary shutdown or slowdown where the industry member is able to show that the products are likely to spoil during the off season.

ii. Out-dated product or product that is within 21 days of date code expiration may be exchanged for other products. Products for which there is only a limited seasonal demand, such as holiday decanters and distinctive containers, may only be exchanged for non-distinctive like products.

D. Penalty. The commissioner of the Office of Alcohol and Tobacco Control may seek a suspension or revocation of the permit or permits of a violator and may impose such other penalties or administrative remedies against violators as are prescribed by law for violations of the Alcoholic Beverage Code.

AUTHORITY NOTE: Promulgated in accordance with R.S. 26:32, 26:793, 26:792, and 26:150.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of Alcoholic Beverage Control, LR 4:463 (November 1978), amended LR 5:11 (January 1979), amended by the Department of Public Safety and Corrections, Office of Alcoholic Beverage Control, LR 17:607 (June 1991), LR 20:671 (June 1994), amended by the Department of Revenue and Taxation, Office of Alcoholic Beverage Control, LR 22:116 (February 1996), amended by the Department of Revenue, Office of Alcohol and Tobacco Control LR 26:2631 (November 2000), LR 28:

Murphy J. Painter  
Commissioner

0202#067

## DECLARATION OF EMERGENCY

### Department of Social Services Office of Family Support

Child Care Assistance Program Providers and Payment  
(LAC 67:III.5107 and 5109)

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 the following changes in the Child Care Assistance Program effective March 1, 2002. This Emergency Rule will remain in effect for a period of 120 days.

The agency implemented cost-saving measures effective January 1, 2001, and the effects of this action have now made more funding available. The low-income families who

are eligible for Child Care Assistance need as much help as possible with those costs because of the declining economy and the negative impact on employment. This action will allow the eligibility of more applicants and eliminate or decrease the co-payments required from participants by increasing the percentages paid by DSS.

Whereas the health and safety of the children of working families is entrusted to child care environments and the goal of this program and the federal Child Care and Development Fund is to serve as many families as possible, a Declaration of Emergency is necessary to effect changes in these regulations.

Programmatic eligibility will increase from 60 percent to 75 percent of the State Median Income. The sliding fee scale has been adjusted to reflect this change and to provide that families at or below the federal poverty level will not be required to contribute to the cost of child care up to the State Maximum Rate. Due to the time and action required to program these changes, March 1 is the earliest implementation date possible.

In addition to this change, because Family Child Day Care Home providers are having difficulty obtaining pediatric first-aid training, these providers will now only be required to have current training in first aid, eliminating the need for it to be specifically "pediatric."

**Title 67**

**SOCIAL SERVICES**

**Part III. Office of Family Support**

**Subpart 12. Child Care Assistance**

**Chapter 51. Child Care Assistance**

**Subchapter B. Child Care Assistance Program**

**§5107. Child Care Providers**

A. - B.1.b. ...

c. furnish verification of 12 clock hours of training in job-related subject areas approved by the Department of Social Services and current verification of first aid training by the provider's renewal date each year.

B.1.d. - G.2. ...

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Parts 98 and 99, and P.L. 104-193.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 24:357 (February 1998), amended LR 25:2444 (December 1999), LR 26:2827 (December 2000), LR 27:1932 (November 2001), LR 28:

**§5109. Payment**

A. The sliding fee scale used for non-FITAP recipients is subject to adjustment based on the state median income and poverty levels which are published annually. A non-FITAP household may pay a portion of its child care costs monthly in accordance with the sliding fee scale, and this shall be referred to as a "copayment." The sliding fee scale is based on a percentage of the state median income.

Sliding Fee Scale for Child Care Assistance Recipients C5 Percent of Projected Median Income

Number in Household	2	3	4	5	6	DSS %
Monthly Household Income	0 - 968	0 - 1219	0 - 1471	0 - 1723	0 - 1974	100%
	969 - 1535	1220 - 1908	1472 - 2281	1724 - 2654	1975 - 3027	95%
	1536 - 2101	1909 - 2596	2282 - 3090	2655 - 3585	3028 - 4079	85%
	ABOVE 2101	ABOVE 2596	ABOVE 3090	ABOVE 3585	ABOVE 4079	0%

Number in Household	7	8	9	10	11	DSS %
Monthly Household Income	0 - 2226	0 - 2478	0 - 2729	0 - 2981	0 - 3233	100%
	2227 - 3199	2479 - 3372	2730 - 3543	2982 - 3716	3234 - 3888	95%
	3200 - 4172	3373 - 4265	3544 - 4357	3717 - 4450	3889 - 4543	85%
	ABOVE 4172	ABOVE 4265	ABOVE 4357	ABOVE 4450	ABOVE 4543	0%

Number in Household	12	13	14	15	16	DSS %
Monthly Household Income	0 - 3484	0 - 3736	0 - 3988	0 - 4239	0 - 4491	100%
	3485 - 4060	3737 - 4232	3989 - 4405	4240 - 4577	4492 - 4749	95%
	4061 - 4636	4233 - 4728	4406 - 4821	4578 - 4914	4750 - 5006	85%
	ABOVE 4636	ABOVE 4728	ABOVE 4821	ABOVE 4914	ABOVE 5006	0%

Number in Household	17	18	19	20		DSS %
Monthly Household Income	0 - 4743	0 - 4994	0 - 5246	0 - 5498		100%
	4744 - 4921	4995 - 5093	5247 - 5266			95%
	4922 - 5099	5094 - 5192	5267 - 5285			85%
	ABOVE 5099	ABOVE 5192	ABOVE 5285			0%

B. - E. ...

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Parts 98 and 99, and P.L. 104-193.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 24:357 (February 1998), amended LR 25:2445(December 1999), LR 26:2828 (December 2000), LR 27:1933 (November 2001), LR 28:

Gwendolyn P. Hamilton  
Secretary

0202#056

# DECLARATION OF EMERGENCY

## Department of Social Services Office of Family Support

Substance Abuse 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).

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 Emergency Rule is effective January 26, 2002, and will remain in effect for a period of 120 days. This declaration is necessary to extend the original Emergency Rule of September 28, 2001, since it is effective for 120 days and will expire before the final rule takes effect. (The final rule will be published in June 2002.)

Whereas it has been shown that providing substance abuse treatment to drug and/or alcohol-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 substance abuse screening, assessment, testing, and non-medical 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 for Addictive Disorders. Medical services provided during treatment will continue to be paid for by the Department of Health and Hospitals, Office for 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. Substance Abuse Treatment Program

A. The Office of Family Support shall enter into a Memorandum of Understanding with the Office for Addictive Disorders (OAD) wherein OFS shall fund the cost of substance abuse screening and testing and the non-medical treatment of FITAP recipients as well as 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 substance 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, specifically, family members who receive FITAP benefits. A

needy family member who 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.

E. A pilot project will be conducted in the following parish offices: Orleans (Uptown District), Jefferson (West Bank), East Baton Rouge (North District), Terrebonne, St. Landry, Calcasieu, Rapides, Caddo, Ouachita, and Tangipahoa. OAD will assume responsibility for the screening and referral process provided below.

1. Compliance. All adult recipients of FITAP must be free from the use of or dependency on illegal drugs or abuse of or dependency on alcohol. All applicants for and recipients of FITAP benefits, age 18 and over, must satisfactorily comply with the requirements of the substance abuse screening, testing, education and rehabilitation process. An illegal drug is a controlled substance as defined in R.S. 40:961, Controlled Dangerous Substance, et seq..

2. Screening and Referral Process. All adult applicants for and recipients of FITAP will be screened for the use of or dependency on illegal drugs or abuse of or dependency on alcohol, at initial application and redetermination of eligibility using a standardized substance abuse screening test approved by the Department of Health and Hospitals, Office for Addictive Disorder (OAD).

a. When the screening process indicates that there is reason to suspect that a recipient is using or dependent on illegal drugs or abusing or dependent on alcohol, or when there is other evidence that a recipient is using or dependent on illegal drugs or abusing or dependent on alcohol, the recipient will be referred to OAD to undergo appropriate substance abuse assessment which may include urine testing. The referral will include a copy of the screening form, a copy of the Release of Information Form, and a photograph of the individual for identification purposes.

b. Additionally, if at any time OFS has reasonable cause to suspect that a recipient is using or dependent on illegal drugs or abusing or dependent on alcohol, based on direct observation or if OFS judges to have reliable information of use or dependency on illegal drugs or abuse or dependency on alcohol received from a reliable source, the caseworker will refer the recipient to OAD to undergo appropriate substance abuse assessment which may include urine testing. All such referrals will require prior approval by the supervisor of the caseworker.

c. OAD will advise OFS of the results of the formal assessment. If the formal assessment determines that the recipient is not using or dependent on illegal drugs and not abusing or dependent on alcohol, no further action will be taken unless subsequent screening or other evidence indicates a reasonable suspicion of substance abuse. If the formal assessment determines that the recipient is using or dependent on illegal drugs or abusing or dependent on alcohol, OAD will determine the extent of the problem and recommend the most appropriate and cost effective method of education and rehabilitation. The education or rehabilitation plan will be provided by OAD or by a contract provider and may include additional testing and monitoring. The OAD assessment will include a determination of the recipient's ability to participate in activities outside of the rehabilitation program.

3. Child care and transportation costs required for participation in the substance abuse screening, testing, education, and rehabilitation program will be paid by the Office of Family Support.

4. If residential treatment is recommended by OAD and the recipient is unable to arrange for the temporary care of dependent children, OFS and/or OAD will coordinate with the Office of Community Services to arrange for the care of such children.

5. Failure to Cooperate. Failure or refusal of a recipient to participate in substance abuse screening, testing, or participation in the education and rehabilitation program, without good cause, will result in the following.

a. The recipient's needs will be removed from the FITAP cash benefits for three months. Eligibility of the other family members will continue during this three-month period.

b. If the recipient cooperates during this three-month period, the recipient will regain eligibility for cash benefits effective the fourth month.

c. If the recipient does not cooperate during this three-month period, the FITAP cash case for the entire family will be closed effective the fourth month and will remain closed until the individual cooperates.

d. A subsequent failure to cooperate will result in case closure until the recipient cooperates. Cooperation is defined as participating in the component in which the recipient previously failed to cooperate. This includes substance abuse screening, testing, or satisfactory participation for two weeks in an education and rehabilitation program.

6. If after completion of education and rehabilitation, the recipient is subsequently determined to use or be dependent on illegal drugs or abuse or be dependent on alcohol, the recipient will be ineligible for FITAP cash benefits until such time that OAD determines that the individual has successfully completed the recommended education and rehabilitation program and is substance abuse free. The eligibility of other family members will not be affected as long as the individual participates in the education and rehabilitation program.

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. Substance Abuse Treatment Program**

A. The Office of Family Support shall enter into a Memorandum of Understanding with the Office for Addictive Disorders (OAD) wherein OFS shall fund the cost of substance abuse screening and testing and the non-medical treatment of KCSP recipients as well as certain post-KCSP recipients.

B. These services meet the TANF goal to end the dependence of needy families on government benefits by providing them with substance 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, specifically, family members who receive KCSP benefits. A needy family member who 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.

E. A pilot project will be conducted in the following parish offices: Orleans (Uptown District), Jefferson (West Bank), East Baton Rouge (North District), Terrebonne, St. Landry, Calcasieu, Rapides, Caddo, Ouachita, and Tangipahoa. OAD will assume responsibility for the screening and referral process provided below:

1. Compliance. All recipients of KCSP benefits, age 18 and over, must satisfactorily comply with the requirements of the substance abuse screening, testing, education, and rehabilitation process.

2. Screening and Referral Process. All applicants for and recipients of KCSP age 18 and over will be screened for the use of or dependency on illegal drugs or abuse of or dependency on alcohol, at initial application and redetermination of eligibility using a standardized substance abuse screening test approved by the Department of Health and Hospitals, Office for Addictive Disorders (OAD). An illegal drug is a controlled substance as defined in R.S. 40:961, Controlled Dangerous Substance, et seq.

a. When the screening process indicates that there is a reason to suspect that a recipient is using or dependent on illegal drugs or abusing or dependent on alcohol, or when there is other evidence that a recipient is using or dependent on illegal drugs or abusing or dependent on alcohol, the recipient will be referred to OAD to undergo appropriate substance abuse assessment which may include urine testing. The referral will include a copy of the screening form, a copy of the Release of Information Form, and a photograph of the individual for identification purposes.

b. Additionally, if at any time OFS has reasonable cause to suspect that a recipient is using or dependent on illegal drugs or abusing or dependent on alcohol, based on direct observation or if OFS judges to have reliable information of use or dependency on illegal drugs or abuse of or dependency on alcohol, received from a reliable source, the caseworker will refer the recipient to OAD to undergo appropriate substance abuse assessment which may include urine testing. All such referrals will require prior approval by the supervisor of the caseworker.

c. OAD will advise OFS of the results of the formal assessment. If the formal assessment determines that the recipient is not using or dependent on illegal drugs or not abusing or dependent on alcohol, no further action will be taken unless subsequent screening or other evidence indicates a reasonable suspicion of substance abuse. If the formal assessment determines that the recipient is using or dependent on illegal drugs or abusing or dependent on alcohol, OAD will determine the extent of the problem and recommend the most appropriate and cost-effective method of education and rehabilitation. The education or rehabilitation plan will be provided by OAD or by a contract provider and may include additional testing and monitoring. The OAD assessment will include a determination of the recipient's ability to participate in activities outside of the rehabilitation program.

3. If inpatient treatment is recommended by OAD and the recipient is unable to arrange for the temporary care of dependent children, OFS and/or OAD will coordinate with the Office of Community Services to arrange for the care of such children.

4. Failure to Cooperate. Failure or refusal of a recipient to participate in substance abuse screening, testing, or participation in the education and rehabilitation program, without good cause, will result in ineligibility of the recipient until he/she cooperates. Cooperation is defined as participating in the component in which the recipient previously failed to cooperate. This includes substance abuse screening, substance abuse testing, or satisfactory participation for two weeks in an education and rehabilitation program.

5. If after completion of education and rehabilitation, the recipient is subsequently determined to use or be dependent on illegal drugs or abuse or be dependent on alcohol, the recipient will be ineligible for KCSP benefits until such time that OAD determines that the individual has successfully completed the recommended education and rehabilitation program and is substance abuse free.

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:

Gwendolyn P. Hamilton  
Secretary

0202#010

## DECLARATION OF EMERGENCY

### Department of Social Services Office of Family Support

Citizenship and Alien Eligibility  
(LAC 67:III.1223, 1931, 1932, and 5323)

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 amend §1223 in the Family Independence Temporary Assistance Program (FITAP), §§1931 and 1932 in the Food Stamp Program, and §5323 in the Kinship Care Subsidy Program (KCSP). This Emergency Rule is effective February 5, 2002, and will remain in effect for a period of 120 days.

These changes are corrections being made at the direction of the U.S. Department of Health and Human Services, Administration for Children and Families, following a review of the FITAP State Plan. Since federal regulations regarding citizenship and alien eligibility apply to the Kinship Care Subsidy and Food Stamp Programs, review of LAC regulations and program policy revealed that corrections were also needed regarding food stamps and KCSP. Whereas, these errors or omissions may impact eligibility and could result in federal penalties and sanctions against the state, an Emergency Rule is necessary to effect these corrections.

## 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 B. Conditions of Eligibility

#### §1223. Citizenship

A. Each FITAP recipient must be a United States Citizen, a non-citizen national, or a qualified alien. A non-citizen national is a person born in an outlying possession of the United States (American Samoa or Swain's Island) on or after the date the U.S. acquired the possession, or a person whose parents are U.S. non-citizen nationals. A qualified alien is:

1. - 4. ...

5. an alien whose deportation is withheld under §243(h) of such Act (as in effect immediately before the effective date [April 1, 1997] of §307 of Division C of Public Law 104-208) or §241(b)(3) of such Act (as amended by Section 305(a) of Division C of Public Law 104-208);

6. - 8.b....

c. cancellation of removal under §1229b of the INA (as in effect prior to April 1, 1997); or

d. ...

e. cancellation of removal pursuant to §1229b(b)(2) of the INA.

9. an alien child of a battered parent or the alien parent of a battered child as described in §1223.A.8.; or

10. an alien who is a victim of a severe form of trafficking in persons.

B. Time-Limited Benefits. A qualified alien who enters the United States on or after August 22, 1996, is ineligible for five years from the date of entry into the United States unless:

1. - 2. ...

3. the alien's deportation is withheld under §243(h) of such Act (as in effect immediately before the effective date [April 1, 1997] of §307 of Division C of Public Law 104-208) or §241(b)(3) of such Act (as amended by §305(a) of Division C of Public Law 104-208);

4. ...

5. the alien is an *Amerasian* immigrant admitted pursuant to Section 584 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act of 1988 as amended;

6. - 7. ...

8. the alien is a victim of a severe form of trafficking in persons.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474, R.S. 46:231.1.B., P.L. 106-386.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:2448 (December 1999), amended LR 26:1342 (June 2000), LR 27:2263 (December 2001), LR 28:

**Subpart 3. Food Stamps**

**Chapter 19. Certification of Eligible Households**

**Subchapter D. Citizenship and Alien Status**

**§1931. Qualified Aliens**

A. In addition to U.S. citizens, the following qualified aliens are eligible for benefits:

1. - 4. ...

5. an alien whose deportation is withheld under §243(h) of such Act (as in effect immediately before the effective date [April 1, 1997] of §307 of Division C of Public Law 104-208) or §241(b)(3) of such Act (as amended by Section 305(a) of Division C of Public Law 104-208);

6. - 8.b....

c. cancellation of removal under §1229b of the INA (as in effect prior to April 1, 1997); or

d. ...

e. cancellation of removal pursuant to §1229b(b)(2) of the INA.

9. an alien child of a battered parent or the alien parent of a battered child as described in §1931.A.8.; or,

10. an alien who is the victim of a severe form of trafficking in persons.

AUTHORITY NOTE: Promulgated in accordance with P.L. 104-193, P.L. 104-208, P.L. 105-33, P.L. 105-185, and P.L. 106-386.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 7:265 (May 1981), amended by the Department of Social Services, Office of Family Support, LR 22:286 (April 1996), LR 25:710 (April 1999), LR 28:

**§1932. Time Limitations for Certain Aliens**

A. The following qualified aliens are eligible for benefits for a period not to exceed seven years after they obtain designated alien status:

1. - 2. ...

3. an alien whose deportation is withheld under §243(h) of such ACT (as in effect immediately before effective date (April 1, 1997) of §307 of Division C of P.L. 104-208) or §241(b)(3) of such Act (as amended by Section 305(a) of division C of P.L. 104-208);

4. - 5. ...

6. an alien who is the victim of a severe form of trafficking in persons.

B.1. - 6. ...

AUTHORITY NOTE: Promulgated in accordance with P.L. 104-193, P.L. 105-33, P.L. 105-185, and P.L. 106-386.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:711(April 1999), amended LR 28:

**Subpart 13. Kinship Care Subsidy Program (KCSP)**

**Chapter 53. Application, Eligibility, and Furnishing Assistance**

**Subchapter B. Conditions of Eligibility**

**§5323. Citizenship**

A. Each KCSP recipient must be a United States Citizen, a non-citizen national, or a qualified alien. A non-citizen national is a person born in an outlying possession of the United States (American Samoa or Swain's Island) on or after the date the U.S. acquired the possession, or a person whose parents are U.S. non-citizen nationals. A qualified alien is:

1. - 4. ...

5. an alien whose deportation is withheld under §243(h) of such Act (as in effect immediately before the effective date [April 1, 1997] of §307 of Division C of Public Law 104-208) or §241(b)(3) of such Act (as amended by Section 305(a) of Division C of Public Law 104-208);

6. - 8.b....

c. cancellation of removal under §1229b of the INA (as in effect prior to April 1, 1997); or

d. ...

e. cancellation of removal pursuant to §1229b(b)(2) of the INA.

9. an alien child of a battered parent or the alien parent of a battered child as described in §1223A.8.; or

10. an alien who is a victim of a severe form of trafficking in persons.

B. Time-Limited Benefits. A qualified alien who enters the United States on or after August 22, 1996, is ineligible for five years from the date of entry into the United States unless:

1. - 2. ...

3. the alien's deportation is withheld under §243(h) of such Act (as in effect immediately before the effective date [April 1, 1997] of §307 of Division C of Public Law 104-208) or §241(b)(3) of such Act (as amended by §305(a) of Division C of Public Law 104-208);

4. ...

5. the alien is an *Amerasian* immigrant admitted pursuant to Section 584 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act of 1988 as amended;

6. - 7. ...

8. the alien is a victim of a severe form of trafficking in persons.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474, R.S. 46:231.1.B, R.S. 46:237, P.L. 106-386.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 26:352 (February 2000), amended LR 27:2264 (December 2001), LR 28:

Gwendolyn P. Hamilton  
Secretary

0202#006

**DECLARATION OF EMERGENCY**

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

Family Independence Temporary Assistance Program (FITAP) (LAC 67:902, 1207,2902, 5203, 5305, and 5407)

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 amend §§902 and 1207 in the Family Independence Temporary Assistance Program (FITAP); §2902 in the Family Independence Work Program (FIND Work); §5203 in the Wrap-Around Child Care Program; §5305 in the Kinship Care Subsidy Program (KCSP); and §5407 in the Teen Pregnancy Prevention Program. This emergency rule is effective February 5, 2002, and will remain in effect for a period of 120 days.

These changes are corrections being made at the direction of the U.S. Department of Health and Human Services, Administration for Children and Families, following a review of the State Plan for these programs, all of which are funded by the Temporary Assistance for Needy Families (TANF) block grant to Louisiana. Whereas, these errors or omissions may impact eligibility and could result in federal penalties and sanctions against the state, an emergency rule is necessary to effect these corrections.

Although the agency adopted its state plan as it existed on October 1, 1996, in order to begin the process of welfare reform, the agency failed to elect a date under the federal grandfather provision. Therefore, the state plan adoption date is being corrected for FITAP and FIND Work.

Federal review found that language at §§1207 and 5305 failed to address a client's right to a fair hearing. Therefore, the text is being expanded.

The review also found that language at §5203 in the Wrap-Around Child Care Program did not conform with the Federal TANF statute. This language is being corrected.

The review noted that the Teen Pregnancy Prevention Program does not address the problem of statutory rape. This language is being added to §5407.

#### **Title 67**

### **SOCIAL SERVICES**

#### **Part III. Office of Family Support**

#### **Subpart 2. Family Independence Temporary Assistance Program (FITAP)**

#### **Chapter 9. Administration**

#### **§902. State Plan**

A. The Title IV-A State Plan as it existed on August 21, 1996, is hereby adopted to the extent that its provisions are not in conflict with any emergency or normal rules adopted or implemented on or after August 21, 1996.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:474, R.S. 46:233 and P.L. 104-193.

HISTORICAL NOTE; Promulgated by the Department of Social Services, Office of Family Support, LR 23:448 (April 1997), amended LR 28:

#### **Chapter 12. Application, Eligibility, and Furnishing Assistance**

#### **Subchapter A. Application, Determination of Eligibility, and Furnishing Assistance**

#### **§1207. Certification Period and Reapplication**

A. Certification periods of a set duration will be assigned. In order to continue to receive benefits, the household must timely reapply and be determined eligible. In the month preceding the final month of certification, a notice of expiration and Application for Continued Assistance will be provided to the household. The notice shall inform the household that failure to timely reapply will result in closure and include the right to a fair hearing. If the payee fails, without good cause, to keep a scheduled appointment, the case will be closed without further notification. Also, if during the application process, a change is reported which results in a determination of ineligibility or a reduction in benefits, this change will be made effective the following month.

B. ...

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474, R.S. 46:231.1.B.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:2447 (December 1999), amended LR 28:

#### **Subpart 5. Family Independence Work Program (FIND Work)**

#### **Chapter 29. Organization**

#### **Subchapter A. Designation and Authority of State Agency**

#### **§2902. State Plan**

A. The Title IV-F and IV-A/F State Plan as it existed on August 21, 1996, is hereby adopted to the extent that its provisions are not in conflict with any emergency or normal rules adopted or implemented on or after August 21, 1996.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:474, R.S. 46:233 and P.L. 104-193.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 23:450 (April 1997), amended LR 28:

#### **Subpart 12. Child Care Assistance**

#### **Chapter 52. Wrap-Around Child Care Program**

#### **§5203. Conditions of Eligibility**

A. - D. ...

E. The household must provide the information and verification necessary for determining eligibility and payment amount. Required verification includes:

1. proof of social security numbers, that is, each applicant for, or recipient of, Wrap-Around Child Care is required to furnish a Social Security number or to apply for a Social Security number if such a number has not been issued or is not known;

E.2. - G ...

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., 36:474.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 27:429 (March 2001), amended LR 27:1560 (September 2001), amended LR 28:

#### **Subpart 13. Kinship Care Subsidy Program (KCSP)**

#### **Chapter 53. Application, Eligibility, and Furnishing Assistance**

#### **Subchapter A. Application, Determination of Eligibility, and Furnishing Assistance**

#### **§5305. Certification Period and Reapplication**

A. Certification periods of a set duration will be assigned. In order to continue to receive benefits, the household must timely reapply and be determined eligible. In the month preceding the final month of certification, a notice of expiration and Application for Continued Assistance will be provided to the household. The notice shall inform the household that failure to timely reapply will result in closure and include the right to a fair hearing. If the payee fails, without good cause, to keep a scheduled appointment, the case will be closed without further notification. Also, if during the re-application process, a change is reported which results in a determination of ineligibility the case will be closed.

B. ...

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474, R.S. 46:231.1.B, R.S. 46:237.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 26:351 (February 2000), amended LR 28:

**Subpart 14. Teen Pregnancy Prevention**  
**Chapter 54. Teen Pregnancy Prevention Program**  
**§5407. Program Activities**

A. The following program activities shall be used to coordinate the teen-oriented programs in Louisiana. These activities allow for expanding, redeveloping, and refining of these programs to ensure that the goals and objectives will be met:

1. - 7. ...

8. outreach and education on the problems of statutory rape directed towards law enforcement, education, and counseling services.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:474.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 27:1019 (July 2001), amended LR 28:

Gwendolyn P. Hamilton  
Secretary

0202#005

**DECLARATION OF EMERGENCY**

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

**2002 Oyster Season Extension** C Bay Gardene

In accordance with emergency provisions of the Administrative Procedure Act, R.S. 49:953.B and 49:967, and in accordance with R.S. 56:433.B.(1), which authorizes the Wildlife and Fisheries Commission to extend the taking of oysters on natural reefs by setting the last day of the season to be no later than May 15, notice is hereby given that the Secretary of the Department of Wildlife and Fisheries and the Wildlife and Fisheries Commission declares that the oyster season in the portion of the public oyster seed reservation in Bay Gardene as described below shall be extended and shall close one-half hour after sunset May 15, 2002.

Beginning at the western end of Bayou Lost at latitude 29E 36' 03.9" N and longitude 89E 37' 49.9" W, thence in an easterly direction along the northern shoreline of Bayou Lost to the eastern most point at Black Bay at latitude 29E 36' 00.8" N and longitude 89E 36' 58.7" W and continuing ESE to the easterly most point of the island which borders Black Bay at latitude 29E 35' 49.2" N and longitude 89E 36' 30.7 W; then SSE to the most southeasterly point of an island (bordering Bay Crabe) at latitude 29E 34' 56.5" N, longitude 89E 36' 06.5" W; then WSW to a point along the southern shore of Bay Gardene at latitude 29E 34' 19.7" N, longitude 89E 37' 17.3" W; and continuing WSW to the south shore of Triple Pass at latitude 29E 33' 56.3" N, longitude 89E 38' 42.5" W; thence northerly across Triple Pass to 29E 34' 15.8" N, longitude 89E 38' 42.7" W; and continuing NNW to the northern most part of an island at latitude 29E 35' 12.9" N, longitude 89E 39' 04.6" W; then NE to a point near Pintail Point and bordering Bay la Fourche at latitude 29E 35' 45.6" N, longitude 89E 38' 15.0" W; then east to a point in northern Bay Gardene at latitude 29E 35' 47.5" N, longitude 89E 37' 44.2" W; and continuing northerly back to the point on the

western end of Bayou Lost at latitude 29E 36' 03.9" N, longitude 89E 37' 49.9" W.

Thomas M. Gattle, Jr.  
Chairman

0202#045

**DECLARATION OF EMERGENCY**

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

**2002 Turkey Hunting Seasons** C Tensas National  
Wildlife Refuge

In accordance with the emergency provisions of R.S. 49:953.B and 967.D of the Administrative Procedure Act, and under the authority of R. S. 56:115, the Secretary of the Department of Wildlife and Fisheries and the Wildlife and Fisheries Commission hereby adopts the following Declaration of Emergency amending the 2002 Turkey Hunting Seasons.

**Federal Lands Turkey Hunting Schedule**

Kisatchie National Forest (KNF) turkey hunting schedule: Caney Ranger District, March 23-April 7; all remaining KNF lands, March 23-April 14 (including Catahoula and Red Dirt National Wildlife Management Preserves).

Indian Bayou Area (U.S. Army Corps of Engineers), turkey hunting schedule: March 23B31, lottery hunt only on March 23-24 and March 25-27. Contact USCOE at 337-585-0856 for further information.

National Wildlife Refuges: Bogue Chitto NWR, March 23B April 21; Lake Ophelia NWR, March 23-25 (lottery only), March 30B April 1 (lottery only), April 67; Tensas NWR, March 16-17 (youth lottery only), March 23B April 21. Contact the U.S. Fish and Wildlife Service for information regarding NWR hunts.

A Declaration of Emergency is necessary because the youth turkey hunt on Tensas National Wildlife Refuge was not included in the 2002 Turkey Hunting Regulations, and the proposed date is prior to the opening of the regular turkey hunting season for Tensas National Wildlife Refuge.

Thomas M. Gattle, Jr.  
Chairman

0202#043

**DECLARATION OF EMERGENCY**

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

**Shrimp Closure** C Territorial Waters

In accordance with the emergency provisions of R.S. 49:953.B and R.S. 49:967 of the Administrative Procedure Act which allows the Wildlife and Fisheries Commission to use emergency procedures to set shrimp seasons, and R.S. 56:497 which provides that the Wildlife and Fisheries Commission shall have the authority to open or close the State's offshore waters to shrimping, the Wildlife and Fisheries Commission hereby orders a closure to shrimping in that portion of the State's Territorial Waters, south of the

Inside/Outside Shrimp Line as described in R.S. 56:495, from the eastern shore of Freshwater Bayou to the U.S. Coast Guard navigational light off the northwest shore of Caillou Boca at latitude 29E 03' 10" N and longitude 90E 50' 27" W. This closure is effective at 6 a.m., Monday, February 11, 2002. The Commission also hereby orders that that portion of the State's Territorial Waters, south of the Inside/Outside Shrimp Line as described in R.S. 56:495, from the U.S. Coast Guard navigational light off the northwest shore of Caillou Boca at latitude 29E 03' 10" N and longitude 90E 50' 27" W to the Atchafalaya River Ship Channel at Eugene Island as delineated by the Channel Buoy Line, shall reopen to shrimping at 6 a.m. on Monday, April 15, 2002.

R.S. 56:498 provides that the minimum legal count on white shrimp is 100 (whole shrimp) count per pound after the third Monday in December. Current biological sampling conducted by the Department of Wildlife and Fisheries has indicated that white shrimp in this portion of the State's outside waters do not average 100 count minimum legal size and additional small white shrimp are expected to recruit to

these waters. This action is being taken to protect these small white shrimp and allow them the opportunity to grow to a more valuable size.

The Wildlife and Fisheries Commission authorizes the Secretary of the Department of Wildlife and Fisheries to close to shrimping, if necessary to protect small white shrimp, any part of the remaining Territorial Waters, if biological and technical data indicates the need to do so, and to reopen any area closed to shrimping when the closure is no longer necessary; and hereby authorizes the Secretary of the Department of Wildlife and Fisheries to open special seasons for the harvest of white shrimp in any portion of the state's inshore waters where such a season would not detrimentally impact small brown shrimp.

Thomas M. Gattle, Jr.  
Chairman

0202#044